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# [***Moore v. Mann***](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5RT3-B991-JBDT-B0D8-00000-00&context=)

United States District Court for the Middle District of Pennsylvania

March 5, 2018, Decided; March 5, 2018, Filed

CIVIL NO.3:13-CV-2771

**Reporter**

2018 U.S. Dist. LEXIS 34887 \*; 2018 WL 1151897

BRIAN MOORE, Plaintiff, v. ANGELA MANN, et al., Defendants.

**Prior History:** [*Moore v. Mann, 2014 U.S. Dist. LEXIS 109949 (M.D. Pa., Aug. 7, 2014)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5CVV-6131-F04F-44WB-00000-00&context=)

**Core Terms**

discovery, district court

**Counsel:** **[\*1]**Brian C Moore, Plaintiff, Pro se, Frackville, PA.

For Angela D Mann, individually and in their official capacities, Renee Foulds, individually and in their official capacities, Hering, Briner, Sgt. Zamboni, individually and in their official capacities, Lieutenant Long, individually and in their official capacities, Defendants: Maria G. Macus, Chief Counsel's Office, Mechanicsburg, PA.

**Judges:** Martin C. Carlson, United States Magistrate Judge. (Judge Brann).

**Opinion by:** Martin C. Carlson

**Opinion**

**MEMORANDUM ORDER**

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

This prisoner civil rights lawsuit has been assigned to this Court for resolution. Currently there is a motion for summary judgment pending, and unresolved, in the case. (Doc. 98.) In addition, the plaintiff has sought further discovery through a motion for the issuance of subpoenas. (Doc. 104.) For the reasons set forth below we will DENY the motion for subpoenas without prejudice (Doc. 104) and STAY further discovery pending resolution of the summary judgment motion filed in this case.

Several basic guiding principles inform our resolution of the instant discovery issues. At the outset rulings regarding the proper scope and timing of discovery are matters consigned**[\*2]** to the court's discretion and judgment. Thus, it has long been held that decisions regarding [*Rule 37*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:8JDD-11V2-8T6X-7291-00000-00&context=) motions are "committed to the sound discretion of the district court." [*DiGregorio v. First Rediscount Corp., 506 F.2d 781, 788 (3d Cir. 1974)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4W-T940-0039-X0V2-00000-00&context=). Similarly, issues relating to the timing and scope of discovery permitted under *Rule 26* also rest in the sound discretion of the Court. [*Wisniewski v. Johns-Manville Corp., 812 F.2d 81, 90 (3d Cir. 1987)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-CNV0-001B-K1JS-00000-00&context=). Thus, a court's decisions regarding the conduct of discovery will be disturbed only upon a showing of an abuse of discretion. [*Marroquin-Manriquez v. I.N.S., 699 F.2d 129, 134 (3d Cir. 1983)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-0T00-003B-G3WJ-00000-00&context=). This far-reaching discretion extends to rulings by United States Magistrate Judges on discovery matters. In this regard:

District courts provide magistrate judges with particularly broad discretion in resolving discovery disputes. See [*Farmers & Merchs. Nat'l Bank v. San Clemente Fin. Group Sec., Inc., 174 F.R.D. 572, 585 (D.N.J.1997)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S1X-M6K0-00B1-F3M0-00000-00&context=). When a magistrate judge's decision involves a discretionary [discovery] matter . . . , "courts in this district have determined that the clearly erroneous standard implicitly becomes an abuse of discretion standard." [*Saldi v. Paul Revere Life Ins. Co., 224 F.R.D. 169, 174 (E.D.Pa.2004)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4D4D-G3X0-0038-Y4M9-00000-00&context=) (citing [*Scott Paper Co. v. United States, 943 F.Supp. 501, 502 (E.D.Pa.1996))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4M-6RT0-006F-P17G-00000-00&context=). Under that standard, a magistrate judge's discovery ruling "is entitled to great deference and is reversible only for abuse of discretion." [*Kresefsky v. Panasonic Communs. & Sys. Co., 169 F.R.D. 54, 64 (D.N.J.1996)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4N-F4F0-006F-P0HY-00000-00&context=); see also [*Hasbrouck v. BankAmerica Hous. Servs., 190 F.R.D. 42, 44-45 (N.D.N.Y.1999)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3Y5J-FP90-0038-Y0R6-00000-00&context=) (holding that discovery rulings are reviewed under abuse of discretion standard rather than de novo standard); [*EEOC v. Mr. Gold, Inc., 223 F.R.D. 100, 102 (E.D.N.Y.2004)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4CXJ-YXK0-0038-Y179-00000-00&context=) (holding that a magistrate judge's resolution**[\*3]** of discovery disputes deserves substantial deference and should be reversed only if there is an abuse of discretion).

[*Halsey v. Pfeiffer, No. 09-1138, 2010 U.S. Dist. LEXIS 97590, 2010 WL 3735702, \*1 (D.N.J. Sept. 17, 2010)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:512C-JKF1-652J-900J-00000-00&context=).

We also note that our broad discretion over discovery matters extends to decisions under *Rule 26* relating to the issuance of protective orders limiting and ***regulating*** the timing of discovery. Indeed, it is undisputed that: "'[t]he grant and nature of [a protective order] is singularly within the discretion of the district court and may be reversed only on a clear showing of abuse of discretion.' *Galella v. Onassis, 487 F.2d 986, 997 (2d Cir.1973)* (citation omitted)." [*Dove v. Atlantic Capital Corp., 963 F.2d 15, 19 (2d Cir. 1992)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-44S0-008H-V3GN-00000-00&context=).

This discretion is guided, however, by certain basic principles. One of these cardinal principles, governing the exercise of discretion in this field, is that the district court may properly defer or delay discovery while it considers a potentially dispositive pretrial motion, provided the district court concludes that the pretrial motion does not, on its face, appear groundless. See, e.g., [*James v. York County Police Dep't, 160 F.App'x 126, 136 (3d Cir. 2005)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4HS3-K3T0-0038-X4KK-00000-00&context=); [*Nolan v. U.S. Dep't of Justice, 973 F.2d 843, 849 (10th Cir. 1992)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-1PF0-008H-V0MH-00000-00&context=); [*Johnson v. New York Univ. Sch. of Ed., 205 F.R.D. 433, 434 (S.D.N.Y. 2002)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4527-T1N0-0038-Y43B-00000-00&context=). Briefly deferring discovery in such a case, while the court determines the threshold issue of whether a complaint has sufficient merit to go forward, recognizes a simple, fundamental truth: Parties who file motions which may present potentially meritorious and complete**[\*4]** legal defenses to civil actions should not be put to the time, expense and burden of factual discovery until after these claimed legal defenses are addressed by the court.

In such instances, it is clearly established that:

"[A] stay of discovery is appropriate pending resolution of a potentially dispositive motion where the motion 'appear[s] to have substantial grounds' or, stated another way, 'do[es] not appear to be without foundation in law.'" [*In re Currency Conversion Fee* ***Antitrust*** *Litigation, 2002 U.S. Dist. LEXIS 974, 2002 WL 88278, at \*1 (S.D.N.Y. Jan. 22, 2002)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:450J-V7Y0-0038-Y379-00000-00&context=) (quoting [*Chrysler Capital Corp. v. Century Power Corp., 137 F.R.D. 209, 209-10 (S.D.N.Y.1991))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4N-CJW0-001T-73HY-00000-00&context=) (citing [*Flores v. Southern Peru Copper Corp., 203 F.R.D. 92, 2001 WL 396422, at \*2 (S.D.N.Y. 2001)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:44YX-43N0-0038-Y2SH-00000-00&context=); [*Anti-Monopoly, Inc. v. Hasbro, Inc., 1996 U.S. Dist. LEXIS 2684, 1996 WL 101277, at \*2 (S.D.N.Y. March 7, 1996))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4N-T1D0-006F-P1MF-00000-00&context=).

[*Johnson v. New York Univ. School of Educ., 205 F.R.D. 433, 434 (S.D.N.Y. 2002)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4527-T1N0-0038-Y43B-00000-00&context=).

Guided by these legal tenets we conclude that further discovery should be briefly stayed at this time until after the court resolves the pending summary judgment motion. We reach this conclusion in accordance with settled case law, finding that: "[A] stay of discovery is appropriate pending resolution of a potentially dispositive motion where the motion 'appear[s] to have substantial grounds' or, stated another way, 'do[es] not appear to be without foundation in law.'" [*Johnson v. New York Univ. School of Educ., 205 F.R.D. 433, 434 (S.D.N.Y. 2002)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4527-T1N0-0038-Y43B-00000-00&context=).

An appropriate order follows:

**Order**

Accordingly, for the foregoing reasons, the plaintiff's motion for the issuance of subpoenas, (Doc. 104), is DENIED without prejudice and further discovery is STAYED pending the resolution of the pending dispositive motion.**[\*5]**

So ordered this 5th day of March, 2018.

*/s/ Martin C. Carlson*

Martin C. Carlson

United States Magistrate Judge

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