<<COURT\_NAME>>

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| <<PROVIDER\_SUITNAME>>,  a/a/o <<INJUREDPARTY\_NAME>>    Plaintiff,  vs.  <<INSURANCECOMPANY\_SUITNAME>>  Defendant.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/ | Case No. <<INDEXORAAA\_NUMBER>> |

PLAINTIFF’S MOTION TO STAY DISCOVERY

Plaintiff, <<PROVIDER\_SUITNAME>>, by and through undersigned counsel, hereby file this Motion to Stay Discovery Pending the Outcome of Defendant’s Motion Summary Judgment, and as grounds therefore state as follows:

1. Plaintiff, <<PROVIDER\_SUITNAME>>, filed this action for breach of contract against Defendant, for Defendant’s failure to pay Plaintiff for services rendered to Defendant’s insured.

2. Defendant, <<INSURANCECOMPANY\_SUITNAME>>, filed a Motion for Summary Judgment, which is in the process of being set for hearing before this Court.

3. Since the Court has not ruled on Defendant’s Motion for Summary Judgment, Defendant’s Discovery is premature.

4. A stay of discovery will afford the Court an opportunity to rule on the pending Motion for Summary Judgment, while sparing the parties the burden of potentially unnecessary discovery.

5. It is inefficient and burdensome to conduct discovery while this motion is pending.

6. Rule 1.280(c) of the Florida Rules of Civil Procedure authorizes courts to “make any order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires.” Fla. R. Civ. Pro. 1.280(c). In addition, Rule 1.280(c) allows courts to control the timing and sequence of discovery for the convenience of the parties and in the interests of justice. Id.

7. Pursuant to Rule 1.280(c), Florida courts have broad discretion and inherent power to stay discovery when a motion for summary judgment is pending. See Carrow v. The Florida Bar, 848 So. 2d 1283, 1285 (Fla. 2d DCA 2003) (holding that court had the authority to stay discovery “until there was a valid, operable complaint”); Feigin v. Hospital Staffing Services, Inc., 569 So. 2d 941, 942 (Fla. 4th DCA 1990) (trial court did not abuse its discretion in staying discovery pending hearing on motion to dismiss).

8. Additionally, Florida state courts look to federal rules and decisions for guidance in interpreting Florida’s rules of civil procedure. See Gleneagle Ship Management Co. v. Leondakos, 602 So. 2d 1282, 1283-84 (Fla. 1992); see also Fontainebleau Hotel Corp. v. Walters, 246 So. 2d 563, 565-66 (Fla. 1971) (Florida’s rules modeled after federal rules of civil procedure). Like Florida courts, Federal courts have broad discretion to stay discovery, and routinely do so pending the resolution of a motion for summary judgment. As the Eleventh Circuit has indicated:

Facial challenges to the legal sufficiency of a claim or defense, such as a motion to dismiss based on failure to state a claim for relief, should ... be resolved before discovery begins.... [N]either the parties nor the court have any need for discovery before the court rules on the motion.

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Discovery imposes several costs on the litigant from whom discovery is sought. These burdens include the time spent searching for and compiling relevant documents; the time, expense, and aggravation of preparing for and attending depositions; the costs of copying and shipping documents; and the attorneys’ fees generated in interpreting discovery requests, drafting responses to interrogatories and coordinating responses to production requests, advising the client as to which documents should be disclosed and which ones withheld, and determining whether certain information is privileged. The party seeking discovery also bears costs, including attorneys’ fees generated in drafting discovery requests and reviewing the opponent’s objections and responses. Both parties incur costs related to the delay discovery imposes on reaching the merits of the case. Finally, discovery imposes burdens on the judicial system; scarce judicial resources must be \*1368 diverted from other cases to resolve discovery disputes.

Chudasama v. Mazda Motor Corp., 123 F.3d 1353, 1367-68 (11th Cir. 1997); see also Patterson v. United States Postal Service, 901 F.2d 927, 929 (11th Cir. 1990) (affirming trial court’s stay of discovery pending resolution of a dispositive motion in a putative class action); Florsheim Shoe Co. v. United States, 744 F.2d 787, 797 (Fed. Cir. 1984) (proper to enter order staying discovery pending resolution of motion to dismiss).

9. Defendant will not be prejudiced by the brief stay in discovery.

10. Defendant should not be permitted to burden Plaintiff with legal fees in connection with discovery that may be moot if Plaintiff is unable to adequately plead a case against Defendant.

11. The undersigned counsel attempted to resolve this motion with opposing counsel but has been unable to reach an agreement.

WHEREFORE, based on the foregoing argument and authority, Plaintiff, <<PROVIDER\_SUITNAME>>, respectfully requests that this Honorable Court grant this Motion to Stay Discovery Pending the Outcome of Defendant’s Motion for Summary Judgment, and any such and further relief this Honorable Court deems necessary and proper.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to Defense Counsel via the Florida E-File Portal on July 18, 2021.

Respectfully Submitted,

**Florida Insurance Law Group, LLC**

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Line chart

Description automatically generated with medium confidence

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