

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

AMANDA JONES, *plaintiff*,

Case No. 2:24-CV-10750-BRM-JSA

MOTION DATE: FEBRUARY 18, 2025

vs.

DAN KLEINMAN, *defendant*.

BRIEF IN SUPPORT OF PLAINTIFF'S MOTION TO STAY PROCEEDINGS

TABLE OF CONTENTS

BACKGROUND 1
ARGUMENT 3
CONCLUSION..... 5

TABLE OF AUTHORITIES

Akishev v. Kapustin, 23 F. Supp. 3d 440 (D.N.J. 2014) 3, 4
Bittman v. Fox, No. 14-C-08191, 2015 WL 5612061 (N.D. Ill. Sept. 23, 2015)..... 1
Ford Motor Co. v. Montana Eighth Jud. Dist. Ct., 592 U.S. 351 (2021) 2
MEI, Inc. v. JCM Am. Corp., No. 09–351, 2009 WL 3335866 (D.N.J. Oct. 15, 2009)..... 4

Plaintiff Amanda Jones, through undersigned counsel, respectfully moves to stay proceedings in this case and submits this brief in support.

BACKGROUND

This is a defamation case. The plaintiff, Amanda Jones, is an elementary school librarian in Louisiana. The defendant, Dan Kleinman, is a self-described library watchdog in New Jersey.

Jones's complaint alleges that Kleinman has targeted Jones online, sometimes posting about her several times in one day, for at least the past two years. He falsely represents that she "sexualizes" children by giving them "obscene" or otherwise sexually explicit material. He says Jones "preys on kids" and calls her a "child groomer."

Jones filed her complaint in this Court as a protective measure only.

Jones filed her complaint in this Court as a protective measure only. The complaint is identical to a complaint that she filed the same day in the Middle District of Louisiana. The complaint expressly states that its filing is "out of an abundance of caution only." [1 at ¶6] Kleinman has successfully challenged at least one federal court's personal jurisdiction over him in a defamation case, *see Bittman v. Fox*, No. 14-C-08191, 2015 WL 5612061 (N.D. Ill. Sept. 23, 2015), and Jones anticipated that he would challenge the Middle District of Louisiana's personal jurisdiction over him here. The complaint specifically asserts that "Kleinman's activities subject him to the jurisdiction of Louisiana courts" [1 at ¶6 (emphasis added)] and that "[t]he U.S. District Court for the Middle District of Louisiana has personal jurisdiction over Kleinman" [1 at ¶12 (emphasis added)]. Nevertheless, leaving open the possibility that the Middle District of Louisiana

might determine that it did not have personal jurisdiction over Kleinman, the complaint states that its filing in this Court was necessary “to preserve all rights” [1 at ¶19]. From the complaint:

12. The U.S. District Court for the Middle District of Louisiana has personal jurisdiction over Kleinman because, as shown in this complaint, his purposeful contacts with the state of Louisiana give rise to Jones’s claims. See *Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.*, 592 U.S. 351, 359 (2021). Among other things:

13. He specifically directs his posts about Jones to a Louisiana audience, including Louisiana’s elected officials, who he tags.

14. He has appeared on Louisiana talk radio to talk about Jones.

15. He has traveled to Louisiana to speak about Jones at a ticketed event in Baton Rouge, where he was the featured guest.

16. He purports to have attended the annual Louisiana Library Association meeting for the purpose of encountering Jones.

17. He contacted Live Oak Middle School, Jones’s employer, at least twice. He made requests pursuant to the Louisiana Public Records Act for, among other things, records of Jones’s job performance.

18. He has implored the Louisiana Department of Education to revoke Jones’s teaching certificate and Livingston Parish parents to challenge it.

19. These purposeful contacts with the state of Louisiana notwithstanding, out of an abundance of caution, to preserve all rights, in addition to filing this lawsuit in the U.S. District Court for the Middle District of Louisiana, Jones also files it in the U.S. District Court for New Jersey.

Jones’s intention thus was clear. Her simultaneous filing was not a forum-shopping maneuver.

In addition to the forgoing statements in the complaint itself, Jones’s counsel separately advised Kleinman’s counsel that Jones filed the complaint in this Court “as a protective measure” and invited some “agreement on personal jurisdiction.”

Kleinman answered Jones’s complaint in this Court and moved to dismiss Jones’s complaint in the Middle District of Louisiana.

Earlier this week, Kleinman filed an answer to the complaint in this Court. [6, 7]

He filed a motion to dismiss the complaint in the Middle District of Louisiana. That motion asks that court to dismiss under Rule 12(b)(3), for improper venue, or, alternatively, to transfer the

action to this Court under 28 U.S.C. § 1404(a).¹ It does not ask that court to dismiss under Rule 12(b)(2), for lack of personal jurisdiction. By failing to assert the defense of lack of personal jurisdiction, Kleinman waived it.²

The resolution of Kleinman’s motion to dismiss Jones’s complaint in the Middle District of Louisiana could make proceedings in this Court unnecessary.

The resolution of Kleinman’s motion to dismiss Jones’s complaint in the Middle District of Louisiana could make proceedings in this Court unnecessary.

Because Kleinman waived any objection to the Middle District of Louisiana’s exercise of personal jurisdiction over him, if the Middle District of Louisiana otherwise denies Kleinman’s motion to dismiss, Jones’s complaint may proceed in that court as intended. In such event, the complaint in this Court will be unnecessary to preserve Jones’s rights and can be dismissed.

ARGUMENT

This Court should stay proceedings in this case pending resolution of Kleinman’s motion to dismiss Jones’s complaint in the Middle District of Louisiana.

“Courts generally weigh a number of factors in determining whether to grant a stay including: ‘(1) whether a stay would unduly prejudice or present a clear tactical disadvantage to the non-moving party’; (2) whether denial of the stay would create ‘a clear case of hardship or inequity’ for the moving party; (3) ‘whether a stay would simplify the issues and the trial of the case’; and (4) ‘whether discovery is complete and/or a trial date has been set.’” *Akishev v. Kapustin*, 23 F. Supp. 3d 440, 446 (D.N.J. 2014) (cleaned up; internal citations omitted). “Where a stay is sought pending resolution of purportedly related litigation, as here, courts [also] consider whether

¹ Exhibit A, Kleinman’s motion to dismiss

² Exhibit B, Jones’s response to Kleinman’s motion to dismiss

resolution of the related litigation would substantially impact or otherwise render moot the present action.” *Akishev*, 23 F. Supp. 3d at 446. *See also MEI, Inc. v. JCM Am. Corp.*, No. 09–351, 2009 WL 3335866, at *4 (D.N.J. Oct. 15, 2009) (“A stay is particularly appropriate, and within the court’s ‘sound discretion,’ where the outcome of another case may ‘substantially affect’ or ‘be dispositive of the issues’ in a case pending before a district court.”) (citations omitted).

All of the foregoing factors warrant a stay here.

Whether a stay would unduly prejudice or present a clear tactical disadvantage to the non-moving party: These proceedings are in their infancy. Kleinman has answered the complaint but there are no motions pending and the only pending deadline is for the parties to submit a joint discovery plan. A stay would not unduly prejudice or disadvantage Kleinman.

Whether denial of the stay would create ‘a clear case of hardship or inequity’ for the moving party: Jones filed the complaint in this Court as a protective measure only; her express intent is to proceed in Louisiana. Jones is a public-school educator in Louisiana, and Kleinman specifically directed his statements to a Louisiana audience. Likely witnesses include persons who know Jones or know Jones’s reputation and persons to whom Kleinman’s statements were targeted. These persons are in Louisiana. Everything relevant to this case is in Louisiana, save Kleinman, but Kleinman has now waived any objection to personal jurisdiction in Louisiana. Jones does not wish to require the parties and the courts to duplicate efforts. A denial of the stay would create a clear case of hardship by requiring not merely Jones, but both parties, to proceed in two courts at the same time before the propriety of proceeding in the Middle District of Louisiana only can be decided.

Whether a stay would simplify the issues and the trial of the case: A stay would simplify the issues and the trial of the case by permitting the Middle District of Louisiana to resolve overlapping issues before the case proceeds, if necessary, in this Court.

Whether discovery is complete and/or a trial date has been set: As of this filing, Kleinman has answered the complaint only. Discovery has not commenced. No trial date has been set.

Whether resolution of the related litigation would substantially impact or otherwise render moot the present action: Because Kleinman waived any objection to the Middle District of Louisiana's exercise of personal jurisdiction over him, if the Middle District of Louisiana otherwise denies Kleinman's motion to dismiss, Jones's complaint may proceed in that court as intended. If the complaint in this Court is not necessary to preserve her rights, it can be dismissed. Plainly, resolution of Kleinman's motion to dismiss in the Middle District of Louisiana could substantially or otherwise render moot the present action.

There is, in short, no reason not to grant a stay of these proceedings under the circumstances.

CONCLUSION

Jones respects the Court's time and does not wish to waste it. She filed the complaint in this Court out of necessity, as a protective measure only. In the event she can proceed solely in the Middle District of Louisiana, this Court need not expend any further resources on this case. Jones respectfully asks this Court to grant this motion and enter an order staying these proceedings with instruction to the parties to advise the Court of the Middle District of Louisiana's ruling on Kleinman's motion to dismiss within 14 days of its issuance.

Respectfully submitted,

/s/ Kaja S. Elmer

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CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing with the Clerk of Court using the ECF system which sent notification of filing to all counsel of record.

January 23, 2025

/s/ Kaja S. Elmer