

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

*IN RE BROILER CHICKEN ANTITRUST
LITIGATION*

This Document Relates To: All Actions

Case No. 1:16-cv-08637

EX PARTE SUBMISSION

REDACTED, PUBLIC VERSION

**BRIEF IN SUPPORT OF UNITED STATES'
MOTION FOR LIMITED DEPOSITION STAY**

United States Department of Justice, intervenor in this action, submits this brief in support of its motion for a limited deposition stay. The Government has conferred extensively with the parties to this action and, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] that would likely interfere with the Government's upcoming criminal trial in the District of Colorado and ongoing grand-jury investigation. The Court should grant the requested stay of those depositions because the public interest in the criminal matter proceeding without interference outweighs any prejudice to the plaintiffs arising from the delay.¹

¹ The Government submits this Brief *ex parte* because it contains confidential information regarding the ongoing prosecution and grand-jury investigation, Fed.R.Crim.P. 6(e). The Government intends to file a redacted version of this brief under seal.

I. The Government's upcoming criminal trial and ongoing grand-jury investigation.

As the Court is aware, the Government is conducting a grand-jury investigation into the broiler chickens industry that, to date, has resulted in criminal charges in the District of Colorado against ten current or former employees of broiler chickens producers for their role in a Sherman Act conspiracy, 15 U.S.C. § 1.² The investigation also resulted in charges against Pilgrim's Pride Corporation ("Pilgrim's"), the second-largest producer of broiler chickens in the United States, for its role in that conspiracy. *U.S. v. Pilgrim's Pride Corporation*, 1:20-cr-330-RM (D. Colo.) Dkt. 1. Pilgrim's pleaded guilty, and paid a \$107 million fine. As part of its plea agreement, Pilgrim's pledged to cooperate with the Government's investigation. *Id.* at Dkt. 58. The plea agreement's non-prosecution and cooperation terms apply to Pilgrim's current employees, except for the employees explicitly excluded. *Id.* at ¶ 16.

The ten individual defendants pleaded not guilty in October 2020. Chief Judge Brimmer, the presiding judge, subsequently scheduled the trial to commence on August 2, 2021. He then issued a general order continuing all trials in the District effective March 1, 2021, General Order 2021-3: Court Operation during the Covid-19 Pandemic (Feb. 12, 2021), but has not yet ordered a new trial date. [REDACTED]

[REDACTED]

[REDACTED]

² One defendant was also charged with making false statements and obstruction.

Meanwhile the grand-jury investigation into the broiler chickens industry is ongoing. The investigation is [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

II. The disputed deposition stays

On July 9, 2020, the Government provided the class plaintiffs with a list of requested stays for depositions that plaintiffs were planning to take. In the ensuing months the Government added some additional depositions stay requests [REDACTED]

[REDACTED].

The Government was mindful of the Court's instruction in Scheduling Order 14 that "sixty days before the close of fact discovery, Plaintiffs (1) shall advise the Court of the depositions they wish to take to which the DOJ is still objecting and (2) may petition the court for appropriate relief to minimize prejudice to Plaintiffs. The parties will work in good faith to resolve any disputes in this regard without Court intervention." Dkt. 3788 at 3, fn.4. In the third week of February, the Government notified all parties, through their liaison counsel, of the Government's position on deposition stays.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

³ [REDACTED]

[REDACTED]

III. Legal Standard

Courts can use their inherent case-management power to stay all or part of discovery in any civil action. *See Landis v. North American Co.*, 299 U.S. 248, 254–255 (1936). Whether and under what circumstances a court should exercise the power to stay discovery is left to the sound discretion of the district court. *See United States v.*

⁴ [REDACTED]

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