

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DAVID MUTNICK, for himself and others )  
similarly situated, )

Plaintiffs, )

v. )

CLEARVIEW AI, INC., et al., )

Defendants. )

Case No. 20 C 512

Judge Sharon Johnson Coleman

---

ANTHONY HALL, on behalf of himself )  
and others similarly situated, )

Plaintiffs, )

v. )

CDW GOVERNMENT LLC, et al., )

Defendants. )

Case No. 20 C 846

Judge Sharon Johnson Coleman

**ORDER**

The Court, in its discretion, denies defendants’ motions to stay pending the Court’s decision on defendants’ motions to dismiss for lack of personal jurisdiction, or in the alternative, transfer venue to the Southern District of New York [47, 31]. The Court further grants plaintiff David Mutnick’s clarified motion for reassignment [40].

**BACKGROUND**

Plaintiffs allege that the defendants scraped over 3 billion facial images from the internet and scanned the facial images’ biometric identifiers and information. Thereafter, defendants built a searchable database of the scanned images, thereby enabling database users to instantly identify unknown individuals using nothing more than a photograph. Defendants then sold access to this database to law enforcement and government agencies, as well as private entities such as banks and retail loss prevention specialists. Plaintiffs bring this putative class action under the Illinois

Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”), along with constitutional and common law claims. Plaintiff Mutnick has also filed a motion for preliminary injunction as to the BIPA claim.

## DISCUSSION

District courts have the inherent authority to control their own docket. *Dotson v. Bravo*, 321 F.3d 663, 667 (7th Cir. 2003). “That inherent authority includes the power to stay proceedings where the party seeking the stay would be spared ‘hardship or inequity, the prejudice to the non-movant would be comparatively minor, and the stay would significantly advance judicial economy.” *Freed v. Friedman*, 215 F.Supp.3d 642, 658 (N.D. Ill. 2016) (Feinerman, J.).

In their motions, defendants argue that the Court should temporarily stay this action until the Court decides their motions to dismiss based on personal jurisdiction, or, in the alternative, transfer the Southern District of New York. Although this request sounds straight-forward, in two related pending lawsuits against defendants in the Southern District of New York, Chief Judge Colleen McMahon noted,

It is not at all clear to me that these cases belong in this court. They arise under an Illinois statute, the Illinois’ Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.* They are brought on behalf of a class of persons who, while residing in the State of Illinois, had certain “biometrics” . . . “scraped” by Defendants and used without their consent in violation of the Illinois statute. While it is possible that some members of the putative class no longer reside in Illinois, it is beyond cavil that the Illinois statute applies only to Illinois residents and that the vast majority of class members presently reside in that state. Moreover, one of the defendants in the *Calderon* case is an Illinois citizen.

Defendants have made no motions as yet, but this court would certainly have to consider seriously any motion that might be made to transfer the case . . . to either the Northern or Southern District of Illinois. Until it is clear that no such motion will be made, it would be unseemly for this court to begin managing a case that may very well end up being litigated elsewhere.

(R. 52-1, Ex. 1, *Calderon v. Clearview*, 20 C 1296, 4/14/20 Order, at 1-2.). After entering this order, Chief Judge McMahon set an expedited briefing schedule concerning plaintiff Mutnick’s later-filed

motion to intervene and to dismiss, stay, or transfer to the Northern District of Illinois. Those motions are now fully briefed.

Under the circumstances, staying this action while the Court examines the jurisdictional and transfer issues will not save judicial resources, especially when weighed against plaintiff's need for injunctive relief and any prejudice resulting from a delay. In fact, the most prudent course of action is to closely monitor Chief Judge McMahon's related cases in the Southern District of New York while working on the pending motions in the present cases before this Court. On that note, because the Southern District of New York cases may be transferred to the Northern District of Illinois, defendants' request for consolidation of cases is premature.

For these reasons, the Court, in its discretion, denies defendants' motion to stay.

**IT IS SO ORDERED.**

Date: 5/19/2020

Entered:   
SHARON JOHNSON COLEMAN  
United States District Judge