

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

**PEN AMERICAN CENTER, INC.,  
et al.,**

**Plaintiffs,**

**v.**

**Case No. 3:23cv10385-TKW-ZCB**

**ESCAMBIA COUNTY SCHOOL  
DISTRICT and ESCAMBIA  
COUNTY SCHOOL BOARD,**

**Defendants.**

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**ORDER STAYING CASE**

This case was filed 2½ years ago. Discovery is scheduled to close next week, *see* Doc. 243, and except for a recently filed discovery motion, *see* Docs. 241, and the school board members’ depositions that have been stayed pending their interlocutory appeal, *see* Docs. 226, 246, this case is ready for summary judgment briefing.

Despite the end being in sight, Plaintiffs asked the Court to “stay summary judgment proceedings” pending disposition of an appeal arising out of a Middle District of Florida case (*Gibson*). *See* Doc. 240. Defendant filed a “notice of non-objection” to the motion, but the non-objection is premised on the

(mis)understanding that Plaintiffs requested a stay of the entire case and not just the summary judgment briefing. *See* Doc. 248.

The Court finds good cause for a stay. Indeed, as foreshadowed in the order shortening the time for responding to the motion to stay, *see* Doc. 243 at 1–2 n.1, the Court sees no reason for summary judgment briefing on the “threshold” issues to proceed in this case while the Eleventh Circuit is considering the appeals in *Gibson* and Judge Winsor’s *Parnell* case because those appeals are likely to resolve the main “threshold” issue in this case.

That said, the Court sees no reason to stay the magistrate judge’s consideration of the pending discovery motion or the parties’ completion of the remaining discovery (other than the school board members’ depositions) until those appeals are resolved. Indeed, even with those appeals pending, the plan established in the supplemental scheduling order (Doc. 200) still makes sense because it will leave only the school board members’ depositions to be completed before summary judgment briefing commences after the Eleventh Circuit decides *Gibson* and *Parnell* and the stay is lifted.

The Court did not overlook the possibility that the remaining discovery will end up being unnecessary if the Eleventh Circuit rules consistent with *Parnell* that a school board’s decision to remove books from the school library does not implicate the First Amendment at all. However, on balance, the incremental burden of

completing what should be a relatively small amount of remaining discovery now is outweighed by the additional delay that would result from deferring that discovery until after the Eleventh Circuit decides *Gibson* and *Parnell*.<sup>1</sup>

Accordingly, it is **ORDERED** that:

1. Plaintiffs' motion to stay (Doc. 240) is **GRANTED** insofar as all post-discovery deadlines in this case are **STAYED** until the Eleventh Circuit issues the mandates in *Gibson* (Case No. 25-13181) and *Parnell* (Case No. 25-13485).

2. The stay does not impact the magistrate judge's consideration of the pending discovery motion or the parties' obligation to complete any remaining discovery (except the school board members' depositions) by the existing discovery deadline.

3. The parties shall file periodic reports on the status of the *Gibson*, *Parnell*, and the school board members' interlocutory appeal. The first status report is due 6 months from the date of this Order.

**DONE and ORDERED** this 21st day of October, 2025.

A handwritten signature in blue ink, appearing to read "T. Kent Wetherell, II", with a stylized flourish at the end.

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**T. KENT WETHERELL, II**  
**UNITED STATES DISTRICT JUDGE**

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<sup>1</sup> That said, if the Court misconstrued the scope of the stay requested by Plaintiffs and they too want to stay the entire case, the parties should promptly file a joint motion for reconsideration and the Court will stay the entire case.