

## Judge Pitman Orders Merits Stay Pending Venue Discovery Related To a Motion To Transfer

MARCH 22, 2023

On February 27, 2023, Judge Pitman granted Defendant Wayfair LLC's motion for a protective order to stay merits discovery pending venue discovery related to Wayfair's motion to transfer.

Plaintiff Alto Dynamics, LLC ("Alto") filed its complaint on August 12, 2022. On January 18, 2023, Wayfair moved to dismiss and filed an opposing motion to transfer the case to the District of Massachusetts. On February 2, 2023, Wayfair moved under Fed. R. Civ. P. 26 for a protective order staying merits discovery pending rulings on the motion to dismiss and transfer venue. On February 6, 2023, Alto moved for expedited venue discovery prior to filing its response to the transfer motion.

When deciding whether a stay is appropriate, the Court must "balance the harm produced by the delay in discovery against the possibility that the motion will be granted and eliminate the need for such discovery entirely."

In applying the standard, Judge Pitman found that both the likelihood of transfer and minimal harm of delaying merits discovery weighed in favor of the protective order. First, it appeared likely that discovery would be substantially located in Massachusetts because Wayfair is headquartered there and the majority of Wayfair's witnesses and employees with knowledge are in Boston. Second, Judge Pitman noted that Alto's request to expedite discovery related to the motion to transfer also weighed in favor of the stay. Accordingly, the Court stayed all discovery and pretrial proceedings except limited expedited venue discovery related to the pending transfer motion.

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