

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**ALYSSON MILLS, in her capacity as
Receiver for Arthur Lamar Adams and
Madison Timber Properties, LLC**

PLAINTIFF

V.

CAUSE NO. 3:19-CV-364-CWR-BWR

**THE UPS STORE, INC.; HERRING
VENTURES, LLC, d/b/a The UPS Store;
AUSTIN ELSER; TAMMIE ELSER;
COURTNEY HERRING; DIANE
LOFTON; CHANDLER WESTOVER;
and AMERICAN CASUALTY
COMPANY OF READING PA**

DEFENDANTS

ORDER

Before the Court is a motion to stay the individual defendants' depositions. Docket No. 398. Filed on May 29, 2024, the motion seeks to cancel five depositions slated to occur between June 10 and 20, 2024. *Id.* The motion argues that the depositions should be stayed because all defendants will prevail on a pair of summary-judgment motions filed in April and May 2024. *See* Docket Nos. 390 & 398. It appears, though, that the dates were agreed-to by counsel for the deponents, the depositions are scheduled to be held at the deponents' counsel's office on the Mississippi Gulf Coast, and the Receiver properly noticed them on May 21, 2024. *See* Docket Nos. 392-96.

On review, the motion to stay is due to be denied for failure to comply with Local Uniform Civil Rule 7(b)(8).

The Court has not yet turned to the pending summary-judgment motions. The present briefing, however, suggests that the legal arguments in them have already been considered and rejected by this Court over the course of this more than six-year-old Receivership. To the extent

the movants rely on a recent Eleventh Circuit case, moreover, the Receiver has argued that the appellate court's decision was based on Florida law, rather than Mississippi law. The Court does not know with certainty how the pending motions will be resolved, but the relative strength of the competing arguments counsels against canceling the depositions.

A final matter warrants discussion. In their brief seeking a stay, the movants say that in an earlier submission, defendant The UPS Store showed that "in truth, for more than three years the Receiver had been free to take depositions." Docket No. 399 at 6.

The UPS Store *did* recently argue that the Receiver "has had more than three years to take depositions, and she failed to take a single deposition, even though the Court in 2019 indicated summary judgment could be decided within a year." Docket No. 388 at 17. But the Court is not certain that The UPS Store's contention has evidentiary support.

Within seven days, therefore, The UPS Store shall file a supplemental brief identifying the basis for its claim that the Receiver "has had more than three years to take depositions." *See also id.* at 5 ("for more than three years Plaintiff had an unfettered right to take depositions in this case and she chose not to do so.") (emphasis in original). Please include citations to the CMO or other Court Order authorizing such depositions or, if the agreement was between the parties, the emails or other correspondence substantiating the claim.

The remaining movants shall file their own supplemental briefs clarifying whether they agree with and endorse The UPS Store's factual contention about the prior availability of depositions.

The motion is denied.

SO ORDERED, this the 4th day of June, 2024.

s/ Carlton W. Reeves
UNITED STATES DISTRICT JUDGE