

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

FORT LAUDERDALE DIVISION

Case No. 0:17-cv-61617-BB

JOSE MEJIA, individually and on
Behalf of all others similarly situated,

Plaintiff,

vs.

UBER TECHNOLOGIES, INC., a
Delaware corporation

Defendant.

**DEFENDANT'S MOTION FOR PROTECTIVE ORDER AND TO STAY
ALL DISCOVERY PROCEEDINGS PURSUANT TO PARTIES' AGREEMENT
PENDING DETERMINATION OF MOTION TO COMPEL ARBITRATION
AND ACCOMPANYING MEMORANDUM OF LAW IN SUPPORT**

Defendant, Uber Technologies ("Defendant" or "Uber"), moves for a protective order from Plaintiff's First Request for Production and to stay all discovery proceedings pending a ruling on Defendant's Motion to Compel Arbitration and Stay all Court Proceedings and Accompanying Memorandum of Law as the parties already agreed to do. This motion should be granted for the reasons set forth in the accompanying memorandum of law in support.

MEMORANDUM OF LAW

Background

On August 11, 2017, Plaintiff, Jose Mejia ("Plaintiff" or "Mejia") filed a Complaint in the above-captioned lawsuit (DE 1). On September 20, 2017, Defendant filed a Motion to Compel Arbitration and Stay all Court Proceedings and Accompanying Memorandum of Law in

Support (“Motion to Compel Arbitration”) (DE 11-12) based upon a mandatory arbitration clause, which has been enforced multiple times.¹ This motion is fully briefed and is awaiting determination by the Court (DE 11-12, 20-22, 30).

On September 20, 2017, Defendant also filed Uber Technologies, Inc.’s Motion to Stay Proceedings Pending Determination of Motion to Compel (DE 13). On September 28, 2017, Plaintiff and Defendant **jointly** filed a Stipulation to Stay Pending Arbitration Briefing, whereby the parties **specifically agreed** that “Uber’s Motion to Stay Proceedings Pending Determination of the Motion to Compel Arbitration (DE 13) should be granted” (DE 15).

To date, the Court has not ruled on the Motion to Stay Proceedings Pending Determination of Motion to Compel Arbitration, nor has it entered the Stipulation.

Despite the stipulation, on November 20, 2017, Plaintiff propounded its First Request for Production, a copy of which is attached at Exhibit A. The requests seek discovery regarding the merits of the litigation.

Argument

To avoid expenditure of unnecessary time and expense to the parties, Defendant respectfully requests this Court enter an order staying all discovery proceedings while the parties await a determination on the pending Motion to Compel Arbitration.

As noted, the parties already agreed to this point. Plaintiff nevertheless has sought discovery in violation of the parties’ agreement.

Even without an agreement, courts routinely grant motions to stay discovery pending determination of a motion to compel arbitration, and federal trial courts have broad discretion to stay a matter until preliminary questions that may dispose of the case are resolved. *See, e.g.,*

¹ This Court has enforced nearly identical, arbitration provisions in favor of Uber. *See Lamour v. Uber Techs., Inc.*, No. 1:16-21449-CIV-MARTINEZ-GOODMAN, 2017 WL 878712, at *13 (S.D. Fla. Mar. 1, 2017); *Richemond v. Uber Techs., Inc.*, No. 1:16-cv-23267-DPG, 2017 WL 416123, at *3 (S.D. Fla. July 29, 2016).

Latell v. Triano, No. 2:13-CV-565-FTM-29CM, 2014 WL 5822663, at *2 (M.D. Fla. Feb. 28, 2014). Requiring the parties to engage in discovery while a motion to compel arbitration is pending would defeat the very purpose of the motion. *Harrell's LLC v. Agrium Advanced (U.S.) Techs., Inc.*, No. 8:10-CV-1499-T-33AEP, 2011 WL 1596007, at *1 (M.D. Fla., Apr. 27, 2011) (granting motion to stay discovery where engaging in discovery while a motion to compel arbitration is pending would defeat the very purpose of that motion).

It would be inefficient for the parties to conduct discovery prior to the Court determining the threshold issue of whether Plaintiff must arbitrate his claims against Uber. Indeed, courts routinely stay pretrial obligations, including discovery, pending the resolution of a motion to compel arbitration for precisely that reason. *In re Managed Care Litig.*, 2001 WL 6634391, at *3 (S.D. Fla. June 12, 2001) (recognizing the complexity of the issues involved in the litigation and staying discovery for a limited period of time for the court to rule on the motions to dismiss and to compel arbitration); *Guarisma v. Microsoft Corp.*, No. 15-24326-CIV, 2016 WL 9526468, at *2 (S.D. Fla. Feb. 8, 2016) (staying discovery pending defendant's motion, in part, because defendant would incur additional costs without stay, as defendant intended to file a motion to compel arbitration); *see also Morat v. Cingular Wireless LLC*, No. 3:07-CV-1057-J-20JRK, 2008 WL 11336388, at *2 (M.D. Fla. Feb. 14, 2008) (“[C]ourts have routinely stayed discovery into the underlying merits of the case when a motion to compel arbitration has been filed in good faith.”) (citing *Merrill Lynch, Pierce, Fenner & Smith Inc. v. Coors*, 357 F. Supp. 2d 1277, 1280 (D. Colo. 2004) (finding that the defendant's motion to dismiss [and compel arbitration] was not filed for any improper purpose and temporarily staying discovery pending the resolution of the motion to dismiss)); *O.N. Equity Sales Co. v. Merkel*, Case No. 2:07-cv-531-FtM-29DNF, 2008 WL 380573, at *1 (M.D. Fla. Feb. 11, 2008) (staying discovery of action pending resolution of

motion to compel arbitration).

A stay of discovery while the Court addresses Uber's Motion to Compel Arbitration will not prejudice Plaintiff. To the contrary, it is more efficient for both parties to await a ruling on this threshold issue because, if the case is sent to arbitration, any discovery in this litigation will be rendered moot. Indeed, Plaintiff already agreed to such a stay.

On the other hand, both parties will be prejudiced if they are required to engage in costly and time-consuming discovery proceedings prior to resolution of the arbitration issue presented in Defendant's Motion to Compel Arbitration, fully briefed and awaiting determination by this Court. This is especially true in a putative class action. *See, e.g. Gorea v. Gillette Co.*, No. 05-2425 MP, 2005 WL 2373440, at *1 (W.D. Tenn. Sept. 26, 2005) (staying proceedings and explaining that "[a]ny prejudice to [plaintiffs] resulting from a stay would be minimal, whereas without a stay, the burden on [defendant] of having to respond to the complaint and motion for class certification, as well as having to potentially engage in limited discovery on class certification issues, would be significant. Moreover, the court would have to use judicial resources in making rulings on the motion for class certification and related class discovery disputes in a case over which it might ultimately lose jurisdiction").

For the reasons set forth above, this Court should enter an Order staying discovery pending a ruling on Defendant's Motion to Compel Arbitration.

WHEREFORE, Defendant respectfully requests this Honorable Court enter an Order staying all discovery while the parties await a determination on Defendant's fully briefed Motion to Compel Arbitration, and for any other relief deemed fair and equitable.

LOCAL RULE 7.1 CERTIFICATION

WE HEREBY CERTIFY that, pursuant to Local Rule 7.1 of the District Court for the Southern District of Florida, counsel for both Parties have conferred on the relief requested herein, and counsel for Plaintiff has advised that Plaintiff opposes the extension of time sought.

Dated: December 12, 2017

Respectfully Submitted:

UBER TECHNOLOGIES, INC.

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CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2017I electronically filed the foregoing document with the Clerk of the Court for the Southern District of Florida using the CM/ECF system, which will send notification of such filing to counsel or parties of record.

/s/ Edward M. Mullins

Edward M. Mullins (FBN 863920)