

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TEXAS PACIFIC LAND TRUST, and, §
solely in their respective capacities as §
trustees for Texas Pacific Land Trust, §
DAVID E. BARRY and JOHN R. §
NORRIS III, §

Plaintiffs, §

v. §

CIVIL ACTION NO. 3:19-CV-1224-B

ERIC L. OLIVER, §

and §

ERIC L. OLIVER, SOFTVEST, L.P., §
HORIZON KINETICS LLC, and ART- §
FGT FAMILY PARTNERS LIMITED, §

Counter-Plaintiffs, §

v. §

DAVID E. BARRY and JOHN R. §
NORRIS III, in their individual capacities §
and in their capacities as trustees for the §
Texas Pacific Land Trust, §

Counter-Defendants, §

ORDER STAYING ALL DISCOVERY

In response to the Court’s joint status report order, the parties filed their Joint Discovery/Case Management Plan (Doc. 25). In their joint report, the parties dispute whether Defendant Eric Oliver’s motion for judgment on the pleadings (Doc. 19) has the effect of automatically staying discovery in this case pursuant to the Private Securities Litigation Reform Act (“PSLRA”). The

PSLRA provides that:

In any private action arising under this chapter, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

15 U.S.C. § 78u-4(b)(3). Defendant's position is that the "any motion to dismiss" language in the statute includes motions for judgment on the pleadings under Rule 12(c). Doc. 25, Joint Status Report, 12–13. Plaintiffs argue that it does not. *Id.* at 9–11.

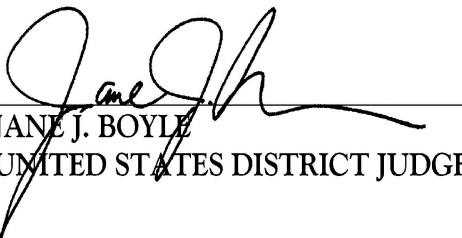
Based on the available authority and the rationale behind the PSLRA, the Court finds that the automatic discovery stay applies here. First, at least one court has held that a "Rule 12(c) motion is a 'motion to dismiss' within the meaning of the PSLRA automatic stay provision," thus triggering the discovery stay. *See Gardner v. Major Auto. Cos.*, 2012 WL 1230135, at *3–4 (E.D.N.Y. Apr. 12, 2012). And, as Defendant's point out, no court has come to the opposite conclusion. Second, the rationale behind the PSLRA's discovery stay is to "prevent costly 'extensive discovery and disruption of normal business activities,' until a court could determine whether a filed suit has merit." *Newby v. Enron Corp.*, 338 F.3d 467, 471 (5th Cir. 2003). This rationale applies with equal force to both a motion to dismiss under 12(b)(6) and a motion made under 12(c), as both are treated under identical standards in this Circuit. *Johnson v. Johnson*, 385 F.3d 503, 529 (5th Cir. 2004).

For these reasons, the Court holds that Defendant's 12(c) motion triggers the automatic discovery stay of the PSLRA. The Court therefore **ORDERS** that all discovery and other proceedings in this matter are **STAYED** until Defendant's motion for judgment on the pleadings is resolved. Additionally, fourteen days after the Court enters its ruling on the Defendant's motion, the parties shall file a joint proposed discovery schedule. Requests for additional affirmative relief, such as relief

from the stay, shall be made by motion.

SO ORDERED.

SIGNED: June 25, 2019.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE