

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

GERALD E. REED, IV,

Plaintiff,

v.

Case No. 6:19-cv-1751-RBD-LHP

COSTA DEL MAR, INC.,

Defendant.

ORDER

Before the Court are Defendant's motion to stay (Doc. 165) and the parties' proposed class notice (Doc. 170).

Defendant moves to stay proceedings during the Eleventh Circuit's consideration of its petition for interlocutory review of the class certification order. (Doc. 165.) Defendant raises several arguments in support of its motion to stay – including that it would be prejudiced by going to trial and waiting for the Eleventh Circuit to rule is in the public interest—but all presuppose that Defendant is strongly likely to succeed in its appeal of the Court's class certification order. (*See* Doc. 165.)

But interlocutory review of class certification orders is disfavored. *See Prado-Steiman ex rel. Prado v. Bush*, 221 F.3d 1266, 1276 (11th Cir. 2000). And “[b]ecause this type of appeal is rarely granted by appellate courts, district courts disfavor a

stay of district-court proceeding pending a Circuit Court's ruling on permission to pursue an interlocutory appeal." *Bacon v. Stiefel Lab'ys, Inc.*, 837 F. Supp. 2d 1280, 1282 (S.D. Fla. 2011). The Eleventh Circuit has not provided a standard for resolving motions to stay pending a petition for interlocutory review, but courts generally consider factors akin to those in preliminary injunctive relief, including a strong showing of likelihood of success on the merits and prejudice. *See Ewing Indus. Corp. v. Bob Wines Nursery, Inc.*, No. 3:13-cv-931, 2015 WL 12979096, at *1 (M.D. Fla. Feb. 5, 2015).

Defendant's argument that it is likely to succeed on the merits relies on the same reasoning in its opposition to Plaintiff's motion for class certification, but the Court already rejected those arguments and sees no reason to revisit them. (*See* Doc. 121; Doc. 161; Doc. 165, pp. 5–8.) And while Defendant might have to expend resources preparing for trial, Plaintiff would be prejudiced by a stay as this case is on the eve of trial and has been ongoing for nearly seven years. *See Ewing*, 2015 WL 12979096, at *1. So the Court will not stay the case.

In the alternative, Defendant requests a continuance because there is supposedly insufficient time between now and trial to notify the class. (Doc. 165, pp. 16–18.) But that argument relies on the assumption that the trial is set for a date certain on May 4, 2026 – which is inaccurate, as that is simply the first date of the trial term. (*See* Doc. 99, p. 3.) The date certain is likely to be set later, given the

Court's calendar, the Court will ensure that there is sufficient time for class members to opt out, and any issues with the timing can be resolved at the pretrial conference. So no continuance is necessary and Defendant's objection based on insufficient time is not well taken.

As to the substance of the jointly proposed class notice (Doc. 170), on review, it constitutes the best notice practicable under the circumstances, affords due and sufficient notice to all class members, and satisfies the requirements of Federal Rule of Civil Procedure 23(c)(2)(B) and due process.

Accordingly, it is **ORDERED AND ADJUDGED**:

1. Defendant's motion to stay or continue trial (Doc. 165) is **DENIED**.
2. The Court **APPROVES** the parties' class notice and **ADOPTS** the timeline outlined therein. (Doc. 170.)

DONE AND ORDERED in Chambers in Orlando, Florida, on March 4, 2026.




ROY B. DALTON, JR.
United States District Judge