

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

**BENJAMIN COKER, JOSEPH
CONNELL, et al.,**

Plaintiffs,

v.

Case No. 3:21-cv-1211-AW-HTC

**LLOYD AUSTIN, III, in his official
capacity as Secretary of Defense, et al.,**

Defendants.

ORDER REGARDING DISCOVERY

Defendants have requested a complete stay of discovery until their forthcoming motion to dismiss is decided. ECF No. 50. Because Defendants have not made a sufficient showing that a complete stay of discovery is appropriate—and because a complete stay may delay final resolution of Plaintiffs’ claims—the motion is denied.

First, Defendants have not yet moved to dismiss, so I am in no position to take a preliminary look at their arguments. Second, Defendants contend the entire case will turn on the administrative record, but it is not clear that is so. Much of the case may, but not all. For example, I noted at the preliminary injunction phase that “no plaintiff claims he or she was specifically denied a BLA-compliant dose [of vaccine] or offered only a dose from a non-BLA-compliant vial.” ECF No. 47 at 16. But now,

Plaintiffs allege that some of them were. ECF No. 56 ¶ 117. Discovery on that topic need not wait.

The parties must continue to confer regarding discovery, and if need be, Defendants may move for a protective order. Defendants fear that Plaintiffs will seek unnecessary depositions of high-ranking officials. Plaintiffs say this is not so, but discrete issues like that can be resolved without a complete ban on discovery.

Finally, the parties both addressed the production of the administrative record. According to the Plaintiffs, the government must file it promptly. According to the Defendants, it ought not be filed at all until the motion to dismiss is resolved. Plaintiffs' response suggests the parties are conferring on the scope of the record. They must continue to do so and, no later than January 13, file a joint notice regarding the administrative record and any remaining disagreements on how it should be handled.

In the meantime, the motion to stay (ECF No. 50) is DENIED. This is without prejudice to a future motion if circumstances change.

SO ORDERED on January 6, 2022.

s/ Allen Winsor

United States District Judge