IN THE UNITED STATES DISTRICT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

THE ERICA P. JOHN FUND, INC. et al., *On Behalf of Itself and All Others Similarly Situated,*	§	
Plaintiffs,	§	
v.	§	CIVIL ACTION NO. 3:02-CV-1152-M
HALLIBURTON COMPANY and DAVID J. LESAR,	§	
Defendants.	§	

ORDER

Before the Court is Defendants' Emergency Motion to Stay Proceedings During Rule 23(f) Appeal [Docket Entry #629], in which Defendants renew their request that the Court stay these proceedings pending the Fifth Circuit's ruling on their Rule 23(f) appeal. In the alternative, Defendants request that the Court grant them leave to file, and resolve, a partial motion for summary judgment on the issues of reliance and loss causation before continuing with these proceedings. For the following reasons, Defendants' Motion is DENIED.

As this Court has previously observed, an appeal from an order granting or denying class-action certification under Rule 23 does not automatically stay the proceedings in the district court. *See* Order dated 9/18/15 [Docket Entry #606] at 1 (citing Fed. R. Civ. P. 23(f)). Instead, the decision to grant or deny a request to stay the proceedings pending an appeal lies within the sound discretion of the district judge, the exercise of which is informed by: (1) the movant's likelihood of success on the merits; (2) the irreparable harm to the movant if the stay is not granted; (3) the substantial harm to other parties if the stay is granted; and (4) the public interests implicated in granting or denying the stay. *See In re First S. Sav. Ass'n*, 820 F.2d 700, 709 (5th

Cir. 1987). The party seeking the stay bears the burden of establishing that the circumstances presented warrant a stay. *Ruiz v. Estelle*, 666 F.2d 854, 856 (5th Cir. 1982).

Here, the Court concludes that the circumstances of this case do not warrant a stay. Defendants have not established that they are likely to succeed on the merits of their appeal. Supreme Court precedent and Fifth Circuit case law support this Court's holding that a defendant in a federal securities fraud class action may not rebut the presumption of reliance at the class certification stage by producing evidence that a disclosure preceding a stock-price decline did not correct any alleged misrepresentation. *See Amgen Inc. v. Connecticut Retirement Plans & Trust Funds*, 133 S.Ct. 1184 (2013); *Ludlow v. BP, P.L.C.*, 800 F.3d 674 (5th Cir. 2015). Indeed, Judge Dennis recognized as much in his "reluctant" concurrence to the Fifth Circuit's decision granting Defendants leave to appeal this Court's order granting class certification. *See Erica P. John Fund, Inc. v. Halliburton Company, et al.*, No. 15-90038 (Nov. 4, 2015). Further, as before, the Court finds that the balance of the equities weighs against granting a stay. The harm identified by Defendants—costs of "potentially unnecessary" discovery and motion practice—does not outweigh the prejudice to Plaintiffs whose claims have been pending since 2002. This Court has already noted its willingness to help manage discovery to minimize any undue burden and expense to Defendants. However, it is unable to address the inherent, and increasing, risk that memories will fade and witnesses will become unavailable the longer this case remains unadjudicated. Finally, the Court observes that continued delay in the resolution of this matter may erode public confidence in the judicial process.

The Court also denies Defendants' alternative request to grant the parties leave from Local Rule 56.2(b) to file a partial motion for summary judgment concerning the sole remaining

corrective disclosure and pause all other proceedings until the resolution of that summary judgment motion.

SO ORDERED.

November 24, 2015.

BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS