

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
22 CVS 7425

IQVIA, INC.,

Plaintiff,

v.

CIRCUIT CLINICAL SOLUTIONS,
INC.,

Defendant.

**ORDER ON MOTION TO STAY AND
RELATED DISCOVERY MOTIONS**

1. This is the second of two lawsuits brought by IQVIA, Inc. to keep its former employee Dana Edwards from working for its competitor Circuit Clinical Solutions, Inc. In the first lawsuit, IQVIA sued Edwards for allegedly breaching her employment agreement. Eight months later, IQVIA filed this action against Circuit Clinical for allegedly inducing Edwards's breach. At issue are three motions concerning whether and how this second-filed action should proceed.

2. IQVIA is a life sciences and technology company. Edwards worked there for nearly a decade, eventually rising to become VP, Global Sales of Clinical Technology. In late summer 2021, Edwards decided to leave IQVIA to become Circuit Clinical's Chief Commercial Officer. When Edwards gave notice of her resignation, IQVIA sought assurances that her duties with Circuit Clinical would not run afoul of the nondisclosure, noncompetition, and nonsolicitation clauses in her employment agreement. The response did not satisfy IQVIA. Yet over its objections, Edwards began working for Circuit Clinical in October 2021. (*See* Compl. ¶¶ 4, 45, 58–62, 69–71, 73, 74, ECF No. 3.)

3. Days later, IQVIA sued Edwards—but not Circuit Clinical—in Durham County Superior Court for breach of contract and immediately sought a temporary restraining order to enforce the restrictive covenants in her employment agreement. The presiding judge denied the motion for temporary restraining order. IQVIA then filed an early, partial motion for summary judgment to establish that the restrictive covenants are enforceable. That motion was also denied. IQVIA asserts that it intended to move for a preliminary injunction but that it hasn't been able to get the discovery needed to support the motion. Although IQVIA obtained an order compelling Circuit Clinical to produce documents, it believes there are gaps in the production. A motion to compel discovery from Edwards, filed in March 2022, remains pending. (*See, e.g.*, ECF No. 6 at 1–5; ECF No. 17 at 1–3.)

4. While awaiting a decision on its motion to compel, IQVIA filed this action against Circuit Clinical and designated it to the Business Court. All three claims—tortious interference with contract, violations of N.C.G.S. § 75-1.1, and declaratory judgment—are based on allegations that Circuit Clinical induced Edwards to breach her employment agreement. The relief that IQVIA seeks is much the same as it seeks in the first-filed action in Durham County: damages, a declaration that the restrictive covenants are enforceable, and an injunction to bar Edwards from working for Circuit Clinical. (*See* Compl. 30–31.)

5. Three motions are pending here. First, IQVIA has moved for expedited discovery to support a future motion for preliminary injunction. Essentially, IQVIA

seeks all documents that Circuit Clinical produced in the Durham County action plus others that IQVIA believes should have been produced but weren't. (*See* ECF No. 6.)

6. Second, Circuit Clinical has moved to stay all proceedings. It contends that a stay in this second-filed action is needed to prevent a conflict with the first-filed action in Durham County because both turn on the same legal and factual issues and involve the same potential remedies. In the absence of a stay, Circuit Clinical contends that the complaint should be dismissed for failure to state a claim. (*See* ECF No. 13.)

7. Third, Edwards has moved to quash a subpoena served by IQVIA or, alternatively, for entry of a protective order. Edwards, a nonparty in this action, endorses Circuit Clinical's motion to stay. She also notes that at least some documents sought by IQVIA are the subject of the unresolved motion to compel in the Durham County action. (*See* ECF No. 15.)

8. All three motions have been fully briefed. The Court held a hearing on 2 September 2022, at which all parties were represented by counsel.

9. Every court has inherent authority "to control the disposition of causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Watters v. Parrish*, 252 N.C. 787, 791 (1960). This includes the authority to stay a second-filed action pending the outcome of a related, first-filed action. When there is a "clear interrelationship of the issues," allowing "both actions to proceed concurrently would be to invite conflict between the resolution of interrelated issues in the two actions." *Baldelli v. Baldelli*, 249 N.C. App. 603, 608 (2016) (remanding

with instructions to hold second-filed action in abeyance); *see also Johns v. Welker*, 228 N.C. App. 177, 182 (2013) (same).

10. So it is here. IQVIA's lawsuits against Edwards and Circuit Clinical are clearly interrelated. Both revolve around the same contested issues: whether the restrictive covenants in Edwards's employment agreement are valid and whether she breached them by joining Circuit Clinical. And both seek the same declaratory and injunctive relief. Litigating in two venues at the same time would surely waste judicial resources and invite conflicting decisions.

11. Allowing this second-filed action to proceed would also risk inviting judge and forum shopping in future cases. Although IQVIA denies forum shopping, it is hard to describe its actions any other way. Frustrated with the rulings and pace of litigation in Durham County, IQVIA filed this interrelated action in a new forum (the Business Court) with hopes of receiving more favorable and more expeditious treatment. At the hearing, IQVIA's counsel even suggested that this second action should supplant the first or absorb it through consolidation. That is transparent forum shopping. A plaintiff has some leeway in choosing when and where to file suit as well as whether to sue all potential defendants at one time. But there is little reason to give a second bite at the apple simply because a plaintiff regrets its initial choice of forum. And there is even less reason to let a plaintiff use a second-filed Business Court case as a tool to pry its first-filed case out of the chosen forum. Business Court designation is not a mere step in a game of litigation leapfrog.

12. This action should yield to the Durham County action. The Court therefore grants Circuit Clinical's motion to stay.

13. Entry of a stay necessarily resolves IQVIA's motion to expedite discovery. It bears noting, though, that IQVIA waited eight months to file suit against Circuit Clinical after Edwards began working there. That delay alone would have weighed heavily against expedition, even without a stay. The Court denies IQVIA's motion for expedited discovery. *See BioAgilytix Labs, LLC v. Alvandkouhi*, 2020 NCBC LEXIS 125, at *2–3 (N.C. Super. Ct. Oct. 19, 2020).

14. Entry of a stay also resolves the motion to quash. With all proceedings stayed, Edwards need not respond to IQVIA's subpoena in this case. Discovery shall proceed, instead, in the Durham County action and in accordance with the rulings of the presiding judge or judges there.

15. For the reasons given above, the Court **GRANTS** Circuit Clinical's motion to stay and **DEFERS** a ruling on its grounds for dismissal. The Court **DENIES** IQVIA's motion for expedited discovery. And, finally, the Court **GRANTS** Edwards's motion in part: Edwards need not respond to IQVIA's subpoena during the stay, and the Court will address the manner and timing of nonparty discovery after the stay is lifted.

16. The parties shall file joint status reports concerning the status of the Durham County action every 90 days, beginning on 1 December 2022.

SO ORDERED, this the 14th day of September, 2022.

/s/ Adam M. Conrad
Adam M. Conrad
Special Superior Court Judge
for Complex Business Cases