

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

STERLING SMALL MARKET)	
EDUCATION FUND, L.P., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 22-790-CJB
)	
MICHAEL PERIK, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

The Court, having reviewed Defendants Michael Perik, Nicole Rowe Colclasure (“Rowe”), John Haseley, Daniel Jones, Higher Education Partners, LLC, RRGTHREE, LLC, USS Guarantor, LLC and MWJ Holdings, LLC’s (“Defendants”) motion to stay (the “Motion”), (D.I. 242), having reviewed the parties’ letter briefing, (D.I. 243; D.I. 247; D.I. 249), and having considered the relevant factors discussed below, hereby ORDERS that the Motion is GRANTED and the case is STAYED for the following reasons.

I. BACKGROUND¹

This case involves Plaintiffs Sterling Small Market Education Fund, L.P. (“Sterling”), SRC Intermediate Holdings (“SRC Intermediate”) and Student Resource Center, LLC’s (“SRC” and collectively with Sterling and SRC Intermediate, “Plaintiffs”) fraud and breach of contract claims relating to Sterling and SRC Intermediate’s acquisition of Defendants’ former company SRC, (*see* D.I. 99 at ¶¶ 1-2; D.I. 79 at 1), as well as Defendants’ counterclaims against Plaintiffs and Student Resource Center Holdings, LLC (“SRC Holdings”) for breach of contract and

¹ The Court writes primarily for the parties here, who are well familiar with the facts discussed herein.

declaratory judgment relating to SRC Holding's repurchase of Defendants' shares in SRC, (*see* D.I. 103 at 50, at ¶ 8; D.I. 189 at 1-3). A bench trial in the case had been set to begin on November 17, 2025. (D.I. 160 at 10; D.I. 222)

However, on October 29, 2025, Defendants filed an unopposed motion to temporarily stay the case, and the Court granted that motion the next day. (D.I. 231; D.I. 232) That motion was occasioned by the fact that on October 28, 2025, Defendants learned that [REDACTED] of the individual Defendants ([REDACTED] and [REDACTED]) and a witness in this case ([REDACTED] of [REDACTED]), had been named as [REDACTED] in a criminal investigation being conducted by the Ohio Auditor of State's Office (the "Ohio criminal investigation"). (D.I. 231 at 1; D.I. 231-2 at 1; *see also* D.I. 99 at ¶¶ 17, 23-24) Following the Court's grant of a temporary stay of the case, Defendants' counsel met with the special prosecutor overseeing the Ohio criminal investigation, Thomas Anger, to assess the nature of the investigation. (D.I. 243, ex. 1 at ¶ 6; *see also id.*, ex. 2)

With the instant Motion, Defendants now move for an order staying this case indefinitely (pending resolution of the Ohio criminal investigation), or, alternatively, for a stay of six months (with periodic status reports to inform the Court of developments in the criminal investigation, and to attempt to gain sufficient understanding of the criminal investigation to balance the risk in moving forward with the civil trial). (D.I. 243 at 1) Defendants support their Motion with an Affidavit in which Defendants' counsel provides details regarding his meeting with Mr. Anger ("Defendants' Affidavit"). (*Id.*, ex. 1) Plaintiffs oppose the motion and request that the case be scheduled for trial on the earliest date convenient to the Court. (D.I. 247 at 5)

II. STANDARD OF REVIEW

“A United States district court has broad power to stay proceedings.” *Bechtel Corp. v. Local 215, Laborers’ Int’l Union of N. Am., AFL-CIO*, 544 F.2d 1207, 1215 (3d Cir. 1976); *see also Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936). “It is not uncommon for a civil case to be stayed pending resolution of a related criminal case[.]” *Reyes v. Freeberry*, 141 F. App’x 49, 51 (3d Cir. 2005); *see also United States v. Kordel*, 397 U.S. 1, 12 n.27 (1970) (“Federal courts have deferred civil proceedings pending the completion of parallel criminal prosecutions when the interests of justice seemed to require such action[.]”). In evaluating a request to stay a civil action pending the resolution of a related criminal action, this Court generally weighs the following non-exhaustive set of factors: (1) the degree of overlap between the civil and criminal actions; (2) the stage of the criminal proceedings; (3) the prejudice to the non-moving party that would result from a stay; (4) the burden on the moving party of permitting concurrent litigation; (5) the interests of the court; and (6) the public interest. *Deloitte Consulting LLP v. Sagitec Sols. LLC*, Civil Action No. 23-325-WCB, 2023 WL 6037201, at *1 (D. Del. Sept. 15, 2023); *Bryer v. Jefferson*, Civil Action No. 12-1028-GMS, 2013 WL 3753420, at *1 n.1 (D. Del. July 8, 2013). “The movant bears the burden of establishing the need for a stay[.]” *Deloitte Consulting LLP*, 2023 WL 6037201, at *1.

III. DISCUSSION

The Court now turns to assessing the relevant factors at play in determining whether a stay is warranted here.

A. Factor One: The Degree of Overlap

The first factor—the extent to which the issues in the civil and criminal cases overlap—has been deemed “the most important issue at the threshold” in determining whether a stay

should be granted. *Parker v. Haynes*, C.A. No. 24-902 (MN), 2025 WL 1396343, at *1 (D. Del. May 14, 2025) (citations omitted). Defendants assert that there is “substantial overlap” between this case and the Ohio criminal investigation, since both matters involve the question of “the valuation of SRC prior to the sale to Plaintiffs, including the manner in which Defendants increased its value.” (D.I. 243 at 2; *see also id.*, ex. 1 at ¶ 11; D.I. 249 at 1; D.I. 187 at 1)² And beyond that core dispute, Defendants point out that Mr. Anger confirmed that the scope of the investigation additionally encompasses the following topics that are also at issue in this case: (a) the nature and terms of the Collaboration Agreement between SRC and EGCC; (b) the [REDACTED]; (c) payments between SRC and EGCC and whether they were proper; (d) the United States Department of Education’s review and report regarding the inappropriate relationship between SRC and EGCC; and (e) the possibility of simultaneous employment by employees of SRC and EGCC. (D.I. 243 at 2; *see also id.*, ex. 1 at ¶ 13; D.I. 249 at 1-2; D.I. 99 at ¶¶ 17-18, 44-49, 51-53, 71, 155-77 (allegations in the operative Second Amended Complaint regarding the Collaboration Agreement and the relationship between Mr. Perik and Mr. Geoghegan))

Plaintiffs attempt to downplay the relevance of SRC’s valuation to this case. In doing so, they assert that the valuation question is “only relevant here to the extent EGCC’s accreditation sanctions impacted the revenue SRC received from its EGCC collaboration.” (D.I. 247 at 3) But Plaintiffs’ prior assertions in this case make it undeniable that the valuation of SRC is absolutely

² Mr. Anger confirmed that the scope of the Ohio criminal investigation includes the value of SRC before and at the time of its sale, including the manner in which it was valued and how [REDACTED], [REDACTED] and others attempted to increase the value; he also explained that this issue in turn relates to the use of federal and Ohio State funds (including Federal Title IV and Pell Grant funds). (D.I. 243, ex. 1 at ¶¶ 11-12)

key to this case, and thus squarely relevant. (*See, e.g.* D.I. 99 at 53 (seeking “[d]amages equal to the difference between the actual and represented values of [SRC]”); D.I. 187 at 1 (Plaintiffs asserting in their summary judgment opposition that “Defendants hid the true state of SRC’s affairs to take millions in cash at closing before the company became virtually worthless”)) As for the other topics at issue in both cases identified by Defendants, Plaintiffs fail to even address those in their briefing. (*See* D.I. 247 at 2-3; D.I. 249 at 1-2) And so Plaintiffs have effectively conceded that such topics also overlap. *See, e.g., Med-El Elektromedizinische Gerate Ges.M.B.H. v. Advanced Bionics, LLC*, Case No. 1:18-cv-01530-JDW, 2024 WL 4371292, at *5 (D. Del. Oct. 2, 2024) (citing cases); *Agilent Techs., Inc. v. Axion BioSys., Inc.*, Civil Action No. 23-198-CJB, D.I. 490 (D. Del. Jan. 27, 2026) (same).

Otherwise, Plaintiffs seem to suggest that the Court should ignore Defendants’ Affidavit (which, again, describes how Mr. Anger explained the focus of the investigation during his conversations with Defendants’ counsel). Instead, Plaintiffs argue that in order to discern what the Ohio criminal investigation is really about, the Court should primarily look to the initial [REDACTED] letters that [REDACTED] and [REDACTED] received in October 2025, as well as to a 148-page Audit Report for EGCC for the year ending June 30, 2023 that was prepared by the Ohio Auditor of State (“Ohio Auditor”).³ According to Plaintiffs, these documents demonstrate that the investigation is really about the misuse of public funds. (D.I. 247 at 2-3) Plaintiffs also point to their own Affidavit relating to a telephone call that Plaintiffs’ counsel had with Mr. Anger, in which Mr. Anger “confirmed that the scope” of the investigation “relates to the alleged theft of federal and Ohio public funds . . . by inflating the number of students” enrolled at EGCC—and

³ Plaintiffs’ reference to the Audit Report is frustrating, as Plaintiffs provide no pincites to any portion of that lengthy document, nor did Plaintiffs otherwise highlight any portion of the document that they wished the Court to focus on. (D.I. 247 at 2 & ex. B)

that it does not relate to the “accreditation of EGCC[,]” Defendants’ “alleged concealment of EGCC’s accreditation issues from Sterling[,]” the “sale of [SRC] to Sterling[,]” the “repurchase of Defendants’ equity in SRC[,]” Defendants’ “tortious interference with SRC’s contracts after they left SRC” or Sterling’s “management of SRC” after its purchase. (*Id.*, ex. A at ¶¶ 5-6; *see also* D.I. 247 at 3)

In the Court’s view, while the record shows that the Ohio criminal investigation is focused on ██████████ and ██████████ misuse of public funds with respect to EGCC and SRC and may not touch on every single issue at play in this case, there is also clear overlap between the two matters. To state it again: (1) ██████████ of the four individual Defendants in this case (along with a key witness in the case) are ██████████ of the criminal investigation; and (2) both this case and that criminal investigation are deeply concerned with SRC’s valuation before and after its sale, as well as with various aspects of the relationship between EGCC and SRC.⁴ Those key facts cannot be disputed, and they demonstrate that there is real and significant overlap here. *See Swainson v. City of Philadelphia*, CIVIL ACTION No. 22-2163, 2022 WL 17669708, at *2 (E.D. Pa. Dec. 14, 2022) (explaining that to warrant a stay, “the overlap between the civil and criminal cases must either arise out of the same set of facts . . . or implicate similar enough issues that resolution in one case would moot, clarify, or otherwise affect various contentions in the other”) (internal quotation marks and citations omitted). It is also clear that Defendants (including ██████████ and ██████████) had been expected to testify at this trial regarding these

⁴ The Court notes that while currently only ██████████, ██████████ and ██████████ have received letters indicating that they are targets of the Ohio criminal investigation, Mr. Anger confirmed that the other individual Defendants in this case, ██████████) and ██████████), “may also” receive ██████████ letters, an offer to proffer or may simply be charged in an indictment in the future. (D.I. 243, ex. 1 at ¶ 8; *see also* D.I. 99 at ¶¶ 25-26)

overlapping issues. (D.I. 243 at 2; D.I. 249 at 1) This factor thus weighs in favor of a stay. *See, e.g., Peterson v. Matlock*, Civil Action No. 11-2594 (FLW), 2011 WL 5416571, at *4 (D.N.J. Nov. 7, 2011) (“With respect to similarity of issues between the civil case and criminal investigation, although perfect symmetry does not exist, the Court finds that the evidence presented by Served Defendants demonstrates significant overlap in this instance. . . . While the specifics of the criminal investigation have yet to be fully elucidated, the information presented to the Court indicates that this factor weigh[s] in favor of a stay.”); *Cont’l Ins. Co. v. Securi Enters., Inc.*, Civil Action No. 10-4586 (MLC), 2010 WL 5392735, at *5, *9 (D.N.J. Dec. 21, 2010) (rejecting the plaintiff’s assertion that there was insufficient overlap because, *inter alia*, the subpoenas issued in the criminal investigation were broader in scope than the case at hand, and finding this factor to weigh in favor of a stay, because “although perfect symmetry does not exist, the Court finds that the evidence presented by the parties demonstrates significant overlap[,]” as the allegations in both cases related to “fraudulent misrepresentations related to automobile insurance obtained by [d]efendants”).

B. Factor Two: The Stage of the Criminal Proceeding

The second factor considers the stage of the criminal proceeding, including whether the defendant has been formally charged. *Parker*, 2025 WL 1396343, at *2. While “[t]he strongest case for a stay [] in the civil case occurs during a criminal prosecution after an indictment is returned [when] [t]he potential for self-incrimination is greatest[,]” it is still possible to obtain a stay in the face of an active parallel criminal investigation. *Walsh Sec., Inc. v. Cristo Prop. Mgmt., Ltd.*, 7 F. Supp. 2d 523, 527 (D.N.J. 1998) (citation omitted); *see also Parker*, 2025 WL 1396343, at *2.

Defendants argue that this factor weighs in favor of a stay because “[t]he criminal proceedings are active and ongoing, with an investigation underway and [REDACTED] defendants, who are [REDACTED] material witnesses in Defendants’ case, named as [REDACTED].” (D.I. 243 at 3) Defendants also point out that Mr. Anger specified that he believed that the investigation would move along reasonably quickly because there are less than two years remaining under the relevant statute of limitations. (D.I. 249 at 2; *see also* D.I. 243, ex. 1 at ¶ 10)⁵ Plaintiffs, for their part, assert that the lack of charges against any Defendant weighs heavily against granting a stay, as it is unclear whether any charges will ever be brought and when the investigation may conclude. (D.I. 247 at 1-2)

Under the circumstances here—where there appears to be a definite endpoint to the criminal investigation, and the next step in *this* case would be a trial at which Defendants would risk incrimination by testifying about key issues in the case—this factor weighs in favor of a stay (somewhere between “slightly” and “squarely” so). *Compare Parker*, 2025 WL 1396343, at *1, *2 (concluding that this factor weighed in favor of a stay, where the defendant was only under criminal investigation, and where the investigation had been publicly announced just nine months prior, but where “allowing this case to proceed” nevertheless risked undermining the defendant’s privilege against self-incrimination under the Fifth Amendment), and *In re Garsia*, Bankruptcy No. 09-22233 (DHS), 2011 WL 1045295, at *2, *4 (Bankr. D.N.J. Mar. 17, 2011) (concluding that, where the criminal case was still at the pre-indictment stage (though the defendant had already been arrested and charged) and the civil case was ready for trial, the

⁵ Relatedly, it appears that as of the point when the [REDACTED] letters were received in October 2025, the Ohio Auditor’s investigation had been ongoing for almost two years (and that Defendants were aware of the existence of the investigation during that time, if not aware that they were [REDACTED] of that investigation). (D.I. 247 at 1-2)

absence of an indictment did not weigh against a stay, where the defendant was the subject of at least one active criminal investigation and would undoubtedly continue to assert his Fifth Amendment privilege in the civil matter, and key defense witnesses in the civil case were also the subjects of criminal investigations and may invoke the Fifth Amendment themselves), *with Cress v. City of Ventnor*, Civil No. 08-1873 (NLH), 2009 WL 750193, at *3 (D.N.J. Mar. 18, 2009) (finding that this factor worked against a stay, in part because the defendant had not yet been indicted and so a stay “would be *indefinite*”) (emphasis added), and *Chang v. ABLE C&C Co. Ltd.*, No. 23-CV-02590 (KSH) (JRA), 2025 WL 3653917, at *4 (D.N.J. Dec. 17, 2025) (same, where there was uncertainty about when the relevant foreign criminal investigation would end, and where there was little information about the degree of overlap between that investigation and the instant civil proceedings).

C. Factor Three: Prejudice to the Non-moving Party

The third factor considers the prejudice to the non-moving party that would result from entering a stay. *Deloitte Consulting LLP*, 2023 WL 6037201, at *3. Normally, “[i]n evaluating the plaintiff’s burden resulting from the stay, courts may insist that the plaintiff establish more prejudice than simply a delay in her right to expeditiously pursue her claim.” *Maloney v. Gordon*, 328 F. Supp. 2d 508, 512 (D. Del. 2004) (citation omitted); *see also, e.g., Galietti v. Greatwide Dedicated Transp. I, LLC*, 3:15-CV-1385, 2016 WL 1071024, at *2 (M.D. Pa. Mar. 17, 2016). This makes sense, because *any* stay in *any* case involving this scenario will necessarily result in pushing back the date by which a plaintiff can get to trial and potentially obtain relief; if such a result were in itself always enough to move this factor squarely Plaintiffs’ way, there would never be any factor three analysis for a Court to do. *See e.g., Galietti*, 2016 WL 1071024, at *2 (“*All* Plaintiffs ha[ve] a legitimate interest in the expeditious resolution of

their cases . . . and, in light of this, a court may require more than an assertion of Plaintiff's right to pursue his case expeditiously in determining whether to issue a stay[.]” (emphasis added); *AIG Life Ins. Co. v. Phillips*, Civil Action No. 07-cv-00500-PSF-MEH, 2007 WL 2116383, at *3 (D. Colo. July 20, 2007) (same).

Defendants contend that Plaintiffs will not be seriously prejudiced, if at all, by a stay because both parties were prepared to go to trial before the filing of the instant Motion, and so there can be no risk of lost evidence by the passage of time. (D.I. 243 at 3) Meanwhile, Plaintiffs assert that the prejudice would be substantial because this case could be put on hold indefinitely while the Ohio Auditor decides whether to bring charges, during which time the memories of witnesses will fade and any assets currently held by Defendants may dissipate. (D.I. 247 at 4)

On the one hand, as noted above, there does seem to be a definite endpoint to at least the investigatory stage here (as explained above). But were certain Defendants charged with a crime, then a stay could stretch beyond that time—i.e., if Defendants were to seek to extend the stay during the duration of any criminal proceedings. (*Id.*) And during that timeframe, it is true that memories could fade and assets may dissipate.⁶ And yet the reality that we are past the fact discovery stage tempers the prejudice to Plaintiffs a bit, because the documentary evidence in the case has already been obtained.

When taking into account all of these facts, the Court concludes that this factor militates slightly against a stay. *Cf. Parker*, 2025 WL 1396343, at *2.

⁶ Defendants do not respond to Plaintiffs' assertion regarding Defendants' assets. (D.I. 249 at 2) Defendants *do* argue that the relevant events took place more than four years ago, and so they suggest that the effect of time on witness memory has already taken effect. (*Id.*) But surely *additional* delay could *further* impact the memories of witnesses.

D. Factor Four: Burden on the Moving Party

The fourth factor assesses the burden on the defendant from permitting concurrent civil litigation. *Id.* at *4. Defendants contend that proceeding with this case would impose an unfair burden on them because “Defendants would be forced into the dilemma of choosing between invoking the Fifth Amendment and risking adverse inferences on issues of liability in the civil trial or testifying on key issues in the civil trial but risk incriminating themselves in an ongoing criminal investigation.” (D.I. 243 at 3) Plaintiffs assert that any burden on Defendants is minimal, because: (1) the corporate entity Defendants do not have a Fifth Amendment privilege against self-incrimination and Defendants ██████ and ██████ haven’t received ██████ letters (and thus may not have a basis to invoke the Fifth Amendment); and (2) Defendants have waived the right to assert the Fifth Amendment at trial with regard to any topics upon which they testified at their depositions, because they provided that testimony with knowledge that government investigations into SRC and EGCC were ongoing. (D.I. 247 at 3-4)

Plaintiffs’ arguments are not very persuasive. As an initial matter, while it might be true that certain Defendants (i.e., the corporate Defendants and Defendants ██████ and ██████) would not be burdened by proceeding forward with this case (though even that is questionable as to ██████ and ██████ current status, (*see* D.I. 243, ex. 1 at ¶ 8)), surely ██████ and ██████ do face a real risk. If the trial went forward, as noted above, those ██████ Defendants would have to choose between invoking their Fifth Amendment privileges at trial (and the harm that this might do to their position in this matter) or incriminating themselves in an ongoing criminal investigation.

Moreover, even if ██████ and ██████ were aware of the investigation into SRC and EGCC at the time of their depositions, that does not mean that they reasonably then believed that

they were at real risk of incriminating themselves. (See D.I. 249 at 2; *id.*, ex. 2 at 327-28)⁷ And even if it could be said that these Defendants waived their Fifth Amendment rights by testifying at their depositions, at least some courts have held that “a deposition and trial are separate proceedings for Fifth Amendment purposes” and “a single testimonial event is its own proceeding for purposes of a waiver.” *In re Flint Water Cases*, 53 F.4th 176, 200, 205 (6th Cir. 2022) (finding that cases like *Creative Consumer Concepts, Inc. v. Kreisler*, 563 F.3d 1070, 1081 (10th Cir. 2009), cited by Plaintiffs here, were not persuasive, as in that case the court “commented without explanation that deposition testimony waived the privilege for the remainder of [the] civil proceeding”); *see also* (D.I. 247 at 4). At a minimum, then, Plaintiffs’ trial-related waiver argument is on uncertain legal ground. *Cf. In re Neff*, 206 F.2d 149, 152 (3d Cir. 1953) (“It is settled by the overwhelming weight of authority that a person who has waived his privilege of silence in one trial or proceeding is not estopped to assert it as to the same matter in a subsequent trial or proceeding.”).

Therefore, for the reasons expressed by Defendants, this factor weighs in favor of a stay. *See, e.g., Hernandez v. City of Philadelphia*, CIVIL ACTION NO. 22-0027-KSM, 2022 WL 10493526, at *4 (E.D. Pa. Oct. 18, 2022) (“There is no question that the CO Defendants would be prejudiced were they forced to choose between testifying in this matter (and thus waiving

⁷ An individual may assert the Fifth Amendment in civil proceedings if he “reasonably believes his answers could be used in a criminal prosecution or lead to other evidence that could be used in a criminal prosecution.” *Legend Biotech USA Inc. v. Liu*, Case No. 2:23-cv-02965-BRM-LDW, 2024 WL 919082, at *11 (D.N.J. Mar. 4, 2024) (internal quotation marks and citation omitted); *see also Aruanno v. Spagnuolo*, 292 F. App’x 184, 186 (3d Cir. 2008) (“[T]he Fifth Amendment protects against real dangers, not remote and speculative possibilities.”) (internal quotation marks and citation omitted). To show that an individual has waived his Fifth Amendment rights, the proponent must demonstrate that the waiver was “knowing, intelligent, and voluntary under the high standar[d] of proof for the waiver of constitutional rights.” *Legend Biotech USA Inc.*, 2024 WL 919082, at *12 (internal quotation marks and citations omitted).

their Fifth Amendment right against self-incrimination) or remaining silent in this matter (and essentially conceding the civil case against them).”).

E. Factor Five: The Interests of the Court

The fifth factor of the stay analysis considers the interest of the Court, or judicial efficiency. *Parker*, 2025 WL 1396343, at *2. Defendants assert that this factor weighs in favor of a stay because as the criminal investigation plays out, certain issues may resolve, or the parties may become more inclined to settle the civil case. (D.I. 243 at 3) Plaintiffs do not dispute this in their responsive brief. (D.I. 247 at 5) But they nevertheless argue that this factor weighs against a stay because the Court has a strong interest in judicial efficiency that would not be served by a lengthy stay of a case that has already been pending for a number of years.⁸ (*Id.*)

In the Court’s view, both sides point to worthy considerations here. The Court therefore finds this factor to be about neutral. *Cf. Parker*, 2025 WL 1396343, at *2 (finding this factor to weigh in favor of a stay where an indefinite stay would prevent the Court from resolving the case efficiently, but disposition of the criminal matter could accelerate resolution of the civil case or, at least, simplify the issues); *Sec. & Exch. Comm’n v. Hvizdzak Cap. Mgmt., LLC*, Civil Action No. 1:20-154, 2021 WL 3549332, at *4 (W.D. Pa. Aug. 11, 2021) (finding that this factor weighed in favor of a stay where, *inter alia*, resolution of the criminal case may increase the prospect for settlement of the civil case); *Cress*, 2009 WL 750193, at *3 (determining that this

⁸ From the time of the Court’s involvement in this case, it has worked hard to get the case promptly to trial. While the case was filed back in June 2022, (D.I. 1), the Court did not become involved in it until the parties consented to the Court’s jurisdiction in May 2024, (D.I. 115). A trial was then promptly set for March 2025, (D.I. 121), but the parties later sought to push back that trial date because Defendants had to retain new lead counsel, (D.I. 153). A new trial date was then set for November 2025, (D.I. 160), and the Court had resolved all *Daubert* and summary judgment motions but one by the October 2025 date when the parties sought a temporary stay of the proceedings, (D.I. 226-30).

factor weighed against granting a stay because such a stay would be indefinite (as a trial date had not been scheduled in the criminal matter), and the court has an interest in judicial efficiency with regard to managing its caseload).

F. Factor Six: The Public Interest

Finally, the Court considers the interest of the public. *Parker*, 2025 WL 1396343, at *3. Defendants argue that the public interest favors the resolution of cases on their merits instead of due to adverse inferences from a party's exercise of its Fifth Amendment privilege. (D.I. 243 at 3) Defendants also assert that the public has an interest in the integrity of the criminal case that takes precedence over a civil case. (*Id.*) Plaintiffs say that this factor is not particularly relevant here because their claims do not involve a substantial public concern (while noting that the public does have an interest in deterring fraudulent activity). (D.I. 247 at 5 (citing *Cress*, 2009 WL 750193, at *3))

Here, in light of the fact that the criminal matter involves the alleged misuse of public funds, *see supra* at 5, and in light of the arguments made by Defendants, this factor weighs in favor of a stay. *See, e.g., Parker*, 2025 WL 1396343, at *3 (determining that this factor weighed in favor of a stay, where the public has an interest in the government's ability to conduct a complete and unhindered criminal investigation).

G. Conclusion

In the end, with four factors weighing in favor of a stay to some degree, one factor weighing slightly against a stay, and one factor neutral, the Court must grant the Motion and stay this action pending resolution of the criminal investigation. The amount of overlap between this case and the criminal investigation—and the significant impact that could have on the ability to have a fair trial in this case—is enough to warrant the stay.

IV. CONCLUSION

Therefore, the Court ORDERS that the case is STAYED pending the resolution of the criminal investigation or other order of the Court. The Court further ORDERS that: (1) Within sixty (60) days of this Memorandum Order, the parties shall submit a joint status report informing the Court what, if any, development there has been in the pending criminal investigation, including whether it remains pending and whether any indictments have been issued against any Defendant.; and (2) The parties shall submit a similar status report every sixty (60) days thereafter.

The Court also ORDERS that with regard to the remaining portion of Plaintiffs' motion for summary judgment, (D.I. 166), regarding Plaintiffs' assertions that certain counterclaims are asserted against improper parties and that Counterclaim II fails as a matter of law, (*see* D.I. 167 at 6; D.I. 228), that portion of the motion is DENIED WITHOUT PREJUDICE to renew it, if and when the stay is lifted, utilizing the already-existing briefing.

Because this Memorandum Order may contain confidential information, it has been released under seal, pending review by the parties to allow them to submit a single, jointly proposed, redacted version (if necessary) of the Memorandum Order. Any such redacted version shall be submitted no later than **February 13, 2026** for review by the Court. It should be accompanied by a motion for redaction that shows that the presumption of public access to judicial records has been rebutted with respect to the proposed redacted material, by including a factually-detailed explanation as to how that material is the "kind of information that courts will protect and that disclosure will work a clearly defined and serious injury to the party seeking closure." *In re Avandia Mktg., Sales Pracs. & Prods. Liab. Litig.*, 924 F.3d 662, 672 (3d Cir.

2019) (internal quotation marks and citation omitted). The Court will subsequently issue a publicly-available version of its Memorandum Order.

Dated: February 10, 2026



Christopher J. Burke
UNITED STATES MAGISTRATE JUDGE