

Plaintiff filed a Motion for Summary Judgment (Dkt. 66) seeking a merits-based judgment granting its takings claim. Defendant filed a Response (Dkt. 76), the appropriate vehicle for Defendant to ask the Court to *deny* the relief Plaintiff requested (i.e., Defendant asks the Court not to grant summary judgment in Plaintiff's favor).

Defendant also filed—well before the deadline for dispositive motions in the First Amended Scheduling Order (Dkt. 62)—a Motion for Summary Judgment (Dkt. 78) seeking a merits-based dismissal of Plaintiff's takings claim. Such motion is the only appropriate vehicle to do so; Defendant cannot seek the affirmative relief of dismissal of Plaintiff's claim via a Response to Plaintiff's motion. Such relief can only be granted via a separate cross-motion for summary judgment, so that's what Defendant filed. Both Plaintiff's motion and Defendant's motion are necessary to present a full set of competing and opposite requests for relief to the Court.

Further, as the subject matter of the cross-motions is indeed quite similar (a point with which Defendant agrees; that is the nature of cross-motions for summary judgment seeking competing relief), it should be no great burden for Plaintiff to prepare and promptly file a Response presenting Plaintiff's legal position.

It's time to fulfill the purpose of the Rules and end this case by summary disposition. A stay would improperly delay such disposition with trial just three months away. Plaintiff's Motion to Stay should be denied¹, and Plaintiff should be required to file its Response to Defendant's Motion for Summary Judgment within seven days.

¹ Plaintiff's Motion to Strike likewise should be denied; Defendant will be filing a Response to Plaintiff's separate Motion to Strike speaking in more detail to that appropriate disposition under separate cover.

BACKGROUND

Plaintiff's Complaint (Dkt. 1) asserted a takings claim based on the District's amendment of its rules, and the purported affect those amendments have had on Plaintiff's property interest. On April 10, 2026, Plaintiff filed a Motion for Summary Judgment (Dkt. 66), asking the Court to declare that the District's actions and the effects thereof constitute a taking and to require the District to repeal its Amended Rules and apply its Old Rules (that is, functionally all material relief sought in Plaintiff's Complaint). Defendant timely filed its Response to that motion (Dkt. 76) on May 8, 2026, asking the Court to deny the relief requested in Plaintiff's Motion. Plaintiff then filed its Reply on May 15, 2026 (Dkt. 77). Thus ends the sequence of pleadings by which (1) Plaintiff requests the Court to grant it relief, and (2) Defendant asks the Court to deny Plaintiff's request.

On May 19, 2026, Defendant filed its Motion for Summary Judgment (Dkt. 87) asserting that the undisputed facts establish that no actionable taking has occurred, and therefore, requesting that the Court grant the affirmative relief of dismissal of Plaintiff's claim. Defendant's cross-motion is the first and only time that Defendant has (1) asserted that the actual facts of the case are dispositive of Plaintiff's takings claim and (2) affirmatively sought dismissal of Plaintiff's claim on that basis. Defendant responded on June 2, 2026 by filing its Motion to Strike (Dkt. 79) and companion Motion to Stay (Dkt. 80).

ARGUMENTS AND AUTHORITIES

Plaintiff asks this Court to strike Defendant's Motion for Summary Judgment on the basis that "it is not a genuine independent dispositive motion," even though it is an

actual dispositive motion, seeking the affirmative relief of dismissal of Plaintiff's claims on grounds presented to the Court for the first time in that motion. Without that motion, there would be no request for that relief before the Court; the only way for there to be a complete set of cross-motions for summary judgment before the Court is to proceed with all the motions on file (including Defendant's motion), and decide the case one way or the other.

The entire purpose of the Federal Rules of Civil Procedure is "to secure the just, speedy, and inexpensive determination of every action and proceeding." Fed. R. Civ. P. 1. Summary judgments are exactly the way to do that; such motions are not "a disfavored procedural shortcut," but rather an "integral part of the Federal Rules as a whole, 'which are designed to secure the just, speedy and inexpensive determination of every action.'" *Celotex Corp. v. Catrett*, 477 U.S. 317, 327, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986) (quoting Fed. R. Civ. P. 1).

The Rules and policy favor prompt summary disposition of disputes where possible. This Court's First Amended Scheduling Order took that into account in setting a dispositive motion deadline of June 1, 2026, well ahead of the trial date of September 8, 2026. Defendant's Motion for Summary Judgment was filed on May 19, 2026, nearly two weeks before that deadline; Plaintiff has had (and still has) ample time to respond.

Further delay, particularly when accounting for the busy summer schedule of this Court and of the respective counsel, would make it substantially likely that the parties could be forced to go to trial without first obtaining complete summary judgment rulings; such delay would be prejudicial and should be avoided. *See, e.g., Graham v. HRchitect*,

Inc., Civil Action No. 4:16-CV-743, 2017 U.S. Dist. LEXIS 118549, at *5-6 (E.D. Tex. 2017) (observing that a delay that that would push briefing on a summary judgment motion to within two months of trial, making it unlikely that there would be a ruling before trial, would be prejudicial.) It also would be inappropriate to delay these proceedings if it would have the effect of causing the parties to run into pre-trial scheduling order deadlines during that delay. *See Graham* at *5 (allowing late summary judgment proceedings could adversely affect a party’s “trial preparation in reliance on the scheduling order deadlines.”)

The Court should avoid any delay in the summary judgment process, as the appropriate denial of Plaintiff’s Motion to Strike will put this case where it should be: with the parties submitting fully briefed cross-motions for summary judgment². On the other hand, should the Court for some reason decide to grant Plaintiff’s Motion to Strike, no party will be prejudiced by the parties filing a Motion and Response that will ultimately not be considered. The interests of a fully briefed and prompt summary disposition of this case outweigh any argument in favor of further delay.

² Among the bases for that denial will be the fact that cross-motions for summary judgment are not only not unusual, but are common, appropriate, and should be considered separately because each moving party has an independent burden and seeks distinct relief. *Playa Vista Conroe v. Ins. Co. of the West*, 989 F.3d 411 (5th Cir. 2021) (“Where, as here, parties have filed cross-motions for summary judgment, each motion must be considered separately because each movant bears the burden of showing that no genuine issue of material fact exists and that it is entitled to a judgment as a matter of law.”) (cleaned up); *see also Rowell v. Paxton*, 336 F. Supp. 3d 724, 727 (W.D. Tex. 2018) (considering cross-motions for summary judgment, responses to each, and replies to each, as should be presented here).

CONCLUSION AND PRAYER

Defendant respectfully asks the Court to deny Plaintiff's Motion to Stay Deadline to Respond to Defendant's Second Motion for Summary Judgment, order Plaintiff to file any Response to Defendant's Motion for Summary Judgment within seven days, and grant Defendant any and all other relief to which it may be entitled.

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of June, 2026, I caused a true and correct copy of the foregoing to be transmitted by the Court's electronic filing system to the parties listed below:

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