



2. At the scheduling conference of March 15, 2019, counsel advised the Court of the pendency of the action styled *Veritas Independent Partners, LLC v. The Ohio National Life Ins. Co., et al.*, Case No. 1:18-cv-769 before Judge Susan J. Dlott in the United States District Court for the Southern District of Ohio, Western Division (hereinafter the “*Veritas* case”). This Court requested that counsel keep it apprised of developments in the *Veritas* case, which was filed before NEXT brought this suit.

3. This Court and Judge Dlott in the *Veritas* case have both ruled on motions for summary judgment that the language of the Selling Agreement regarding the issue of trail compensation cannot be interpreted as a matter of law, at least at early stages of the cases, and therefore discovery of extrinsic evidence is to proceed in each action with respect to the parties’ intent under the Selling Agreement.<sup>1</sup> Ohio National has moved for summary judgment in other cases, as has another broker-dealer, as to the legal construction of the Selling Agreement and those motions remain pending. Without waiver of the parties’ right to seek discovery of extrinsic evidence, NEXT and Ohio National remain of the view that their respective interpretation of the language at issue in the Selling Agreement is correct and dispositive as a matter of law in this case.

4. NEXT and Ohio National jointly request that the Court stay this action pending resolution of the *Veritas* case, which was first filed, or at least until discovery is coordinated among the multiple cases filed around the country regarding this dispute. A stay will save this Court’s judicial resources and save the parties substantial resources and

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<sup>1</sup> The parties have agreed to extend deadlines for responses to written discovery pending the Court’s action on this joint motion.

time in litigating on separate fronts until the *Veritas* case is resolved or until further order of this Court.

5. The parties will file with the Court periodic reports on the status of the *Veritas* case and whether discovery in various actions is coordinated. This motion is filed in the interest of justice and not for the sole purpose of delay.

WHEREFORE, Plaintiff NEXT Financial Group, Inc. and Defendants The Ohio National Life Insurance Company, *et al* pray that this Court enter an order staying the case until resolution of the *Veritas* case or until further order of this Court, and for such other and further relief as the Court may deem just.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 12, 2019, a copy of the foregoing document was electronically filed through the CM/ECF system, which will automatically serve a Notice of Electronic Filing on the following attorneys:

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