

ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE

DATE: 10/18/11
START: 4:00 p.m.
END: 5:05 p.m.

DOCKET NO: 11-CV-1788 (CBA)

CASE: Padro v. Astrue

INITIAL CONFERENCE
 DISCOVERY CONFERENCE
 SETTLEMENT CONFERENCE

OTHER/ORDER TO SHOW CAUSE
 FINAL/PRETRIAL CONFERENCE
 TELEPHONE CONFERENCE

FOR PLAINTIFF: SEE ATTACHED

FOR DEFENDANT: SEE ATTACHED

DISCOVERY TO BE COMPLETED BY

NEXT CONFERENCE SCHEDULED FOR

JOINT PRE-TRIAL ORDER TO BE FILED VIA ECF BY

PL. TO SERVE DEF. BY: DEF. TO SERVE PL. BY:

RULINGS: PLEASE TYPE THE FOLLOWING ON DOCKET SHEET

The Court hears oral argument on what plaintiffs characterize as their “Motion to Expedite Discovery” (DE #16) and the government’s opposition thereto (DE #21). The government is in fact moving to stay discovery during the pendency of its dispositive motion, and plaintiffs, while objecting to such a stay, are not really seeking to “expedite” discovery. In this circuit, and in this district in particular, the pendency of motion to dismiss does not provide an automatic basis to stay discovery; rather, the party seeking to stay discovery (here, the government) must establish good cause. See, e.g., Allstate Ins. Co. v. Levy, No. CV-10-1652 (FB)(VVP), 2011 WL 288511, at *1 (E.D.N.Y. Jan. 27, 2011) (collecting cases). The inquiry into whether good cause has been shown is fact-specific, and requires the Court to consider whether the defendant has made a strong showing that the plaintiffs’ claims are without merit; the breadth of discovery and the burden of responding to it; and the risk of unfair prejudice to the parties opposing the stay. See id.

Having undertaken this inquiry, the Court declines to stay all discovery. While the government’s motion to dismiss raises substantial issues, the government has not made a strong showing that it will prevail. Second, the breadth of discovery and the burden of responding to it may be addressed by narrowing plaintiffs’ discovery demands and/or staging discovery and by staying depositions of the ALJs. Finally, the Court is satisfied that staying discovery and thus delaying this case will unfairly prejudice plaintiffs.

The parties are directed to confer in good faith in an effort to streamline and/or stage discovery, and to file a status report by November 4, 2011. They shall also promptly file a joint proposed stipulation and confidentiality order.

ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE

COURTROOM 13C-S

DATE: 10/18/2011

DOCKET NO. 10-cv-3342

CASE: Padro et al v. Astue

APPEARANCES

PLAINTIFF:

<u>JIM WAUGHEN</u>	}	GIBSON PUNN
<u>OLIVER OLANOFF</u>		
<u>JAN FELDMAN</u>	}	Urban Justice Center
<u>EMILIA SICILIA</u>		
<u>ANNE BIDDLE</u>		

<u>Matt Mendendez</u>
<u>Adam JANTZI (not admitted)</u>
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DEFENDANT:

<u>Carlotta Wells DOJ</u>
<u>Gert Matheis USAO</u>
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<u>Robert Schriver</u>	}	SSA
<u>Sam Ransp</u>		
<u>Karen Pfizer</u>		
<u>Amara Lockyini</u>		
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