

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ROBERTO RIVERA, M.D.,	:
	:
Plaintiff,	:
	:
v.	:
	:
	:
	:
RUTH E. SMITH, M.D., JESS A. BUNSHAFT, ESQ	:
And SAINT VINCENT'S CATHOLIC MEDICAL	:
CENTERS,	:
	:
Defendants.	:
-----X	:

07 Cv. 3246 (BSJ)

Order

BARBARA S. JONES  
UNITED STATES DISTRICT JUDGE

The Court is in receipt of the motion submitted in the above captioned case by Defendants Ruth E. Smith, M.D., Jess A. Bunshaft, Esq., and Saint Vincent's Catholic Medical Centers to dismiss the amended complaint of Plaintiff Roberto Rivera pursuant to Federal Rule of Civil Procedure Rule 12(b)(6) on the grounds that it fails to state a claim upon which relief may be granted. Defendants also seek an Order from this Court to stay discovery proceedings pending this Court's decision on that motion.


Under Rule 26(c) of the Federal Rules of Civil Procedure, district courts have discretion to stay discovery for "good cause" pending resolution of a motion to dismiss. Courts in this District hold that a stay of discovery is appropriate

pending resolution of a potentially dispositive motion where the motion appears to have substantial grounds or does not appear to be without foundation in law. See e.g. *Currency Conversion Fee Antitrust Litig.*, MDL 1409, M 21-95(WHP), 2002 WL 88278, (S.D.N.Y. Jan. 22, 2002) In general, the Court seeks to balance the needs of the party seeking a protective order against the needs of the party seeking discovery.

In this instance, the Court finds that the equities tip in favor of a delay in discovery. Accordingly, the Court grants Defendants' request to stay discovery pending the resolution of their motion to dismiss.

Additionally, the Clerk of the Court is directed to close the referral to Magistrate Judge Peck.

SO ORDERED:

  
BARBARA S. JONES  
UNITED STATES DISTRICT JUDGE

Dated: New York, New York  
August 21, 2007