UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

DAULYS CHICO-POLO, et al.,

-V-

Plaintiff,

CIVIL NO. 10-10758

District Judge Patrick J. Duggan

Magistrate Judge R. Steven Whalen

EMBARQ PAYPHONE SERVICES. INC., et al.,

Defendant.

Defendant.

ORDER

Before the Court are Defendants' motion for protective order staying discovery [Doc. #38], and Plaintiff's motion to postpone ruling on dispositive motions and to compel discovery [Doc. #39].

Addressing first Plaintiff's requests, there is no reason to postpone ruling on dispositive motions by the various Defendants. As to Embarq Payphone Services, Inc. and Michael Hynes, I have file a Report and Recommendation to dismiss, because they are not state actors within the meaning of 42 U.S.C. § 1983, and issue of law that does not necessitate further discovery. Further, I have, contemporaneously with this order, filed a Report and Recommendation to grant in part and deny in part the State Defendants' motion to dismiss. I have recommended that Plaintiff survive the motion on Fourteenth Amendment Equal Protection grounds, as to injunctive relief regarding telephone calls to Colombia and Nicaragua. Again, I so recommended on issues of law. If that Report and Recommendation is accepted, discovery may continue on those issues.

For the same reasons, I will deny the Plaintiff's motion to compel discovery at this time.

Accordingly, Defendants' motion to stay discovery [Doc. #38] is GRANTED, and discovery will be stayed pending final disposition of all pending dispositive motions.

Plaintiff's motion to postpone ruling on dispositive motions and to compel discovery is DENIED.

SO ORDERED.

s/R. Steven Whalen R. STEVEN WHALEN UNITED STATES MAGISTRATE JUDGE

Date: January 18, 2011

CERTIFICATE OF SERVICE

I hereby certify on January 18, 2011 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on January 18, 2011: **Daulys Chico-Polo, Royman Chico.**

s/Michael E. Lang
Deputy Clerk to
Magistrate Judge R. Steven Whalen
(313) 234-5217