

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

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|---------------------------|---|---------------------|
| KEITH BYRON BARANSKI, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | No. 4:11-CV-123 CAS |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondent. |) | |

MEMORANDUM AND ORDER

This coram nobis matter is before the Court on the government’s Motion to Continue Stay of Discovery and to Continue Filing of Joint Memorandum, and petitioner Baranski’s Motion to Continue Filing of Joint Memorandum.

By Order of May 21, 2014, the Court granted the government’s unopposed motion for a thirty-day extension of time to respond to petitioner’s amended petition by July 11, 2014, and to stay discovery until July 11, 2014. (Doc. 139). In the same Order, the Court directed the parties to file by July 31, 2014 a joint memorandum setting forth proposed deadlines for the close of discovery, for the filing of dispositive motions, and proposed dates for the evidentiary hearing in this matter. The government filed a motion to dismiss the amended petition on July 11, 2014 and petitioner’s response is due August 5, 2014.

In the instant motion, the government asks the Court to stay all discovery in this case until after it rules on the motion to dismiss, on the basis that it may not be necessary to conduct further discovery if the motion is granted. The government also asks that the date for filing the joint memorandum be continued until after the ruling on the motion to dismiss. Petitioner did not respond to the government’s motion, but filed his own motion to continue the filing of the joint

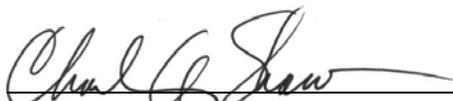
memorandum. Petitioner's motion states that he joins only in the part of the government's motion that seeks a continuance of the joint memorandum filing date. (Doc. 151)

The Court generally will not stay discovery in a case because of a pending motion to dismiss, and sees no reason to alter that rule in this case. A stay of discovery at this juncture would only further delay resolution of a case that has been pending since January 2011, and the parties should continue to work toward completing discovery. The parties' motions to continue the date for filing a joint memorandum will be granted, however, because it would be futile to set firm discovery and dispositive motion deadlines and a hearing date until the Court has issued a ruling on the motion to dismiss.

Accordingly,

IT IS HEREBY ORDERED that the government's Motion to Continue Stay of Discovery and to Continue Filing of Joint Memorandum is **DENIED** as to a further stay of discovery and **GRANTED** as to a continuance for the filing of a joint memorandum. [Doc. 147]

IT IS FURTHER ORDERED that petitioner's Motion to Continue Filing of Joint Memorandum is **GRANTED**. [Doc. 151]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 4th day of August, 2014.