

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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JUAREZ F. BARRETO,

*Pro Se* Plaintiff,

- against -

THE COUNTY OF SUFFOLK, JOHN DOE and  
VALERIAN ROUFF *individually and in official  
capacity as a Suffolk County Police Officer  
a/k/a* Valentin Rouff,

Defendants.

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**ORDER**

CV 09-3515 (JS) (AKT)

**A. KATHLEEN TOMLINSON, Magistrate Judge:**

The Court has received the letter motion filed by Plaintiff *Pro Se* seeking an Order “requiring Defendants ‘Suffolk County Police Department and Suffolk County District Attorney’s Office, as official agencies and/or Representatives of the County of Suffolk,’ to provide the requested documentation of FOIL requests dated September 18, 2009 to both agencies, and as of [January 12, 2010] not provided to the plaintiff. . . .” *See* DE 19 (the “Motion to Compel”). However, at this point, discovery in this action is premature. Federal Rule 26(d) provides that “a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except . . . when authorized by these rules, by stipulation, or by court order.” Fed. R. 26(d)(1). The parties have not yet had a Rule 26(f) conference and so actual discovery prior to such conference is not authorized by the federal rules, stipulation or court order. In addition, this Court has not yet issued a Case Management and Scheduling Order governing discovery in this case.

Moreover, Defendants have indicated that they intend to file a motion to dismiss Plaintiff's Amended Complaint, and the opening brief is set to be filed on March 5, 2010. *See* January 21, 2010 Electronic Order of Judge Seybert. Discovery in this case is hereby STAYED until the Court renders a decision on the anticipated motion to dismiss. Accordingly, Plaintiff's Motion to Compel is hereby DENIED, without prejudice, and with leave to renew, after a decision on the anticipated motion to dismiss has been rendered.

Counsel for Defendants is directed to serve a copy of this Order on Plaintiff *Pro Se* forthwith and to file proof of service on ECF.

**SO ORDERED.**

Dated: Central Islip, New York  
January 25, 2010

/s/ A. Kathleen Tomlinson  
A. KATHLEEN TOMLINSON  
U.S. Magistrate Judge