

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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IN RE: AIR CRASH NEAR CLARENCE CENTER,  
NEW YORK, ON FEBRUARY 12, 2009,

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**DECISION AND ORDER**  
09-md-2085

This document relates to:  
ALL CASES

Defendants have moved to stay discovery in this action to allow for possible pretrial coordination with related actions pending in New York State Supreme Court. (Docket No. 564.) A hearing in state court to determine the course of discovery in those actions is scheduled for February 3, 2011. Defendants argue that a stay is necessary to avoid duplicative discovery and promote judicial economy and efficiency. Plaintiffs oppose a stay on the basis that it may delay the March 2012 trial date in this case and is unwarranted in light of Plaintiffs' counsels' representations that they will not duplicate discovery. (See Affirmation of Hugh M. Russ, III, Docket No. 571, ¶ 15 (reiterating "plaintiffs' previous and repeated assurance that they will not duplicate discovery")).

Defendants' discovery motion is not made for purposes of delay: the costs in time effort, and resources, of duplicate discovery are real. But granting Defendants' request would likely amount to at least a two-month halt in this proceeding, which thus far has moved expeditiously. Such a stand still would endanger the trial date, as Plaintiffs note. And although the state court may adopt this Court's discovery orders as the most expeditious way to coordinate federal and state pretrial proceedings, there is no guarantee that it will do so.

Plaintiffs' counsel are on record that they will not duplicate discovery, and this Court fully expects them to adhere to this pledge. Duplication of discovery is in no one's best interest. Given the professionalism and spirit of cooperation that have marked this proceeding, this Court finds that a stay of discovery is unnecessary. Counsel are directed to continue to work cooperatively to avoid the delay, cost, and inefficiency that duplicative discovery brings.

IT HEREBY IS ORDERED, that Defendants' Motion to Stay Discovery and for a Protective Order (Docket No. 564) is DENIED.

FURTHER, that discovery shall proceed as previously ordered.

SO ORDERED.

Dated: January 14, 2011  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
Chief Judge  
United States District Judge