



1 in the moving papers.

2 (2) Even if the Court assumes that “nearly all” of defendants’ documents are being held  
3 by the Department of Justice (“DOJ”), defendants have not shown good cause for their failure to  
4 timely approach the DOJ to get copies of responsive materials. The obligation to make initial  
5 disclosures under Fed. R. Civ. P. 26(a)(1) should not have come as a surprise to defendants,  
6 especially when the Court gave them more than a month’s notice of the date on which they were  
7 due. Having failed to make any attempt to obtain a copy of the documents (and having  
8 completely failed in their burden of proof), the Court finds that defendants were not diligent in  
9 complying with the case management deadlines.

10 (3) Defendants also seek an indefinite stay of this case to give them time to file  
11 additional motions to dismiss and have them resolved by the Court before discovery begins. The  
12 Federal Rules of Civil Procedure do not provide an automatic stay of the initial disclosures if a  
13 potentially dispositive motion is filed or, as in this case, contemplated. Such motions are often  
14 unsuccessful and an improvident stay would cause unnecessary and significant delays at the  
15 outset of the litigation. In the case at hand, defendants have not explained why the anticipated  
16 motions have not yet been filed. In the absence of a pending motion, the Court is unable to  
17 evaluate the merits of the dispositive arguments and is unwilling to derail the case simply  
18 because defendants might seek relief.<sup>1</sup>

19 (4) Plaintiffs correctly filed the Verified Amended Derivative Complaint as directed by  
20 the Court. The RICO claim against the Van der Merwe defendants has been and remains  
21 dismissed.  
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25 <sup>1</sup> Defendants have not shown that initial disclosures will cause it annoyance, embarrassment,  
26 oppression, or undue burden or that it is otherwise entitled to a protective order under Fed. R. Civ. P.  
26(c)(1).

1 For all of the foregoing reasons, defendants' motion for an extension of time is  
2 DENIED. The Entezar defendants shall make their initial disclosures as soon as practicable, but  
3 no later than (a) seven days from the date of this Order with regards to all documents currently in  
4 their possession and (b) fourteen days from the date of this Order with regards to documents held  
5 by the DOJ. If additional time is needed to obtain documents from DOJ, defendants shall file a  
6 motion for extension of time on or before May 3, 2012, including supporting declarations  
7 detailing the efforts they have made to work with the DOJ. The Court will use the status report  
8 filed by plaintiffs and the Van der Merwe defendants to establish a case management schedule.

9 Dated this 27th day of April, 2012.

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12 Robert S. Lasnik  
13 United States District Judge  
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