

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

DISTRICT OF COLUMBIA :
v. : Case Number: 2021 CA 001775 B
AMAZON.COM, INC. : Judge Hiram E. Puig-Lugo

ORDER

This matter comes before the Court upon (1) Defendant’s Opposed Motion for a Protective Order and to Stay Discovery, filed October 25, 2021, Plaintiff’s opposition, filed November 8, 2021, and Defendant’s reply, filed November 15, 2021; and (2) Plaintiff’s Opposed Motion for Entry of Scheduling Order, filed November 10, 2021, Defendant’s opposition, filed November 23, 2021, and Plaintiff’s reply, filed November 30, 2021.

Motion for a Protective Order and to Stay Discovery

In Defendant’s Motion for A Protective Order and to Stay Discovery, Defendant moves for a protective order staying discovery pending resolution of Defendant’s Opposed Motion to Dismiss Plaintiff District of Columbia’s Amended Complaint (“Motion to Dismiss”), filed October 25, 2021. Following an extension of the briefing schedule, Defendant’s Motion to Dismiss will become ripe on February 4, 2022.

Defendant points out that “[g]iven the breadth of discovery in antitrust cases, courts commonly stay discovery pending a motion to dismiss to avoid a waste of judicial and party resources.” Def. Mot. Memo at 1. Defendant asserts that discovery responses are not essential for Plaintiff at this stage, but in contrast, Defendant would be severely prejudiced if required to provide discovery responses at this stage before a ruling is made on the Motion to Dismiss. *See id.* at 2. Defendant argues that the outcome of Defendant’s Motion to Dismiss may more

narrowly tailor the discoverable issues in this case, and may render some of the parties' current discovery efforts unnecessary.

In opposition, Plaintiff argues that Defendant's "instant motion to stay is no more than a continuation of its delay tactics during the District's pre-suit investigation, when Amazon erected barrier after barrier that had nothing to do with reasonable protections of its information." Pl. Opp'n Memo at 1. Further, Plaintiff argues that parties are required to "move toward a just and speedy resolution" of this case, pursuant to D.C. Super. Ct. Civ. R. 1, and that Defendant has not met the burden required to stay discovery at this juncture. *Id.*

The Court finds that a stay of discovery is warranted in this instance. The Supreme Court has stated that "[i]t is one thing to be cautious before dismissing an antitrust complaint in advance of discovery, but quite another to forget that proceeding to antitrust discovery can be expensive." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 558 (2007) (citations omitted). This Court has the power to protect parties from undue burdens or expenses in discovery, and may do so by forbidding discovery in part. "The Court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including . . . forbidding the disclosure of discovery." D.C. Super. Ct. Civ. R. (c)(1)(A). Finding good cause, and in consideration of the expected burden and expense of discovery in this antitrust matter, the Court invokes its power to temporarily stay discovery. Moreover, because Defendant's Motion to Dismiss becomes ripe for review in approximately one month, the Court does not view the requested stay as a delay tactic or excessive barrier to justice, as Plaintiff emphasizes in opposition. Thus, discovery is stayed in this matter pending the resolution of Defendant's Motion to Dismiss.

Motion for Entry of Scheduling Order

In Plaintiff's Motion for Entry of Scheduling Order, Plaintiff moves for the Court to enter a proposed scheduling order. Plaintiff states that entry of the scheduling order is necessary to facilitate a just and speedy resolution of this matter. Pl. Mot. at 1. Defendant opposes the motion, stating that there is a scheduling conference hearing scheduled for February 11, 2022 before the Court.

Pursuant to Rule 16, a scheduling order is entered in each case during the initial scheduling conference, or alternatively, upon a praecipe in lieu of appearance. *See* D.C. Super. Ct. Civ. R. 16(b). During the initial scheduling conference, "the judge will ascertain the status of the case, explore the possibilities for early resolution through settlement or alternative dispute resolution techniques, and determine a reasonable timeframe for bringing the case to conclusion." D.C. Super. Ct. Civ. R. 16(b)(3). However, parties may request entry of a scheduling order by praecipe prior to the initial scheduling conference if all attorneys consent to the proposed scheduling order, and among other things, there are no pending motions. *See* D.C. Super. Ct. Civ. R. 16(b)(2)(A)(iii).

Here, there is a scheduling conference set for February 11, 2022. If parties would like the court to enter a scheduling order before the hearing, parties are required to comply with D.C. Super. Ct. Civ. R. 16(b)(2), which they have not. Therefore, Plaintiff's request is denied.

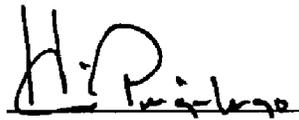
Accordingly, it is this 4th day of January 2022, hereby:

ORDERED that Defendant's Opposed Motion for a Protective Order and to Stay Discovery is **GRANTED**; and it is further

ORDERED that discovery in this matter is stayed, pending the resolution of Defendant's
Opposed Motion to Dismiss Plaintiff District of Columbia's Amended Complaint; and it is
further

ORDERED that Plaintiff's Motion for Entry of Scheduling Order is **DENIED without
prejudice.**

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "H. Puig-Lugo". The signature is written in a cursive style with a horizontal line underneath.

Honorable Hiram Puig-Lugo
Associate Judge
Signed in Chambers

Copies via CaseFileXpress to all counsel of record.