

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GENE R. ROMERO, *ET AL.*

Plaintiffs

v.

ALLSTATE INSURANCE COMPANY, *ET AL.*

Defendants.

Civil Action No. 01-CV-3894 (RLB)

CLASS ACTION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

Plaintiff,

v.

ALLSTATE INSURANCE COMPANY

Defendant.

Civil Action No. 01-7402 (RLB)

GENE R. ROMERO, *ET AL.*

Plaintiffs

v.

ALLSTATE CORPORATION, *ET AL.*

Defendants.

Civil Action No. 01-CV-6764 (RLB)

CLASS ACTION

**ALLSTATE'S MOTION TO STAY BRIEFING AND RULING ON "PLAINTIFFS'
MOTION TO COMPEL ANSWERS TO PLAINTIFFS' FIRST SET OF
INTERROGATORIES DIRECTED TO THE VALIDITY OF THE RELEASE"**

For the reasons set forth in the accompanying Memorandum of Law, Allstate Insurance Company, the Allstate Corporation, and defendant Edward M. Liddy (collectively, "Allstate") respectfully move this Court for an Order staying further briefing and ruling on "Plaintiffs' Motion to Compel Answers to Plaintiffs' First Set of Interrogatories Directed to the Validity of the Release" ("Plaintiffs' Second Motion to Compel") until after this Court rules on "Plaintiffs' Motion to Compel Documents Related to the Release in Accordance with the Court's April 7, 2010 Case Management Order" ("Plaintiffs' First Motion to Compel"), and postponing Allstate's response to Plaintiffs' Second Motion to Compel until fourteen (14) days after the Court's ruling on Plaintiffs' First Motion to Compel, if such a response is still warranted and necessary.

Dated: October 13, 2010

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Allstate Insurance Company, the Allstate Corporation, and defendant Edward M. Liddy (collectively, "Allstate"), submit this brief in support of their Motion to Stay Briefing and Ruling on "Plaintiffs' Motion to Compel Answers to Plaintiffs' First Set of Interrogatories Directed to the Validity of the Release" ("Plaintiffs' Second Motion to Compel").

I. INTRODUCTION

The crux of Plaintiffs' Second Motion to Compel centers on the same dispute currently being considered by the Court in Plaintiffs' fully-briefed "Motion to Compel Documents Related to the Release in Accordance with the Court's April 7, 2010 Case Management Order" ("Plaintiffs' First Motion to Compel"). Both disputes concern the proper scope and definition of "release-related discovery." With this Second Motion to Compel, Plaintiffs again seek responses to discovery that relate to (i) Plaintiffs' part and parcel theory; (ii) Plaintiffs' misrepresentation argument; and (iii) Allstate's document collection and preservation efforts. Plaintiffs have rejected Allstate's request that the parties wait for the Court's ruling on the First Motion to Compel to determine whether it will resolve the dispute over Plaintiffs' interrogatories.

Once the Court's ruling on Plaintiffs' First Motion to Compel provides the parties with direction concerning the scope of permissible discovery related to the release, the parties will have a meaningful opportunity to meet and confer on Plaintiffs' interrogatories, including efforts to reach agreement on how many interrogatories each party should answer. Therefore, in the interests of judicial economy, and in order to not burden the Court and spare both parties the additional and unnecessary litigation expense, Allstate requests that the Court stay briefing and ruling on Plaintiffs' Second Motion to Compel until the Court rules on Plaintiffs' First Motion to Compel and the parties have additional opportunity to meet and confer on these issues.

II. SUMMARY OF RELEVANT FACTS

Even before Plaintiffs first issued discovery requests after the Third Circuit remanded this case, the parties have disagreed on what constitutes proper release-related discovery. This disagreement, which was anticipated by the parties' Proposed Case Management Order, was first raised in the context of Allstate's objections to Plaintiffs' document requests issued on March 5, 2010. Plaintiffs filed their First Motion to Compel on June 25, 2010, to seek guidance on this very issue. Specifically, the parties sought clarity on (1) the validity of Plaintiffs' "part and parcel" theory, (2) the propriety of discovery relating to "misrepresentations" that do not appear in Plaintiffs' Second Amended Complaint, and (3) the propriety of Plaintiffs' demands for Allstate to disclose its document collection efforts absent evidence or argument that Allstate failed to preserve or produce relevant documents. Allstate filed its response brief to Plaintiffs' First Motion to Compel on July 23, 2010 (Docket No. 218), and Plaintiffs filed their reply brief on August 13, 2010 (Docket No. 225). Now fully briefed, the parties are waiting for a decision by the Court.

On July 23, 2010, while the parties were briefing Plaintiffs' First Motion to Compel, Plaintiffs served Allstate with discovery requests titled "Plaintiffs' First Set of Interrogatories and Requests for Admissions Directed to the Validity of the Release." (*See* Declaration of Jordan M. Heinz ("Heinz Decl.") ¶ 5, Ex. 1.) Although Allstate had already objected to discovery relating to (i) Plaintiffs' part and parcel theory, (ii) Plaintiffs' misrepresentation argument, and (iii) Allstate's document collection and preservation efforts, Plaintiffs' interrogatories nonetheless sought precisely this information.

In numerous instances, not only were the topics the same, but Plaintiffs' interrogatories actually tracked Plaintiffs' document requests word-for-word. Examples of the overlap between the two sets of discovery served by Plaintiffs are illustrative:

Plaintiffs' Discovery Related to Its Part and Parcel Theory (*see* Allstate's Response to First Motion to Compel at 7-18):

- *Compare* Interrogatory No. 12 (seeking information relating to the “lawfulness, risks, benefits, consequences, and impact of the [Preparing for the Future Group Reorganization Program]”) *with* Document Request No. 4 (seeking documents relating to “potential claims or liability arising from the implementation of the [Preparing for the Future Group Reorganization Program]”) *and* Document Request No. 43 (seeking documents relating to “whether [the Preparing for the Future Group Reorganization Program] was or might be retaliatory, unlawful, or otherwise prohibited by statute, ordinance, regulation, or common law”).

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- *Compare* Interrogatory Nos. 1(j)(i), 2(j)(i), and 3(j)(i) (seeking information relating to the “enforcement of the non-compete, confidentiality, or exclusive work provisions of the R830 contract and R1500 Contract”) *with* Document Request No. 18 (seeking documents relating to the “enforcement of the non-compete, confidentiality, or exclusive work provisions of the R830 contract and R1500 Contract”).
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- *Compare* Interrogatory Nos. 1(j)(vi), 2(j)(vi), and 3(j)(vi) (seeking information relating to “changes in commission rates”) *with* Document Request No. 26 (seeking documents relating to “changes in commission rates”).
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Plaintiffs' Document Collection and Preservation-Related Discovery (*see* Allstate's Response to First Motion to Compel at 26-27):

- *Compare* Interrogatory No. 15 (seeking information relating to “the identify of all search terms, custodians, and date ranges of any prior searches for electronically-stored information”) *with* Cover Motion to Plaintiffs' First Motion to Compel (Docket No. 214) at 2 (asking this Court to order Allstate to “disclose the search terms, custodians, and date ranges of any prior searches for electronically-stored information”).
- *Compare* Interrogatory No. 13 (seeking information relating to when Allstate “reasonably anticipated the commencement of litigation concerning the [Preparing for the Future

Group Reorganization Program] . . . and all steps taken to preserve documents since that date”) *with* Cover Motion to Plaintiffs’ First Motion to Compel at 2 (asking this Court to order Allstate to “[c]ertify in writing that they have preserved all relevant documents, including electronically-stored information, since Defendants reasonably anticipated litigation”).

Allstate has explained to Plaintiffs that it does not believe these categories of discovery are proper release-related discovery. Allstate took a consistent position in its responses to this discovery on August 23, 2010, and objected to additional discovery on the same issues. Allstate further objected on the basis that Plaintiffs’ interrogatories — which numbered over eighty, in total — exceeded the allowable number of interrogatories under Rule 33(a)(1), and no agreement had been reached on a larger number. (*See* Heinz Decl. ¶ 6, Ex. 2.)

Plaintiffs wrote Allstate on August 25th and August 27th stating that Allstate’s relevancy and supernumerary objections were unfounded. (*See* Heinz Decl. ¶ 9, Ex. 3 (8/25/10 C. Meehan ltr. to J. Heinz and C. Cognato); Heinz Decl. ¶ 9, Ex. 4 (8/27/10 C. Meehan ltr. to J. Heinz and C. Cognato).) Allstate replied to Plaintiffs’ letter on September 1st, explaining the legal and factual bases for Allstate’s objections. (*See* Heinz Decl. ¶ 10, Ex. 5 (9/1/10 J. Heinz ltr. to C. Meehan).) Allstate agreed at that time “to a reasonable enlargement in the number interrogatories that both sides are permitted to serve” and suggested the parties meet and confer. (*See* Ex. 5 at 1.)

The parties conferred on September 8, 2010. During this meet and confer, as well as on a second meet and confer on September 15, 2010, Allstate proposed to Plaintiffs that the parties stay their disagreement over Plaintiffs’ second set of discovery pending resolution of Plaintiffs’ First Motion to Compel, given the extensive overlap between Plaintiffs’ two sets of discovery and the similarity in Allstate’s objections. (*See* Heinz Decl. ¶¶ 11-14, Ex. 6 (9/20/10 E. Zolner ltr. to C. Meehan).) Allstate explained that “given that the parties have a fully briefed motion to

compel before the Court seeking guidance on the scope of release-related discovery, including what information is related to the release and what is not, Allstate does not understand why Plaintiffs would burden the Court with a second motion to compel on this same issue.” (Ex. 6 at 1-2.) In a further effort to compromise, Allstate offered to withdraw certain objections to Plaintiffs’ interrogatories (which Plaintiffs still include in their Second Motion to Compel), and extend the time for Plaintiffs to file a motion to compel beyond the thirty days permitted under the Case Management Order, should such a motion be necessary after the Court’s ruling on the First Motion to Compel. (*Id.*)

Plaintiffs responded to Allstate on September 21, 2010. (*See* Heinz Decl. ¶¶ 15-16, Ex. 7 (9/21/10 C. Meehan ltr. to E. Zolner).) Plaintiffs asserted that waiting until the Court issued a ruling on the First Motion to Compel “makes little sense” because Plaintiffs’ interrogatories “involve different Release-related issues than the document requests . . . that are currently the subject of Plaintiffs’ motion to compel.” (Ex. 7 at 2.) Plaintiffs further argued that deferring further meet and confer discussions “would only serve to unnecessarily delay this litigation” because Allstate’s supernumerary objection “would *necessarily* remain unresolved” since it was not before the Court as part of the First Motion to Compel. (*Id.* (emphasis in original).) Plaintiffs offered their own compromise: if Allstate agreed to withdraw *all* of its objections to Plaintiffs’ interrogatories, Plaintiffs would not serve any additional interrogatories related to the release. (*Id.* at 4.)

Allstate contacted Plaintiffs three days later letting them know Allstate was considering Plaintiffs’ positions and would respond as soon as possible. (*See* Heinz Decl. ¶¶ 17-18, Ex. 8 (9/24/10 J. Heinz ltr. to C. Meehan).) In response, Plaintiffs’ counsel sent Allstate’s counsel an email at 5:00 p.m. (ET) that same day demanding that unless Allstate agreed to withdraw all of

its objections and provide answers to all of Plaintiffs' interrogatories by the end of the day, Plaintiffs would file a motion to compel. (*See* Heinz Decl. ¶ 19, Ex. 9 (9/24/10 C. Meehan email to J. Heinz).) Allstate responded in writing on the morning of the next business day, September 27th, to explain the extensive overlap and duplication between Allstate's objections to Plaintiffs' document requests (that are the subject of the fully-briefed First Motion to Compel) and Allstate's objections to Plaintiffs' interrogatories. (*See* Heinz Decl. ¶¶ 20-21, Ex. 10 (9/27/10 E. Zolner ltr. to C. Meehan).)

Allstate again explained that its supernumerary objection might become superfluous by the Court's ruling on the First Motion to Compel because many of Plaintiffs' interrogatories would become moot if the Court rejects Plaintiffs' view of release-related discovery. (*Id.*) Allstate stated that because it already agreed to answer a reasonable number of interrogatories in excess of the twenty-five permitted under Rule 33(a)(1), Allstate hoped the parties could reach agreement on a number of interrogatories once both parties had a better understanding of what the Court views as release-related discovery. (*Id.*)

Plaintiffs disregarded Allstate's offer and filed their Second Motion to Compel that evening. (*See* Heinz Decl. ¶ 23.) Yesterday on October 12, 2010, prior to filing its Motion to Stay, Allstate requested that Plaintiffs agree to extend the October 18, 2010 deadline for Allstate's response to Plaintiffs' Second Motion to Compel until the Court rules on Allstate's motion to stay. (*See id.* ¶ 24, Ex. 12 (10/12/10 J. Heinz email to C. Meehan) at 1-2.) Plaintiffs rejected Allstate's request. (*See* Heinz Decl. ¶ 24, Ex. 12 at 1.)

III. ARGUMENT

The extensive overlap between the issues in Plaintiffs' First Motion to Compel and Allstate's objections to Plaintiffs' interrogatories warrants a stay of further briefing and ruling on Plaintiffs' Second Motion to Compel. Once this Court rules on Plaintiffs' First Motion to

Compel, the parties will have a meaningful opportunity to meet and confer about Allstate's objections and come to a mutual resolution.

This Court has discretion to postpone resolution of discovery disputes pending resolution of another motion "if such a procedure will prevent the waste of time and effort of all concerned and will make more efficient use of judicial resources." *Britamco Underwriters, Inc. v. B&D Milmont Inn, Inc.*, No. 95-6039, 1996 WL 476624, at *1 (E.D. Pa. Aug. 16, 1996); *see also Clinton v. Jones*, 520 U.S. 681, 706 (1997) ("The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket."); *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936) ("[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants."). Thus, this Court can and should exercise its discretion to stay further briefing and ruling on Plaintiffs' Second Motion to Compel pending resolution of Plaintiffs' First Motion to Compel.

Courts grant motions to stay in a variety of circumstances where there is potential for inefficient use of judicial resources or where the determination of a pending motion would have a decisive effect on disputed issues. *See, e.g., Lawson v. Fleet Bank of Maine*, 807 F. Supp. 136, 138 n.1 (D. Me. 1992) (determining that a stay of consideration on Plaintiffs' class certification motion while the court resolved pending motions "was the more prudent use of judicial resources"); *Britamco Underwriters*, 1996 WL 476624, at *1 (denying motion to compel discovery while court considered a motion for summary judgment because the court's decision on the pending motion would render the dispute moot); *Chavous v. D.C.-Fin. Responsibility & Mgmt. Assistance Auth.*, 201 F.R.D. 1, 2 (D.D.C. 2001) (indicating that a stay of discovery pending a court's consideration of other motions "is an eminently logical means to prevent

wasting the time and effort of all concerned, and to make the most efficient use of judicial resources'") (quoting *Costal States Gas Corp. v. Dep't of Energy*, 84 F.R.D. 278, 282 (D. Del. 1979)).

Allstate is not asking the Court to postpone discovery; rather, Allstate merely requests that this Court postpone further briefing and ruling on Plaintiffs' Second Motion to Compel until the issues raised in its First Motion to Compel are resolved. Further briefing and ruling on Plaintiffs' Second Motion to Compel is unnecessary in light of Allstate's offer to continue to meet and confer once the Court rules on Plaintiffs' First Motion to Compel. (See Heinz Decl. ¶ 20, Ex. 10 at 2 ("Should the Court find that certain subjects of Plaintiffs' interrogatories are *not* related to the validity of the release, the number of interrogatories served by Plaintiffs will effectively be reduced and the parties may then be able to agree on a reasonable number of interrogatories to which Allstate will respond.")) Indeed, there may be no need for the Court to address the Second Motion to Compel at all once the Court provides its ruling on the First Motion to Compel. Plaintiffs' aggressive discovery tactics will accomplish little more than waste the resources of the parties and this Court. A stay of briefing and ruling on Plaintiffs' Second Motion to Compel will, in contrast, promote judicial economy.

In summary, Plaintiffs' Second Motion to Compel is duplicative of issues already fully briefed and pending before this Court. Until the parties can meaningfully meet and confer after the Court rules on Plaintiffs' First Motion to Compel, briefing and consideration of Plaintiffs' Second Motion to Compel should be stayed. See *Zipes v. Abraham*, No. 91-5206, 1992 WL 328894, at *6 (E.D. Pa. Oct. 26, 1992) (noting that discovery disputes "should not be referred to the Court unless 'serious differences exist between counsel that further efforts at negotiation are pointless or unless [] court intervention is necessary to resolve a disputed issue of law.'")

(quoting *Crown & Cork Seal Co. v. Chemed Corp.*, 101 F.R.D. 105 (E.D. Pa. 1984)); *Danton v. State Farm Mut. Auto. Ins. Co.*, No. 91-0013, 1991 WL 170290, at *1 (E.D. Pa. Aug. 28, 1991) (“As rapidly increasing dockets place ever greater demands on the resources of the court, counsel should not cry ‘Wolf!’ whenever problems arise in discovery.”).

IV. CONCLUSION

For the reasons explained above, Allstate requests that this Court stay briefing and ruling on Plaintiffs’ Second Motion to Compel until such time as the Court rules on Plaintiffs’ First Motion to Compel, and the parties have an opportunity to meet and confer in light of the Court’s ruling.

Dated: October 13, 2010

/s/ Katherine M. Katchen
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Attorney for Defendant Edward M. Liddy

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was served on October 13, 2010, by the Court's Electronic Case Filing system and by electronic mail on all counsel of record.

/s/ Katherine M. Katchen

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The parties conferred on September 8, 2010. During this meet and confer, as well as on a second meet and confer on September 15, 2010, Allstate proposed to Plaintiffs that the parties stay their disagreement over Plaintiffs’ second set of discovery pending resolution of Plaintiffs’ First Motion to Compel, given the extensive overlap between Plaintiffs’ two sets of discovery and the similarity in Allstate’s objections. (*See* Heinz Decl. ¶¶ 11-14, Ex. 6 (9/20/10 E. Zolner ltr. to C. Meehan).) Allstate explained that “given that the parties have a fully briefed motion to

compel before the Court seeking guidance on the scope of release-related discovery, including what information is related to the release and what is not, Allstate does not understand why Plaintiffs would burden the Court with a second motion to compel on this same issue.” (Ex. 6 at 1-2.) In a further effort to compromise, Allstate offered to withdraw certain objections to Plaintiffs’ interrogatories (which Plaintiffs still include in their Second Motion to Compel), and extend the time for Plaintiffs to file a motion to compel beyond the thirty days permitted under the Case Management Order, should such a motion be necessary after the Court’s ruling on the First Motion to Compel. (*Id.*)

Plaintiffs responded to Allstate on September 21, 2010. (*See* Heinz Decl. ¶¶ 15-16, Ex. 7 (9/21/10 C. Meehan ltr. to E. Zolner).) Plaintiffs asserted that waiting until the Court issued a ruling on the First Motion to Compel “makes little sense” because Plaintiffs’ interrogatories “involve different Release-related issues than the document requests . . . that are currently the subject of Plaintiffs’ motion to compel.” (Ex. 7 at 2.) Plaintiffs further argued that deferring further meet and confer discussions “would only serve to unnecessarily delay this litigation” because Allstate’s supernumerary objection “would *necessarily* remain unresolved” since it was not before the Court as part of the First Motion to Compel. (*Id.* (emphasis in original).) Plaintiffs offered their own compromise: if Allstate agreed to withdraw *all* of its objections to Plaintiffs’ interrogatories, Plaintiffs would not serve any additional interrogatories related to the release. (*Id.* at 4.)

Allstate contacted Plaintiffs three days later letting them know Allstate was considering Plaintiffs’ positions and would respond as soon as possible. (*See* Heinz Decl. ¶¶ 17-18, Ex. 8 (9/24/10 J. Heinz ltr. to C. Meehan).) In response, Plaintiffs’ counsel sent Allstate’s counsel an email at 5:00 p.m. (ET) that same day demanding that unless Allstate agreed to withdraw all of

its objections and provide answers to all of Plaintiffs' interrogatories by the end of the day, Plaintiffs would file a motion to compel. (*See* Heinz Decl. ¶ 19, Ex. 9 (9/24/10 C. Meehan email to J. Heinz).) Allstate responded in writing on the morning of the next business day, September 27th, to explain the extensive overlap and duplication between Allstate's objections to Plaintiffs' document requests (that are the subject of the fully-briefed First Motion to Compel) and Allstate's objections to Plaintiffs' interrogatories. (*See* Heinz Decl. ¶¶ 20-21, Ex. 10 (9/27/10 E. Zolner ltr. to C. Meehan).)

Allstate again explained that its supernumerary objection might become superfluous by the Court's ruling on the First Motion to Compel because many of Plaintiffs' interrogatories would become moot if the Court rejects Plaintiffs' view of release-related discovery. (*Id.*) Allstate stated that because it already agreed to answer a reasonable number of interrogatories in excess of the twenty-five permitted under Rule 33(a)(1), Allstate hoped the parties could reach agreement on a number of interrogatories once both parties had a better understanding of what the Court views as release-related discovery. (*Id.*)

Plaintiffs disregarded Allstate's offer and filed their Second Motion to Compel that evening. (*See* Heinz Decl. ¶ 23.) Yesterday on October 12, 2010, prior to filing its Motion to Stay, Allstate requested that Plaintiffs agree to extend the October 18, 2010 deadline for Allstate's response to Plaintiffs' Second Motion to Compel until the Court rules on Allstate's motion to stay. (*See id.* ¶ 24, Ex. 12 (10/12/10 J. Heinz email to C. Meehan) at 1-2.) Plaintiffs rejected Allstate's request. (*See* Heinz Decl. ¶ 24, Ex. 12 at 1.)

III. ARGUMENT

The extensive overlap between the issues in Plaintiffs' First Motion to Compel and Allstate's objections to Plaintiffs' interrogatories warrants a stay of further briefing and ruling on Plaintiffs' Second Motion to Compel. Once this Court rules on Plaintiffs' First Motion to

Compel, the parties will have a meaningful opportunity to meet and confer about Allstate's objections and come to a mutual resolution.

This Court has discretion to postpone resolution of discovery disputes pending resolution of another motion "if such a procedure will prevent the waste of time and effort of all concerned and will make more efficient use of judicial resources." *Britamco Underwriters, Inc. v. B&D Milmont Inn, Inc.*, No. 95-6039, 1996 WL 476624, at *1 (E.D. Pa. Aug. 16, 1996); *see also Clinton v. Jones*, 520 U.S. 681, 706 (1997) ("The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket."); *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936) ("[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants."). Thus, this Court can and should exercise its discretion to stay further briefing and ruling on Plaintiffs' Second Motion to Compel pending resolution of Plaintiffs' First Motion to Compel.

Courts grant motions to stay in a variety of circumstances where there is potential for inefficient use of judicial resources or where the determination of a pending motion would have a decisive effect on disputed issues. *See, e.g., Lawson v. Fleet Bank of Maine*, 807 F. Supp. 136, 138 n.1 (D. Me. 1992) (determining that a stay of consideration on Plaintiffs' class certification motion while the court resolved pending motions "was the more prudent use of judicial resources"); *Britamco Underwriters*, 1996 WL 476624, at *1 (denying motion to compel discovery while court considered a motion for summary judgment because the court's decision on the pending motion would render the dispute moot); *Chavous v. D.C.-Fin. Responsibility & Mgmt. Assistance Auth.*, 201 F.R.D. 1, 2 (D.D.C. 2001) (indicating that a stay of discovery pending a court's consideration of other motions "is an eminently logical means to prevent

wasting the time and effort of all concerned, and to make the most efficient use of judicial resources”) (quoting *Costal States Gas Corp. v. Dep’t of Energy*, 84 F.R.D. 278, 282 (D. Del. 1979)).

Allstate is not asking the Court to postpone discovery; rather, Allstate merely requests that this Court postpone further briefing and ruling on Plaintiffs’ Second Motion to Compel until the issues raised in its First Motion to Compel are resolved. Further briefing and ruling on Plaintiffs’ Second Motion to Compel is unnecessary in light of Allstate’s offer to continue to meet and confer once the Court rules on Plaintiffs’ First Motion to Compel. (See Heinz Decl. ¶ 20, Ex. 10 at 2 (“Should the Court find that certain subjects of Plaintiffs’ interrogatories are *not* related to the validity of the release, the number of interrogatories served by Plaintiffs will effectively be reduced and the parties may then be able to agree on a reasonable number of interrogatories to which Allstate will respond.”).) Indeed, there may be no need for the Court to address the Second Motion to Compel at all once the Court provides its ruling on the First Motion to Compel. Plaintiffs’ aggressive discovery tactics will accomplish little more than waste the resources of the parties and this Court. A stay of briefing and ruling on Plaintiffs’ Second Motion to Compel will, in contrast, promote judicial economy.

In summary, Plaintiffs’ Second Motion to Compel is duplicative of issues already fully briefed and pending before this Court. Until the parties can meaningfully meet and confer after the Court rules on Plaintiffs’ First Motion to Compel, briefing and consideration of Plaintiffs’ Second Motion to Compel should be stayed. See *Zipes v. Abraham*, No. 91-5206, 1992 WL 328894, at *6 (E.D. Pa. Oct. 26, 1992) (noting that discovery disputes “should not be referred to the Court unless ‘serious differences exist between counsel that further efforts at negotiation are pointless or unless [] court intervention is necessary to resolve a disputed issue of law.’”)

(quoting *Crown & Cork Seal Co. v. Chemed Corp.*, 101 F.R.D. 105 (E.D. Pa. 1984)); *Danton v. State Farm Mut. Auto. Ins. Co.*, No. 91-0013, 1991 WL 170290, at *1 (E.D. Pa. Aug. 28, 1991) (“As rapidly increasing dockets place ever greater demands on the resources of the court, counsel should not cry ‘Wolf!’ whenever problems arise in discovery.”).

IV. CONCLUSION

For the reasons explained above, Allstate requests that this Court stay briefing and ruling on Plaintiffs’ Second Motion to Compel until such time as the Court rules on Plaintiffs’ First Motion to Compel, and the parties have an opportunity to meet and confer in light of the Court’s ruling.

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was served on October 13, 2010, by the Court's Electronic Case Filing system and by electronic mail on all counsel of record.

/s/ Katherine M. Katchen