

NOTICE RE: MOTION TO DISMISS

The parties are reminded that the pendency of a motion to dismiss does not automatically stay discovery, except in cases covered by the Private Securities Litigation Reform Act. See *Brooks v. Macy's, Inc.*, No. 10-CIV-5304, 2010 WL 5297756, at *1 (S.D.N.Y. Dec. 21, 2010) (collecting cases), reh'g denied, No. 10-CIV-5304, 2011 WL 1362191 (S.D.N.Y. Apr. 8, 2011); see also *Moran v. Flaherty*, No. 92-CV-3200, 1992 WL 276913, at *1 (S.D.N.Y. Sept. 25, 1992). The court may enter a stay of discovery in its discretion “upon a *showing* [as distinguished from an assertion] of good cause.” Fed. R. Civ. P. 26(c); see also *Integrated Sys. & Power, Inc. v. Honeywell Int'l, Inc.*, No. 09-CIV-5874, 2009 WL 2777076, at *1 (S.D.N.Y. Sept. 1, 2009); accord *Ellington Credit Fund, Ltd. v. Select Portfolio Servs., Inc.*, No. 08-CV-2437, 2009 WL 274483, at *1 (S.D.N.Y. Feb. 3, 2009). In determining whether good cause exists, the court considers several factors including: “(1) whether a defendant has made a strong showing that the plaintiff’s claim is unmeritorious, (2) the breadth of discovery and the burden of responding to it, and (3) the risk of unfair prejudice to the party opposing the stay.” *Negrete v. Citibank, N.A.*, No. 15-CV-7250, 2015 WL 8207466, at *1 (S.D.N.Y. Dec. 7, 2015). Other factors include the nature of the case, whether dismissal will resolve the case, effect of dismissal on the scope of discovery, age of the case, complexity of discovery needed, remedy sought, extensions previously granted, parties’ diligence, judicial efficiency, and other appropriate factors. Discovery in this case is NOT stayed. Accordingly, any party moving to stay discovery must demonstrate, as oppose to assert, the Court should exercise its discretion to stay the case.