

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No. 19-cv-23965-JEM

JOSÉ RAMÓN LÓPEZ REGUEIRO

v.

AMERICAN AIRLINES INC. and
LATAM AIRLINES GROUP, S.A.,

defendants.

RESPONSE IN OPPOSITION TO AMERICAN AIRLINES INC.'S MOTION TO STAY

It is beyond peradventure that the Covid-19 pandemic is interfering with normal life, including the business of the defendants and the work of the lawyers involved in this case. The pandemic will doubtless warrant extensions of deadlines in the appropriate circumstances. Indeed, plaintiff has already agreed to discuss a 60-day extension of pre-trial and trial deadlines—as opposed to a complete stay—after the long-delayed discovery hearing set for this Wednesday.

But American's request for stay ignores the most relevant fact: its failure to comply with López Regueiro's discovery requests has nothing to do with the pandemic and, indeed, predates this crisis *by months*. The discovery requests that ought not be stayed or further delayed were first served on American more than five months ago, long before the first reported case of Covid-19.¹ Indeed, American produced no responsive discovery when first due, instead making a

¹ López Regueiro served his First Request For Production of Documents on October 31, 2019, and served additional document requests on November 14, 2019, and on January 16 and February 7, 2020. López Regueiro propounded interrogatories on November 14, 2019 and January 15, 2020. Notwithstanding at least four good faith conferences totaling more than four hours, American stands on its objections.

number of meritless blanket objections and did not produce a single document until January 24, 2020. To date, American has produced a meager 222 pages of documents that address very few of the discovery requests and are plainly a woefully incomplete discovery production of the highly relevant materials sought.

Separately, despite his best efforts, Mr. López Regueiro has not been able to get a hearing on defendants' discovery-stalling objections. He first obtained a discovery hearing before Magistrate Judge Goodman on February 14, 2020, but, hours before the scheduled hearing, the case was reassigned to Magistrate Judge Otazo-Reyes. On March 4, 2020, Magistrate Judge Otazo-Reyes recused herself before plaintiff could obtain a hearing date. López Regueiro promptly sought a hearing once Magistrate Judge Louis was assigned to the case, but the date of the hearing was again postponed because, by late March, the effects of the pandemic were starting to be felt. Finally, a hearing is now set on the defendants' discovery objections for this Wednesday at 2pm.²

American argues that it needs a stay, including of its discovery, because of the pandemic and the resulting national emergency ("President Trump declared a national emergency on March 23, 2020." Motion to Stay at 2.³). But, by the time of the national emergency that started two weeks ago, American's discovery responses were long overdue. American had the

² The other defendant in the case, LATAM Airlines Group, S.A., has acted with even less regard for its discovery obligations. LATAM has failed to produce *a single* document and made almost all of its objections late, thus waiving them. *See* López Regueiro's Motion to Compel LATAM's Responses to Discovery Requests [D.E. 67] at 2. A hearing on LATAM's discovery has also been delayed and postponed until April 8, for the same reasons described above.

³ American also points to the fact that plaintiff has agreed to extend deadlines in another Helms-Burton case caused by COVID-19. Motion to Stay at 6. However, in that other case, the defendants did not cause months of discovery delay, the parties attended two lengthy discovery hearings before Judge Goodman, who issued discovery rulings, and the defendants there complied with their discovery obligations and their production of documents was completed by the time the extension was requested.

opportunity to and should have done the basic work related to its production obligations months ago, rather than rely on objections that are not well-founded. American should not be allowed to further delay and evade production of discovery due at least four months ago under cover of a crisis that has befallen the country in the last two weeks.

Finally, given the months of delay in both defendants' discovery responses that has consumed almost the entire period of time allowed for discovery, a stay of defendants' discovery is not the right solution. If anything, the crisis and defendants' pre-existing failure to produce discovery warrants an extension of the discovery cut-off and other pre-trial deadlines while defendants make the discovery production that they have evaded. Staying defendants' discovery obligations would only reward their stalling tactics and unreasonably delay the resolution of this matter in contradiction to the instruction of Federal Rule of Civil Procedure 1 that mandates the "just, speedy and inexpensive determination of every action."

In this regard, plaintiff's counsel will confer in good faith with defendants after the hearing two days hence to seek agreement on appropriate requests to extend pre-trial deadlines

while not halting discovery. For these good reasons, American's motion to stay should be denied.

Dated: April 6, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on April 6, 2020, I electronically filed this document with the Clerk of the Court using CM/ECF. I also certify that this document is being served today on all counsel of record either by transmission of Noticed of Electronic Filing generated by CM/ECG or by U.S. Mail.

s/ Andrés Rivero
ANDRÉS RIVERO