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United States District Court, E.D. New York.

Henrietta D., Nidia S., Simone A., Ezzard S., John R. and Pedro R. on behalf of themselves and others similarly situated, Plaintiffs,
v.
Rudolph GIULIANI, Mayor of the City of New York, Marva Hammons, Administrator of the New York City Human Resources Administration, and Mary E. Glass, Commissioner of the New York State Department of Social Services, Defendants.

No. 95 CV 0641(SJ).
|
Dec. 11, 2001.

Attorneys and Law Firms

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Housing Works, Inc., New York, By Armen H. Merjian, Esq., Virginia Shubert, Esq., for Plaintiffs.

Michael D. Hess, Corporation Counsel of the City of New York, New York, By Adam G. Kurtz, Esq., Georgia Pestana, Esq. (Of Counsel), for Defendants.

Eliot Spitzer, Attorney General of the State of New York, New York, By Michael B. Siller, Assistant Attorney General, for Defendants.

MEMORANDUM AND ORDER

JOHNSON, District J.

***1** On February 14, 1995, Plaintiffs, indigent New York City residents who suffer from AIDS or HIV-related illnesses, commenced this class action against Defendants claiming violations of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12131, *et. seq.,* the Medicaid Act, Section 504 of the Rehabilitation Act of 1973 ("Rehabilitation Act"), 29 U.S.C. § 794, and various other state and federal laws. Plaintiffs allege that the Division of AIDS Services and Income Support ("DASIS"), a division of the New York City Human Resources Administration ("HRA"), and the agency charged with assisting persons with AIDS or HIV-related illnesses in obtaining public assistance benefits and services, failed to provide Plaintiffs with meaningful and equal access to public benefits and services as required by state and federal law. This Court conducted a bench trial and on September 18, 2000 issued a Memorandum and Order detailing its findings of fact and conclusions of law.

This Court found that Defendants had chronically and systematically denied Plaintiffs meaningful access to critical subsistence benefits in contravention of the ADA and the Rehabilitation Act, and accordingly, granted the declaratory judgment and permanent injunction sought by the Plaintiff class. Specifically, this Court determined that the statute which created DASIS and defined its mandate contained the reasonable accommodations requested by Plaintiffs, and that the City's failure to comply with DASIS law violated the ADA and the Rehabilitation Act. In addition, this Court found that Defendant New York State had failed in its duty, as imposed by New York State law, to supervise the City in the provision of public benefits and services.

The Court appointed United States Magistrate Judge Cheryl L. Pollak to monitor compliance with the terms of the September 18, 2000 order for a period of three years from the date of its issuance. Magistrate Judge Pollak met with the parties over a period of several months in order to ensure compliance with this Court's decision and to fashion a mechanism and procedure for remedying the violations found by this Court. The parties submitted a proposed remedial order to Magistrate Judge Pollak who, on July 12, 2001, issued a Report and Recommendation (the "Report"). For the reasons stated herein, the Court adopts Magistrate Judge Pollak's Report in its entirety.

I. REPORT AND RECOMMENDATION

A district court judge may designate a magistrate to hear and determine certain pre-trial motions pending before the court and to submit to the court proposed findings of fact and recommendations as to the disposition of the motion. *See* 28 U.S.C. § 636(b)(1). Within ten days of service of the recommendation, any party may file written objections to the magistrate's report. *Id.* Upon *de novo* review of those portions of the record to which objections are made, the district court may accept, reject, or modify the recommendations made by the magistrate. *Id.*

***2** The court, however, is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. *See Thomas v. Arn,* 474 U.S. 140, 150 (1985). In addition, failure to file timely objections may waive the right to appeal the magistrate's decision. *See* 28 U.S.C. § 636(b)(1); *Small v. Secretary of Health and Human Servs.,* 892 F.2d 15, 16 (2d Cir.1989). While the level of scrutiny entailed by the court's review of the report depends on whether or not objections have been filed, in either case the court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations. *See Wood v. Schweiker,* 537 F.Supp. 660, 661 (D.S.C.1982).

Both City and State Defendants raise several objections to Magistrate Judge Pollack's Report and Recommendation, most of which were thoroughly addressed by the Magistrate in her Report. To the extent that these objections were considered by the Magistrate, this Court declines to revisit them here.

In addition to generally objecting to the entry of any order against it, State Defendant makes a number of specific objections to Magistrate Judge Pollak's Report. For instance, State Defendant objects to paragraph 6 of the Proposed Order which requires State Defendant to "supervise City Defendants' provision of benefits and services in accordance with Paragraph 1 of this Order." (Report at 42–43.) The Magistrate found that "paragraph 6 of the Proposed order merely requires State Defendant to comply with the mandates of New York law," as set forth in New York Social Services Law § 20(2)(b). (Report at 43.) State Defendant contends that this Court, in its January 24, 2000 opinion in this action, *Henrietta D. v. Giuliani,* 81 F.Supp.2d 425 (E.D.N.Y.2000), dismissed Plaintiffs' state law supervisory claims against State Defendant as barred by the Eleventh Amendment. State Defendant cites this Court's January 24, 2000 opinion where the Court stated that "State Defendants are correct in noting that the Supreme Court in *Pennhurst* held that the Eleventh Amendment bars federal courts from enjoining state officials from violating state law." 81 F.Supp.2d at 431, citing *Pennhurst State School & Hospital v. Halderman,* 465 U.S. 89, 120–121 (1984). While State Defendant is correct in its assertion that this Court previously held that Plaintiffs' state law claims are barred by the Eleventh Amendment, State Defendant ignores the fact that this Court also stated that Plaintiffs could use state law, and evidence of State Defendant's liability under it, to prove that State Defendant is in violation of federal law. *See id.* State Defendant, therefore, confuses references to New York State Law as an order from this Court requiring State Defendant to comply with New York State Law. Consequently, this Court finds that State Defendant's objections to paragraph 6 of the Proposed Order are without merit.

***3** In its objections to paragraphs 11 and 12 of the Proposed Order, State Defendant argues that the Proposed Order "should be modified so that there is an informal resolution system, like that stipulated to by plaintiffs in the *Piron* stipulation (at ¶ 17)." (State Mem. at 14.) As Plaintiffs' point out, State Defendant is raising this argument for the first time; it was not presented before Magistrate Judge Pollak. It is well established that issues that were not raised before the Magistrate "may not properly be deemed 'objections' to any finding or recommendation made in the Report and Recommendation." *Robinson v. Keane,* 1999 WL 459811, at *4 (S.D.N.Y.1999) citing *Riddell Sports, Inc. v. Brooks,* 1997 WL 148818, at *4 (S.D.N.Y.1997). "An objecting party may not raise new arguments that were not made before the Magistrate Judge." *Id .; see also Abu–Nassar v. Elders Futures, Inc.,* 1994 WL 445638, at *4 n. 2 (S.D.N.Y.1994) (refusing to entertain new arguments not raised before the Magistrate Judge and holding that to do otherwise "would unduly undermine the authority of the Magistrate Judge by allowing litigants the option of waiting until a Report is issued to advance additional arguments") (citations omitted). Therefore, State Defendant's failure to raise the issue of an informal resolution system before Magistrate Judge Pollak precludes them from raising it at this time.

Upon *de novo* review of the Report and Recommendation, and after careful consideration of the parties' objections, the Court affirms and adopts Magistrate Judge Pollak's Report in its entirety.

II. MOTION TO STRIKE

Presently before this Court is Plaintiffs' motion to strike the declarations of Gregory Mark Caldwell and John Maher, which City Defendants submitted in support of their objections to Magistrate Judge Pollak's Report and Recommendation. Plaintiffs object to the inclusion of the declarations on several grounds. First, Plaintiffs contend that the declarations contain many factual assertions which were neither made at trial nor presented before Magistrate Judge Pollak, and that "notions of fair play" should bar City Defendants from supplementing their case at this stage of the litigation. Second, Plaintiffs point out that the Declaration of Gregory Mark Caldwell refers to a 1999 audit report of waiting times at certain DASIS centers (annexed as Exhibit A to the Caldwell Declaration). According to Plaintiffs, this audit report was never produced during pre-trial discovery although it was directly responsive to Plaintiffs' document request. Plaintiffs argue that the entire Caldwell Declaration should be stricken as a sanction against City Defendants pursuant to Federal Rules of Civil Procedure 37(b)(2)(B) and (c)(1). Third, with regard to arguments that were presented to Magistrate Judge Pollak, Plaintiffs argue that the declarations are an impermissible attempt by Defendants to supplement the record for appeal. For the reasons stated herein, the Court grants Plaintiffs' motion to strike.

A. Declaration of John Maher

***4** Federal Rule of Civil Procedure 72(b) states that a "district judge *may* accept, reject or modify the recommended decision, *receive further evidence,* or recommit the matter to the magistrate judge with instructions." (emphasis added). While Rule 72(b) gives district courts the discretion to consider "further evidence," district courts will ordinarily refuse to consider arguments, case law and/or evidentiary material which could have been, but was not presented to the magistrate judge in the first instance. *See United States v. Pena,* 51 F.Supp.2d 364, 367 (W.D.N.Y.1998); *see also Robinson v. Keane,* 1999 WL 459811, at *4 (S.D.N.Y.1999) (concluding that "[a]n objecting party may not raise new arguments that were not made before the Magistrate Judge"); *Abu–Nassar v. Elders Futures, Inc.,* 1994 WL 445638, at *4 n. 2 (S.D.N.Y.1994) (refusing to entertain new arguments not raised before Magistrate Judge and holding that do otherwise "would unduly undermine the authority of the Magistrate Judge by allowing litigants the option of waiting until a Report is issued to advance additional arguments") (citations omitted).

The United States Court of Appeals for the Second Circuit has consistently upheld the exercise of a district court's discretion to refuse to allow supplementation of the record upon the district court's *de novo* review. *See Hynes v. Squillace,* 143 F.3d 653, 656 (2d Cir.1998); *Paddington Partners v. Bouchard,* 34 F.3d 1132, 1137–38 (2d Cir.1994) (finding no abuse of discretion in district court's refusal to consider supplemental evidence); *Pan Am. World Airways, Inc. v. International Bhd. of Teamsters,* 894 F.2d 36, 40 n. 3 (2d Cir.1990) (holding that district court did not abuse its discretion in denying plaintiff's request to present additional testimony where plaintiff "offered no justification for not offering the testimony at the hearing before the magistrate"). Reasons of efficiency and fairness prompt this Court to exercise its discretion to refuse to consider evidence that was not presented before the magistrate judge. Therefore, information contained in the Declaration of John Maher that was not addressed to Magistrate Judge Pollak will not be considered by this Court.

City Defendants argue, however, that the Declaration of John Maher does not present new facts, but rather attempts to summarize information for this Court that was discussed with and argued before Magistrate Judge Pollak. City Defendants contend that the Maher Declaration focuses exclusively on the Fair Hearings and Appeal Unit ("FHAU"), and that the FHAU was an issue the parties discussed with Magistrate Judge Pollak at length. This Court agrees with Plaintiffs in that, to the extent that the FHAU was fairly considered by Magistrate Judge Pollak, the Maher Declaration only improperly serves to supplement the record for appeal. Accordingly, Plaintiffs' motion to strike the Declaration of John Maher is granted.

B. Declaration of Gregory Mark Caldwell

***5** Plaintiffs contend that the Declaration of Gregory Mark Caldwell should be stricken in its entirety as a sanction for City Defendants' failure to comply with pretrial discovery. In Plaintiffs' Document Request No. 6, Plaintiffs requested "[a]ll quality review or quality control

reports that include information on IS/AS or DAS operations." (Pls.' Mem. at 5.) Plaintiffs argue that the 1999 audit report of waiting times at certain DASIS centers, which is referred to in the Caldwell Declaration and annexed thereto as Exhibit A, is directly responsive to Plaintiffs' discovery request.

Federal Rule of Civil Procedure 37(c) provides, in pertinent part:

> A party that without substantial justification fails to disclose information required by Rule 26(a) or 26(e)(2), is not, unless such failure is harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed.

Rule 37(c) was amended in 1993 and now "provides for the 'automatic' exclusion of witnesses and information that was not disclosed despite a duty to disclose under Rule 26(a) or Rule 26(e)(1)." *Hinton v. Patnaude,* 162 F.R.D. 435, 439 (N.D.N.Y.1995). However, while Rule 37(c) imposes an automatic sanction for failure to comply with discovery, Rule 37(c) does caution that the penalty should not apply if the offending party's failure to disclose was "substantially justified." Substantial justification means "justification to a degree that could satisfy a reasonable person that parties could differ as to whether the party was required to comply with the disclosure request" *Nguyen v. IBP, Inc.,* 162 F.R.D. 675, 680 (D.Kan.1995). The test of substantial justification is satisfied if "there exists a genuine dispute concerning compliance." *Id.* Furthermore, even in the absence of substantial justification, the Rule 37 exclusion should not apply if the "failure is harmless." Fed.R.Civ.P. 37(c)(1).

In City Defendants' opposition to Plaintiffs' motion to strike, City Defendants offer as their sole justification for not producing the 1999 audit report that "[i]t is not certain whether the audit report created in 1999 was responsive to Request No. 6 which was served in 1995 and was subject to discussion and tailoring." (City Defs.' Reply Mem. at 19.) As Plaintiffs point out, Plaintiffs assisted City Defendants with discovery in good faith, to the point of reviewing sample reports to determine their relevancy. City Defendants, therefore, cannot now argue that it is uncertain whether the 1999 audit report was responsive to Plaintiffs' request. Furthermore, apart from the initial request in 1995, Plaintiffs reminded City Defendants, on at least four other occasions, of their ongoing duty to produce documents similar to the 1999 audit report. (Pls.' Reply Mem. at 6.) There can be no question that City Defendants were required to produce the 1999 audit report in response to Plaintiffs' Request No. 6. Considering the length of time City Defendants had to produce the document in question, the Court finds that City Defendants' conduct constitutes flagrant bad faith and a callous disregard of the Federal Rules of Civil Procedure. *Hinton,* 162 F.R.D. at 439 (explaining that the "[i]mposition of sanctions under Rule 37 ... should only be applied ... where a party's conduct represents flagrant bad faith and callous disregard of the Federal Rules of Civil Procedure."); *see also Sterling v. Interlake Indus. Inc.,* 154 F .R.D. 579, 587 (E.D.N.Y.1994). Additionally, City Defendants have not offered a "substantial justification" necessary to excuse their failure to disclose.

***6** The Court also finds that City Defendants' failure to disclose was not harmless. "Failure to comply with the mandate of the Rule is harmless when there is no prejudice to the party entitled to the disclosure." *Nguyen,* 162 F.R.D. at 680. Again, the burden is on City Defendants to establish harmlessness. *See id.* City Defendants in their opposition papers to Plaintiffs' motion to strike do not even address the issue of harmlessness.

Upon the facts presented to the Court, City Defendants' failure to disclose was not harmless. Plaintiffs have not been afforded an opportunity to review the document at issue, to question witnesses about the document, or to refute its contents on the record. A party's inability to effectively cross-examine a witness or to rebut testimony constitutes severe prejudice, and can serve as the basis for precluding evidence that is not produced until after trial. *See GSGSB, Inc. v. New York Yankees,* No. 91 Civ. 1803, 1996 WL 456044, at *20 (S.D.N.Y. Aug. 12, 1996). Additionally, notions of fair play suggest that City Defendants should be barred from introducing the document at this stage of the litigation.

Having determined that City Defendants should be sanctioned for their failure to disclose pursuant to Rule 37, this Court must next decide whether to strike only the 1999 audit report or to strike the entire Caldwell Declaration. Federal Rule of Civil Procedure 37(b) requires that the sanctions imposed be both just and specifically related to the particular claim at issue. *See Insurance Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee,* 456 U.S. 694, 707 (1982). While this

Court concedes Defendants' point that the Caldwell Declaration concerns more than the audit, striking the report alone would not satisfy the purpose underlying the Rule 37 sanctions. The audit report itself makes little sense without Mr. Caldwell's explanation of its significance. Due to the difficulty in separating out the discussion of the audit report from the Declaration, the Court finds that the appropriate action in this case is to strike the entire Declaration. Striking the entire Declaration is also just in light of City Defendants' history of generally obstructive behavior. Accordingly, Plaintiffs' motion to strike the Caldwell Declaration in its entirety is granted.

III. MOTION TO STAY

Also before the Court is City Defendants' motion to stay the judgment pending appeal pursuant to Rule 8(a) of the Federal Rules of Appellate Procedure. Rule 8(a) states that "[a] party must ordinarily move first in the district court for ... a stay of the judgment or order of a district court pending appeal."[1] This Court must consider four factors in determining whether to grant City Defendants' motion to stay: (1) whether the movant will suffer irreparable injury absent a stay, (2) whether a party will suffer substantial injury if a stay is issued, (3) whether the movant has demonstrated "a substantial possibility, although less than a likelihood, of success" on appeal, and (4) the public interests that may be affected." *Hirschfeld v. Board of Elections,* 984 F.2d 35, 39 (2d Cir.1993) (citations omitted).

***7** City Defendants argue that they "will suffer irreparable harm if they are immediately required to meet the staffing ratios mandated in paragraph 2 at each DASIS Center and to implement the Troubleshooter and allow site visits by plaintiffs' counsel as required by paragraph 4." The issue of the staffing ratios will be addressed first. Pursuant to DASIS law, DASIS is required to provide plaintiffs with "intensive case management with an average ratio which shall not exceed one caseworker or supervisor to twenty-five cases, and with an overall ratio for all cases which shall not exceed one caseworker or supervisor to thirty-four cases." N.Y. City Admin. Code § 21–127(i). Among its findings, this Court found a systemic failure on the part of DASIS to provide intensive case management to members of the plaintiff class, and found City Defendants to be in violation of the maximum ratios established by the legislature to ensure the provision of benefits and services to Plaintiffs. It was the local legislature who determined the ratios of twenty-five to one and thirty-four to one to be reasonable, and paragraph 2 of the Proposed Order simply directs City Defendants to comply with the law.[2] City Defendants, therefore, cannot argue that complying with their own mandates constitutes irreparable harm. Any quarrel City Defendants may have with the above-cited ratios is more appropriately addressed to the local legislature, rather than this Court.

In addition, contrary to City Defendants' argument, the Proposed Order does not require "precise staffing ratios," but rather establishes only the minimum floor from which City Defendants can build. The Court also notes that City Defendants have now had over a year since this Court's judgment to prepare for compliance. As a result, City Defendants' argument that paragraph 2 of the Proposed Order "will create turmoil in the expansion plan" is disingenuous at best. (City Defs.' Mem. at 12.) In implementing their expansion plans, City Defendants were more than aware that they would be required to meet certain staffing ratios. The Court agrees with Plaintiffs that City Defendants could have and still can easily incorporate these ratios into their expansion plans.

Turning next to the issue of the Troubleshooter program, City Defendants argue that the Fair Hearing Appeals Unit ("FHAU") will be irreparably harmed if they are required to "reinstitute the Troubleshooter." (City Defs.' Mem. at 12.) Following this Court's September 18, 2000 Memorandum and Order, the Troubleshooter program was instituted in an effort to expedite resolution of problems experienced by DASIS clients. Reports provided to Magistrate Judge Pollak indicate that the Troubleshooter program has been operating with great success. (Report at 24.) City Defendants, who envision the FHAU as replacing the Troubleshooter program, contend that DASIS clients will be confused if presented with two avenues for submitting complaints to DASIS. The Court finds City Defendants' argument to be without merit.

***8** As of August 2001, the FHAU was not fully operational. City Defendants had not yet mailed notices to clients, nor had they made available at DASIS centers posters and other materials. Furthermore, in her Report and Recommendation, Magistrate Judge Pollak determined that "whatever confusion may result will be *de minimus* compared to the enormous benefit that the Troubleshooter will and already has provided to the plaintiff class and to this Court in its role as monitor." (Report at 28.) In addition, in the event that the FHAU

proves to be successful, as City Defendants project, the Proposed Order allows for the discontinuation of the Troubleshooter program. Accordingly, City Defendants will not suffer irreparable harm if the Proposed Order goes into effect.

City Defendants also argue that Plaintiffs will not suffer substantial injury if a stay is granted because DASIS "had begun to address the case management problems this Court found existed at the Kingsbridge and Bergen Centers by making plans to handle the growing caseload in the Bronx." (City Defs.' Mem. at 13.) City Defendants further contend that Plaintiffs will not suffer substantial injury because "[r]enovations and rewiring of centers will continue and the delivery of DASIS' new automated case management system ... is ahead of schedule. Consequently, there has already been improvement and will continue to be improvement in the provision of case management services." (City Defs.' Mem. at 13.) Plaintiffs, however, point out that presently DASIS does not have an automated system in place, and that DASIS is not meeting the intensive case management ratios as required by local law. The Court agrees with Plaintiffs in that future plans or promises do not satisfy City Defendants' burden of showing that Plaintiffs will not suffer substantial injury.

In granting Plaintiffs' request for a permanent injunction, this Court specifically found that Plaintiffs are being irreparably harmed by City Defendants' failure to provide Plaintiffs with meaningful access to critical subsistence benefits and services. This failure has devastating consequences for Plaintiffs. In this case, a stay will only prolong Plaintiffs' substantial injury.

City Defendants further argue that Plaintiffs will not suffer substantial injury if the Troubleshooter program is stayed. As stated previously however, the FHAU is not yet fully operational. In addition, to the extent that the FHAU is operational, the FHAU was established to specifically address the lack of a fair hearing process for DASIS-specific benefits and/or services, and is not designed to "remedy the vast majority of violations concerning benefits for which the client is entitled to a State Fair Hearing." (Pls.' Mem. at 16.) In contrast, the Troubleshooter program is designed to handle the full range of problems faced by DASIS clients, from long delays at DASIS centers to DASIS' failure to abide by fair hearing decisions. Therefore, staying the Troubleshooter program will result in substantial injury to Plaintiffs.

***9** The third factor to be considered by a court in determining whether to grant a stay is whether the movant has demonstrated a substantial possibility of success on appeal. City Defendants argue that they "have a substantial possibility of success on their argument that this Court's decision was contrary to the Second Circuit precedent requiring plaintiffs under Title II of the ADA and the Rehab[ilitation] Act to prove that, because of their disability, they have been denied benefits and services that are available to the non-disabled." (City Defs.' Mem. at 14.) The Court does not dispute City Defendants's contention that under the ADA, the crucial analysis is whether plaintiffs seek a reasonable accommodation to gain meaningful access to benefits and services available to the non-disabled or seek substantively different benefits than those available to the non-disabled. *Wright v. Giuliani,* 230 F.3d 543 (2d Cir.2000) (citing *Rodriquez v. City of New York,* 197 F.3d 611, 618 (2d Cir.1999)). City Defendants, however, ignore the fact that this Court determined in its Memorandum and Order that "DASIS was created to serve as a *reasonable accommodation* to [Plaintiffs'] disability, a "ramp," as it were, to assist them in accessing and maintaining the social welfare benefits and services to which they are entitled." (Memorandum and Order ¶ 146) (emphasis added). Without a fully functioning DASIS, City Defendants cannot provide Plaintiffs with an "equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others." *Id.* Since this case is about the process through which a DASIS client receives a benefit or service generally available to the public, the line of cases cited by City Defendants are inapposite to this case.

In addition, City Defendants' liability was not based solely on the ADA and the Rehabilitation Act. This Court found City Defendants to also be in violation of the Medicaid Act, the Food Stamps Act, and numerous state and city laws, for which City Defendants present no arguments. City Defendants, therefore, have failed to meet their burden of establishing a substantial possibility of success on appeal.

Lastly, as Plaintiffs are persons who suffer from AIDS and HIV-related illness, granting the stay requested by City Defendants does not serve the public interest. Rather, it is in the public interest that Plaintiffs be given meaningful access to the benefits and services to which they are entitled as soon as feasibly possible. This Court finds that the balance of factors clearly weigh against granting a stay. City Defendants' application for a stay pending appeal is hereby DENIED.

This Court grants Plaintiffs' motion to strike and denies City Defendants' motion to stay.

CONCLUSION

For the foregoing reasons, this Court affirms and adopts Magistrate Judge Pollak's Report and Recommendation.

All Citations

Not Reported in F.Supp.2d, 2001 WL 1602114

Footnotes

1 This Court notes that City Defendants' motion to stay is untimely since a final judgment has not been entered in the case. However, for purposes of judicial economy and efficiency, the Court will decide the motion at this time.

2 The Court disagrees with City Defendants' interpretation of N.Y. City Admin. Code § 21–127(i). City Defendants contend that the local law mandates overall staffing ratios for single and family cases, rather than imposes particular staffing ratios at each center.