

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JULIO PEREZ,  
Plaintiff,

- v -

PROGENICS PHARMACEUTICALS, INC.,  
Defendant.

10-cv-08278 (LAP)

ORDER

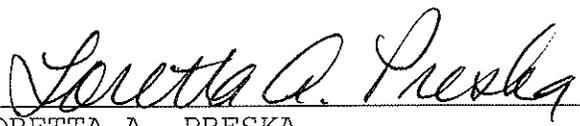
LORETTA A. PRESKA, U.S.D.J.:

Plaintiff has filed a motion for reconsideration of the Court's denial of his two motions in limine seeking to narrow the issues for trial and to call Nicole Williams as a live witness at trial. Even viewing Plaintiff's arguments in the lenient light that is required for such pro se filings, however, see Fulton v. Goord, 591 F.3d 37, 43 (2d. Cir. 2009), his motion is unpersuasive and fails to meet the high bar required to succeed on a motion for reconsideration. See Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995). First, the Department of Labor's findings have no preclusive effect on this proceeding and will not form the basis of any further restriction of the issues to be decided at trial. When Plaintiff filed his objections to the Department's findings and sought a hearing before an Administrative Law Judge on December 23, 2008, he initiated a de novo review of the Department's

conclusions in their entirety - including the finding of protected activity - pursuant to 29 C.F.R. § 190.107(b), which was removed to this Court, again for a de novo determination of liability, in 2010 pursuant to 29 C.F.R. § 1980.114(b). Second, Nicole Williams' membership on the board of a second company based in New York, without any specific details concerning the frequency with which she physically travels to the state, is insufficient to demonstrate that she "regularly transacts business in person" such that she is within the Court's subpoena power. FED. R. CIV. P. 45(c)(1)(A); see also M'Baye v. New Jersey Sports Prod., Inc., 246 F.R.D. 205, 207-08 (S.D.N.Y. 2007). Moreover, her live testimony would be cumulative of both the Audit Committee minutes and her deposition testimony, which Plaintiff may present during trial. Accordingly, Plaintiff's motion for reconsideration [dkt. no. 235] is DENIED in its entirety.

SO ORDERED.

Dated: New York, New York  
July 2, 2015

  
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LORETTA A. PRESKA  
Chief United States District Judge