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 7 GLORIA MALDONADO, AUDRA GUITIERREZ/GUERRO,  
 YOLANDA KING and TIM BURCH  
 8

9 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

10 ROBERT ANSARA, as Special Administrator of  
 11 the estate of D.B., born December 18, 2015 and  
 died August 15, 2017 and GABRIELLE  
 12 BRANON-CHESELY, individually, as the Natural  
 Mother of D.B., David Banks, individually and as  
 13 the Natural Father of D.B.,

CASE NO. 2:19-cv-01394-GMN-VCF

14 Plaintiffs,

**STIPULATION AND ORDER TO  
 STAY DISCOVERY**

15 v.

16 GLORIA MALDONADO, individually; AUDRA  
 GUITERREZ/GUERRO, individually;  
 17 RICHARD WHITLEY, Director of the Nevada  
 Department of Health and Human Services,  
 individually; ROSS ARMSTRONG,  
 18 Administrator of Nevada Division of Child and  
 Family Services, individually; YOLANDA  
 19 KING, Clark County Manager, individually; TIM  
 BURCH, Director of Clark County Department of  
 20 Family Services, individually; DIAMOND  
 FORD, individually; CRAIG DICKENS;  
 21 individually; DOE individuals I-XX, ROE  
 CLARK COUNTY DEPARTMENT OF  
 22 FAMILY SERVICES EMPLOYEES I-XX,  
 23 individually and in their official capacities;  
 CLARK COUNTY DEPARTMENT OF  
 24 FAMILY SERVICES; COUNTY OF CLARK, a  
 political subdivision of the State of Nevada;  
 25 TROPICANA DE, LLC, d/b/a SIEGAL SUITES  
 OF TROPICANA, a Foreign Limited Liability  
 26 Corporation; AND DOE SECURITY  
 COMPANY and ZOE CORPORATIONS XXI-  
 27 XXX,

Defendants.

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1 COMES NOW ROBERT ANSARA, as Special Administrator of the estate of D.B., and  
2 GABRIELLE BRANON-CHESLEY, individually, as the Natural Mother of D.B., David Banks,  
3 individually and as the Natural Father of D.B., Defendants CLARK COUNTY, GLORIA  
4 MALDONADO, AUDRA GUITIERREZ/GUERRO, YOLANDA KING and TIM BURCH  
5 (herein after “County Defendants”), RICHARD WHITLEY, Director of Nevada Department of  
6 Health and Human Services, individually and TROPICANA DE, LLC, d/b/a SIEGAL SUITES  
7 OF TROPICANA (“Tropicana”), a Foreign Limited Liability Corporation; by and through their  
8 respective counsel of record, do hereby stipulate to stay some discovery and related other  
9 deadlines – except written discovery, subpoenas and written requests of that nature – pending  
10 the determination of all Defendants’ Motions to Dismiss (ECF Nos. 16, 41 and 45) and the  
11 related papers.  
12

13  
14 Pursuant to Local Rule 6-1(b), the Parties hereby aver that this is the first such stay  
15 requested in this matter:

- 16 • Plaintiffs filed their First Amended Complaint (FAC) (ECF No. 5) August 15, 2019.
- 17 • Defendant Tropicana De, LLC filed a Motion to Dismiss the FAC (ECF No. 16) on  
18 September 19, 2019.
- 19 • Plaintiffs filed an Opposition (ECF No. 21) thereto on September 30, 2019.
- 20 • Defendant Tropicana De, LLC filed a Reply (ECF No. 28) thereto on October 7, 2019.
- 21 • Plaintiffs filed a Motion for leave to file a Second Amended Complaint (ECF No. 31)  
22 on October 8, 2019.
- 23 • A Joint Discovery Plan and Scheduling Order (ECF No. 39) was filed on October 23,  
24 2019.

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- 1       • Defendant Richard Whitley filed a Motion to Dismiss (ECF No. 41) on October 24,  
2 2019.
- 3       • Plaintiffs served its FRCP 26 Initial Disclosures on October 28, 2019.
- 4       • Defendant Tropicana De, LLC served its FRCP 26 Initial Disclosures on October 29,  
5 2019.
- 6       • County Defendants served their FRCP 26 Initial Disclosures on October 30, 2019.
- 7       • County Defendants filed a Joinder to Defendant Richard Whitley’s Motion  
8 to Dismiss (ECF No. 42) and their Motion to Dismiss (ECF No. 45) ) on October 31, 2019;
- 9       • Plaintiffs filed an Opposition (ECF No. 48) to Richard Whitley’s Motion to Dismiss on  
10 November 8, 2019.
- 11       • An Order dismissing Defendants Diamond Ford and Craig Dickens Without Prejudice  
12 (ECF No. 51) was filed on November 13, 2019.
- 13       • Defendant Richard Whitley filed a Reply to the Plaintiffs Opposition on November 13,  
14 2019.
- 15       • County Defendants filed a Joinder to Richard Whitley’s Reply to Response to Motion  
16 to Dismiss (ECF No. 52) on November 14, 2019.
- 17       • Plaintiffs filed an Opposition (ECF No. 53) to County Defendants’ Motion to Dismiss  
18 on November 14, 2019.
- 19       • County Defendants filed a Reply to Plaintiffs’ Opposition to Dismiss Plaintiffs’ First  
20 Amended Complaint (ECF No. 56) on November 26, 2019.
- 21       • Defendant Richard Whitley sent Interrogatories to Plaintiff Robert Ansara dated  
22 December 6, 2019 and received a response on January 14, 2020.

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1       • County Defendants served their FRCP (26) First Supplemental Disclosures with exhibits  
2 thereto on February 25, 2020.

3       • Defendant Richard Whitley sent Requests for Admission and Interrogatories to Plaintiff  
4 David Banks dated February 28, 2020 and received a response on March 26, 2020.

5       • Defendant Richard Whitley has propounded written discovery on Plaintiffs and they  
6 responded thereto on March 26, 2020.

7  
8             A Stipulation and Order to Extend Discovery (First Request) (ECF No. 60) was  
9 filed on April 14, 2020. The current initial expert deadline is October 15, 2020 and the  
10 close of discovery is January 14, 2021.

11  
12       • Plaintiffs have Propounded Written Discovery on Tropicana and it responded thereto  
13 April 27, 2020.

14       • Plaintiffs propounded written discovery on the County Defendants and they responded  
15 thereto on April 29, 2020.

16       • County Defendants served their FRCP (26) Second Supplemental Disclosures consisting  
17 of over 1,722 documents on April 29, 2020.

18       • County Defendants propounded written discovery on Plaintiffs and their response thereto  
19 is due on May 21,2020.

20  
21       • Plaintiffs propounded written discovery on Defendant Richard Whitley on April  
22 10, 2020 and his response thereto is due on May 10, 2020 (Saturday).

23       • On April 24, 2020, Plaintiffs issued seven notices of depositions to various Clark County  
24 employees (four of whom are not parties) to be taken beginning on June 22, 2020.

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1 **DISCOVERY TO BE COMPLETED AND REASONS FOR STAY OF DISCOVERY:**

2 Discovery to be completed includes:

- 3
- 4 • Depositions of Defendants;
  - 5 • Depositions of Fact Witnesses;
  - 6 • Depositions of Plaintiffs;
  - 7 • Depositions of Treators;
  - 8 • Disclosure of Experts;
  - 9 • Depositions of Experts;
  - 10 • Plaintiffs Responses to County Defendants’ written discovery;
  - 11 • Defendant Richard Whitley’s Responses to Plaintiffs’ written discovery;
  - 12 • Additional written discovery and depositions as the Parties deem necessary.
- 13

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15 While, generally, discovery is not stayed due to a pending dispositive motion, and the

16 parties have been engaging in written discovery and issuing Rule 26 disclosures, the parties

17 believe that the case facts and three pending Defendants’ Motions that seek a wholesale

18 dismissal of the FAC and, more importantly, Plaintiffs’ Motion to file a Second Amended

19 Complaint, along with the current COVID-19 world pandemic issues, make it appropriate to

20 enter a limited stay of certain discovery consistent with Rule 1 – which provides that the

21 Federal Rules “should be construed, administered, *and employed by the court and the*

22 *parties* to secure the just, speedy, and inexpensive determination of every action and

23 proceeding.” Plaintiffs noticed seven depositions of County Defendants’ employees. This

24 case involves the death of a child, and it is important that any and all depositions be taken in

25 person. However, that poses health risks to all. On March 31, 2020, Governor Sisolak issued

26 Nevada’s Stay At Home Order, including regarding minimizing contact with others, which was

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1 recently extended. This Court has issued its own orders relating thereto. See, e.g., General  
2 Orders 2020-04 and 2020-05. Some Clark County employees are working remotely. Given all  
3 of the above, it is not possible to conduct in-person depositions given the related health risks  
4 and employment issues. As such, it is not appropriate to proceed with the seven depositions,  
5 including because it would cause an undue and unnecessary burden, health risk and expense  
6 upon the parties and third persons that have to undergo the depositions that they might not  
7 otherwise have to undergo, and/or that might be limited in scope and subject depending on the  
8 Court's determination of the Motions, including Plaintiffs' motion for leave to amend a Second  
9 Amended Complaint. The four sets of parties and third persons should not be unduly burdened,  
10 take health risks and/or unnecessarily bear the related expenses.  
11  
12

13 The parties aver, pursuant to Local Rule 6-1, that good cause exists for the requested  
14 stay. The parties agree that, pending this Court's approval, stay of discovery proceedings are  
15 appropriate, given the issues raised by the pending Motions to Dismiss and Plaintiffs' Motion to  
16 file a Second Amended Complaint. The FAC could be dismissed in its entirety or in part, and/or  
17 with or without leave to amend. As such, the exact scope of the claims, if any remain, against  
18 which Defendants, and/or what discovery should be allowed regarding them is unknown.  
19 Requiring the parties to engage in deposition discovery given all of the above when the scope of  
20 the claims and parties is unknown, and might or will be dismissed *in toto* or in part would  
21 unnecessarily burden the parties and third persons and cause the parties to incur unnecessary  
22 attorneys' fees and costs. In addition, the parties should only be allowed to take one deposition  
23 of the each party and/or third person. If that discovery has to be done now and a party (Plaintiff  
24 or Defendant(s)) is dismissed, the scope of the claims changes and/or there is a Second  
25 Amended Complaint – that might require a second deposition which would be unduly  
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1 burdensome to that party and/or third person. Accordingly, the Parties have agreed upon staying  
2 discovery in this litigation except for written discovery, subpoenas and requests of that nature.  
3 In other words, the parties have agreed to stay depositions, expert disclosures, and all deadlines  
4 coming thereafter until the Motions are decided – but written discovery, and the like may  
5 proceed. Upon a determination of the Motions and once the exact pleading is known (FAC or  
6 Second Amended Complaint) the Parties will submit a revised proposed stipulated amended  
7 Discovery Schedule.  
8

9 In addition, the parties shall only be allowed to depose the named defendants and third-  
10 parties once in their individual capacities. However, should any named defendant or third-party  
11 previously deposed be designated as a deponent for the purposes of an FRCP 30(b)(6)  
12 deposition, said individual may be deposed again in their FRCP 30(b)(6) capacity, only, if that  
13 issue arises.  
14

15 If this stay is granted, all anticipated additional discovery will proceed after the Motions  
16 and pleading issues are decided. The Parties aver that this request for stay of discovery is made  
17 by the Parties in good faith and not for purpose of delay.  
18

19 DATED this 5th day of May, 2020.

DATED this 5th day of May, 2020.

21 /s/ Samantha A. Martin, Esq.  
22 Samantha A. Martin, Esq.  
23 Nevada Bar No. 12998  
24 RICHARD HARRIS LAW FIRM  
25 801 South Fourth Street  
26 Las Vegas, Nevada 89101  
27 Attorneys for Plaintiff  
28

/s/ Felicia Galati, Esq.  
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DATED this 5th day of May, 2020.

DATED this 5th day of May, 2020.

/s/ Brandon Trout, Esq.

Brandon Trout, Esq.  
Nevada Bar No. 13411  
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DE, LLC

/s/ Linda Anderson, Esq.

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Nevada Bar No. 4090  
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Office of the Nevada Attorney General  
555 E. Washington Ave., Suite 3900  
Las Vegas, Nevada 89101  
Attorneys for Defendant RICHARD WHITLEY

IT IS SO ORDERED.

Dated this 5th day of May, 2020.



Cam Ferenbach  
United States Magistrate Judge

IT IS HEREBY ORDERED that a status hearing is scheduled for 11:00 AM, November 16, 2020, in Courtroom 3D.

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