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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MICHAEL ROGERS, an individual; NIKITA WRIGHT, an individual,

Plaintiffs,

vs.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT; JOSEPH LOMBARDO, in his official capacity; ALFREDO QUINTERO, individually; PRAVEEN RAJ, individually; PARKER SMITH, individually; TYLER GEORGI, individually; JUSTIN JONSSON, individually; JAMES KILBER, individually DOE OFFICERS V - VI, individually,

Defendants.

Case Number: 2:22-cv-00867-CDS-DJA

STIPULATION AND ORDER TO EXTEND DISCOVERY PLAN AND SCHEDULING ORDER DEADLINES

(THIRD REQUEST)

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Plaintiffs Michael Rogers and Nikita Wright ("Plaintiffs"), by and through their counsel of record, Margaret A. McLetchie, Esq., N. Pieter O' Leary, Esq. and Leo S. Wolpert, Esq., of McLetchie Law, and Defendants, the Las Vegas Metropolitan Police Department (the "Department" or "LVMPD"), Sheriff Joseph Lombardo ("Lombardo"), Sgt. Alfredo Quintero ("Quintero"), and Officer Praveen Raj ("Raj"), collectively ("LVMPD Defendants"), by and through their counsel of record, Craig R. Anderson, Esq. and Jackie V. Nichols, Esq., of Marquis Aurbach, hereby stipulate and agree to extend the Discovery Plan and Scheduling

MAC:14687-418 5274433_2

Order deadlines an additional nine (9) months. This Stipulation is being entered in good faith and not for purposes of delay (supplemented information noted in **bold-face** type).

I. STATUS OF DISCOVERY.

A. PLAINTIFFS' DISCOVERY.

1. Plaintiffs' Initial Disclosure of Witnesses and Documents Pursuant to FRCP 26.1(a)(1) dated August 22, 2022.

2. Plaintiff Michael Rogers' Request for Production of Documents to LVMPD - Set One dated December 15, 2022.

3. Plaintiff Nikita Wright's Requests for Production to LVMPD - Set One dated May 16, 2023.

4. Michael Rogers' Responses to LVMPD's First Set of Interrogatories dated May 31, 2023.

5. Nikita Wright's Responses to LVMPD's First Set of Interrogatories dated May 31, 2023.

6. Michael Rogers' Responses to LVMPD's First Set of Requests for Production of Documents dated May 31, 2023.

7. Nikita Wright's Responses to LVMPD's First Set of Requests for Production of Documents dated May 31, 2023.

8. Plaintiffs' First Supplemental Disclosure of Witnesses and Documents Pursuant to FRCP 26.1(a)(1) dated May 31, 2023.

B. DEFENDANTS' DISCOVERY.

1. LVMPD Defendants' Initial Disclosure of Witnesses and Documents Pursuant to FRCP 26.1(a)(1) dated August 19, 2022.

2. LVMPD Defendants' First Supplemental Disclosure of Witnesses and Documents Pursuant to FRCP 26.1(a)(1) dated January 17, 2023.

3. LVMPD's Responses to Plaintiff Michael Rogers' Requests for Production - Set One dated January 17, 2023.

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4. LVMPD's First Set of Interrogatories to Plaintiff Nikita Wright dated April 21, 2023.

5. LVMPD's First Set of Requests for Production of Documents to Plaintiff Nikita Wright dated April 21, 2023.

6. LVMPD's First Set of Interrogatories to Plaintiff Michael Rogers dated April 21, 2023.

7. LVMPD's First Set of Requests for Production of Documents to Plaintiff Michael Rogers dated April 21, 2023.

8. LVMPD's Responses to Plaintiff Nikita Wright's Requests for Production - Set One dated July 17, 2023.

9. LVMPD Defendants' Second Supplemental Disclosure of Witnesses and Documents Pursuant to FRCP 26.1(a)(1) dated July 17, 2023.

II. DISCOVERY THAT REMAINS TO BE COMPLETED.

The Parties have been engaged in settlement negotiations in an effort to resolve Plaintiffs' claims. All deadlines were stayed from November 9, 2023, until January 8, 2024, to allow counsel to negotiate. (*See* ECF No. 46). Further, the Parties are also actively conducting discovery. The Parties will need additional time to propound written discovery, respond to written discovery, and conduct depositions prior to expert disclosures to avoid unnecessary additional costs related to expert disclosures.

III. SPECIFIC DESCRIPTION OF WHY EXTENSION IS NECESSARY.

Pursuant to Local Rule 26-3, the Parties submit that good cause exists for the extension requested. This is the second request for an extension of discovery deadlines in this matter. The Parties acknowledge that, pursuant to Local Rule 26-3, a stipulation to extend a deadline set forth in a discovery plan must be submitted to the Court no later than 21 days before the expiration of the subject deadline, and that a request made within 21 days must be supported by a showing of good cause. All of the deadlines the Parties are requesting be extended expire outside of the 21 day window that necessitates a showing of good cause.

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The Parties have been diligently conducting discovery and continue to conduct discovery. The Parties are working on scheduling the depositions of named parties and witnesses. The Parties previously entered into a stay of the discovery deadlines pending settlement discussions, but to no avail. *See* ECF Nos. 44 and 46. The Parties contend an extension of discovery deadlines enables them to continue to conduct necessary discovery so that this matter is fairly resolved and give the experts the opportunity to review all discovery produced in this dispute. Finally, the Parties together request this in good faith and to further the resolution of this complicated case on the merits, and not for any purpose of delay.

The Parties thus respectfully request an extension of time to extend the discovery in this matter to enable to them to conduct necessary discovery in this matter and so that this matter is fairly resolved on the merits. "Good cause to extend a discovery deadline exists 'if it cannot reasonably be met despite the diligence of the party seeking the extension.'" *Derosa v. Blood Sys., Inc.*, No. 2:13-cv-0137-JCM-NJK, 2013 U.S. Dist. LEXIS 108235, 2013 WL 3975764, at 1 (D. Nev. Aug. 1, 2013) (*quoting Johnson v. Mammoth Recreations*, Inc., 975 F.2d 604, 609 (9th Cir. 1992)); *see also* Fed. R. Civ. P. 1 (providing that the Rules of Civil Procedure "should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding"). As the procedural history of this case illustrates, the Parties have been diligent in litigating this matter. The Parties are continuing to engage in written discovery and have begun coordinating the taking of depositions.

Additionally, counsel for the Parties in this matter are litigating several other unrelated matters against each other which are well-advanced and have competing demands, and while competing demands of litigation are merely one of many reasons for the instant request, it should be noted that the other litigation between the same counsel involving similar issues can only benefit from expanded discovery so that in other litigation, similar requests can be expedited because they may have been done at least in part in this case; in this case, it would be a matter of a universal benefit to the ends of justice and future efficiencies.

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Finally, counsel for Defendants has been ill through December and January, which necessitated several medical appointments and required her to be out of the office. Additionally, counsel for Defendants is anticipated to have surgery on her knee in the near future. Counsel for Plaintiff has also been ill during December and January, including a respiratory illness, and is currently recovering from COVID. These circumstances further compound the need for an extension of the discovery deadlines.

Thus, the standards to extend all deadlines, including the expert deadlines, are satisfied here.

IV. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DEADLINES

	Current Deadline	Proposed New Deadline
Amend Pleadings and Add Parties	March 24, 2023	**Past Due/Unchanged**
Initial Expert Disclosures	August 22, 2023	**August 9, 2024**
Rebuttal Expert Disclosures	September 22, 2023	**September 9, 2024**
Discovery Cut-Off	October 20, 2023	**October 8, 2024**
Dispositive Motions	November 21, 2023	**November 7, 2024**
Pretrial Order	December 22, 2023	**December 6, 2024** (If dispositive motions are filed, the deadline shall be suspended until thirty (30) days after the decision of the dispositive motions or further order of the Court.)

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Based on the foregoing stipulation and proposed deadlines plan, the Parties request that the Discovery Plan and Scheduling Order deadlines be extended additional nine (9) months so that the parties may conduct additional discovery, conduct depositions and efficiently litigate the case based on the merits.

Dated this 2nd day of February, 2024.

MCLETCHIE LAW

By: /s/ N. Pieter O' Leary
Margaret A. McLetchie, Esq.
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Dated this 2nd day of February, 2024.

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By: /s/ Jackie V. Nichols
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Attorneys for Defendants Las Vegas Metropolitan Police Department, Sheriff Joseph Lombardo, Sgt. Alfredo Quintero, and Officer Praveen Raj

ORDER

IT IS ORDERED that the parties' stipulation (ECF No. 47) is **GRANTED.** The Clerk of Court is kindly directed to remove the stay designation entered under the Order at ECF No. 46.

UNITED STATES MAGISTRATE JUDGE

DATED: 2/5/2024

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **STIPULATION AND ORDER TO EXTEND DISCOVERY PLAN AND SCHEDULING ORDER DEADLINES (THIRD REQUEST)** with the Clerk of the Court for the United States District Court by using the court's CM/ECF system on the 2nd day of February, 2024.

☒ I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

☐ I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

N/A

/s/ Rosie Wesp
An employee of Marquis Aurbach

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