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NOT FOR PUBLICATION

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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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9 Regina Pangerl,

No. CV-14-00836-PHX-JJT

10 Plaintiff,

ORDER

11 v.

12 Peoria Unified School District,

13 Defendant.

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16 At issue are Plaintiff's Motion to Strike Portions of Answer and/or to Compel
17 Amended Answer (Doc. 52), to which Defendant filed a Response (Doc. 55); Plaintiff's
18 Motion to Compel Discovery (Doc. 54), to which Defendant filed a Response (Doc. 56);
19 and, included in Defendant's latter Response, Defendant's Motion for Protective Order
20 and Fees (Doc. 56), to which Plaintiff did not file a Response.

21 The present Motions center on the meaning of the Court's February 13, 2015
22 Order (Doc. 39, Order) resolving Plaintiff's Motion to Amend Complaint (Doc. 29) and
23 Motion for Supplemental Rule 16 Conference (Doc. 33). In that Order, the Court stated:

24 Plaintiff has now filed a motion to amend the Complaint to add three new
25 claims under the Rehabilitation Act, the Americans with Disabilities Act,
26 and Arizona law, which changes the complexion of this case from a
27 straightforward appeal of an administrative decision to one that also
28 includes claims that may be resolved for the first time by the Court. (Doc.
29.) Defendant has no objection to Plaintiff's filing of an Amended
Complaint, but rightly points out that the amendment contains new claims
of a distinct evidentiary character, and, as such, Defendant asks that the

1 Court resolve the appeal on the currently set schedule and turn to Plaintiff's
2 new claims thereafter. (Docs. 35, 38.) The Court agrees that this would be
3 the most efficient way to manage this case, given that Plaintiff's new
claims are related to her existing appeal of the administrative decision.

4 (Order at 1-2.) The Court thus postponed setting a supplemental Scheduling Conference
5 for the management of Plaintiff's new claims—claims for which a discovery schedule
6 must still be established. (Order at 2.) The Court concluded it would set a supplemental
7 Scheduling Conference if necessary upon resolution of Plaintiff's original claim—an
8 administrative appeal that required no new discovery and for which the case management
9 schedule was already established. (Order at 2.) In granting Defendant's request to
10 postpone the case management of Plaintiff's new claims until the original appeal is
11 resolved, the Court essentially stayed the parties' activities on the new claims until that
12 time.¹

13 Plaintiff now moves under Federal Rule of Civil Procedure 12(f) to strike the
14 portions of Defendant's Amended Answer that address Plaintiff's new claims, arguing
15 that they "were not made in good faith in violation of the pleading rules" because they
16 were "unqualified denials" of Plaintiff's claims. (Doc. 52 at 4.) The Court will deny
17 Plaintiff's Motion for the reasons set forth by Defendant in its Response, any of which
18 would be sufficient grounds for denial of the Motion. (*See* Doc. 55.) Specifically, the
19 Motion is tardy; Rule 12(f) provides that Plaintiff had 21 days to file the Motion after
20 being served with Defendant's Amended Answer, yet Plaintiff waited about six months
21 to file the Motion. Furthermore, while Plaintiff argues sections of Defendant's Amended
22 Answer were impertinent and scandalous, Plaintiff does not begin to demonstrate either.
23 Accordingly, Plaintiff's Motion to Strike must be denied.

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26 ¹ After the Court entered its Order (Doc. 39) stating that activity on Plaintiff's new
27 claims would be postponed until resolution of Plaintiff's original appeal, Plaintiff filed a
28 Motion *in Limine* and a Motion to Supplement with respect to the Administrative Record
for the appeal. (Docs. 43, 44.) Plaintiff then filed a Motion for Extension of Time (Doc.
51), asking that the parties be given until 60 days after the Court rules on the Motion *in*
Limine and Motion to Supplement to file their Opening Briefs in the appeal. The Court
granted that Motion. (Doc. 53.)

1 Plaintiff also moves to compel Defendant to respond to Interrogatories, Requests
2 to Admit and Requests for Production of Documents propounded by Plaintiff on
3 Defendant with respect to Plaintiff's new claims. (Doc. 54.) Because the Court stayed
4 litigation of Plaintiff's new claims until the resolution of Plaintiff's original appeal—and,
5 indeed, the parties have not yet conferred under Federal Rule of Civil Procedure 26(f) nor
6 has the Court established a discovery schedule—the Court will deny Plaintiff's Motion to
7 Compel (Doc. 54) and grant Defendant's Motion for Protective Order (Doc. 56).
8 Defendant is not required to answer Plaintiff's pending discovery requests, and the
9 parties shall not propound further discovery, until the Court sets a discovery schedule on
10 Plaintiff's new claims, if necessary. However, the Court will deny both parties' requests
11 for attorneys' fees with respect to these Motions.

12 IT IS THEREFORE ORDERED denying Plaintiff's Motion to Strike Portions of
13 Answer and/or to Compel Amended Answer (Doc. 52).

14 IT IS FURTHER ORDERED denying Plaintiff's Motion to Compel Discovery
15 (Doc. 54).

16 IT IS FURTHER ORDERED granting in part and denying in part Defendant's
17 Motion for Protective Order and Fees (Doc. 56). Defendant is not required to answer
18 Plaintiff's pending discovery requests, and the parties shall not propound further
19 discovery, until the Court sets a discovery schedule on Plaintiff's new claims, if
20 necessary. The Court denies both parties' requests for attorneys' fees associated with
21 these Motions.

22 Dated this 14th day of December, 2015.

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25 Honorable John J. Tuchi
26 United States District Judge

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