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 10 RENT-A-CENTER, INC.

11 **UNITED STATES DISTRICT COURT**
 12 **DISTRICT OF NEVADA**

14 CHAD CARTER, individually and on
 15 behalf of others similarly situated,

16 Plaintiff,

17 v.

18 RENT-A-CENTER, INC.

19 Defendant.
 20

Case No. 2:15-cv-00178-GMN-CWH

**STIPULATION AND [PROPOSED] ORDER
 TO STAY DISCOVERY**

21 Defendant RENT-A-CENTER, INC. (“Defendant”) and Plaintiff CHAD CARTER
 22 (“Plaintiff”), by and through their respective attorneys, and do hereby stipulate and request that the
 23 Court stay discovery until an Order is issued on Defendant’s Motion to Dismiss, Motion to Strike
 24 Class Action Claims, or Motion to Compel Individual Arbitration (Dkt. Nos. 7, 8 & 9).

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1 Courts have broad discretionary power to control discovery including the decision to allow or
2 deny discovery. *See e.g., Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). In evaluating
3 the propriety of an order staying or limiting discovery while a dispositive motion is pending, the
4 court considers the goal of Federal Rule of Civil Procedure 1, which provides that the Rules shall
5 “be construed and administered to secure the just, speedy, and inexpensive determination of every
6 action.” With Rule 1 as its prime directive, the court must decide whether it is more just to speed the
7 parties along in discovery while a dispositive motion is pending or to delay discovery to accomplish
8 the inexpensive determination of the case. *See Turner Broadcasting System, Inc. v. Tracinda Corp.*,
9 175 F.R.D. 554, 556 (D. Nev. 1997); *see also Twin City Fire Ins. v. Employers Insurance of*
10 *Wausau*, 124 F.R.D. 652, 653 (D. Nev. 1989).

11 Further, in assessing a request to stay discovery, the court takes a “preliminary peek” at the
12 merits of the dispositive motion. *Tradebay, LLC, v. Ebay, Inc.*, 278 F.R.D. 597, 603 (D. Nev. 2011).
13 This “preliminary peek” does not prejudge the outcome of the motion; it merely evaluates whether
14 an order staying discovery is warranted. *Id.* Common examples of situations in which good cause
15 has been found to stay discovery are when jurisdiction, venue, or immunity are preliminary issues.
16 *Id.* Ultimately, the party seeking the stay “carries the heavy burden of making a strong showing why
17 discovery should be denied.” *Id.* (citing *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th
18 Cir.1975)).

19 Defendant’s Motions to Dismiss, Strike Class Action Claims, and Compel Individual
20 Arbitration (Dkt. Nos. 7, 8 & 9) warrant a stay in discovery. First, the Motions are potentially
21 dispositive of the entire case. Defendant contends that Plaintiff is precluded from litigating his
22 claims because he entered into a Consumer Arbitration Agreement in which he agreed to arbitrate
23 his claims in an individual capacity – not on a class basis and not in court. As the Court is aware, the
24 Federal Arbitration Act (“FAA”) “leaves no place for the exercise of discretion by the district court,
25 but instead mandates that district courts shall direct the parties to proceed to arbitration on issues as
26 to which an arbitration agreement has been signed.” *Dean Witter Reynolds, Inc. v. Byrd*, 470 U.S.
27 213, 218 (1985). Accordingly, Defendant has requested the complete dismissal of Plaintiff’s
28 complaint and that Plaintiff be compelled to arbitrate his claims individually. Plaintiff intends to

1 dispute the legal arguments made in Defendants' Motions and will be filing an Opposition.
2 However, the parties agree that the Motions are of the type warranting a stay of discovery.

3 Second, neither party will suffer hardship or inequity as a result of stay because further
4 discovery is unjustified at this point. Since Defendant has moved to dismiss the entire case, Plaintiff
5 has not been apprised of which factual allegations Defendant intends to admit and which factual
6 allegations Defendant intends to deny. Nor has Plaintiff been apprised of the defenses that
7 Defendant intends to assert. Plaintiff believes this would severely limit his opportunity to conduct
8 full discovery while the Motions are pending. Additionally, the parties agree that discovery is not
9 necessary prior to the Court's resolution of the legal issues raised by Defendant's Motions to Strike
10 Class Action Claims and Compel Individual Arbitration. Where, as here, an arbitration agreement
11 governed by the FAA covers a dispute, resolving that dispute is exclusively committed to the arbitral
12 forum. Allowing discovery to proceed would be contrary to the FAA itself, the national policy
13 favoring arbitration, and a long line of cases upholding arbitration agreements. Moreover, requiring
14 the parties to conduct discovery on class claims that may not be properly before the Court would
15 result in an unnecessary expenditure of resources and is particularly prejudicial to Defendant.

16 Third, similar to the situation in *Little*, this is a case where a temporary stay of discovery will
17 further the goals of judicial economy, control of the Court's docket, and an inexpensive
18 determination of the case. 863 F.2d 681. Ordering the parties to proceed with discovery could
19 potentially clog the Court's docket with discovery disputes on class claims that may be dismissed
20 through compelled arbitration. Additionally, the Court has recognized the importance of resolving
21 arbitration issues at the earliest possible stage in litigation as a way of furthering the inexpensive
22 determination of the case. Additionally, the stay is requested for a limited and reasonable amount of
23 time - until the Court decides any of Defendant's Motions.

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1 Accordingly, the parties have made the strong showing necessary to support their joint
2 request to stay discovery until any of Defendant's Motions to Dismiss, Strike Class Action Claims,
3 and Compel Individual Arbitration (Dkt. Nos. 7, 8 & 9) are decided. For the reasons articulated
4 above, the Court should stay discovery until the first Order has been issued on any of Defendant's
5 Motions. If some or all of Plaintiff's claims survive, counsel for both parties will hold the Rule 26(f)
6 conference and submit a Proposed Discovery Plan and Scheduling Order at such future date to be
7 ordered by the Court.

8 Dated: May 18, 2015

Dated: May 18, 2015

9 Respectfully submitted,

Respectfully submitted,

11 /s/ Danny J. Horen, Esq.
12 DANNY J. HOREN, ESQ.
KAZEROUNI LAW GROUP, APC

/s/ Roger L. Grandgenett, II, Esq.
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ROBERT F. FRIEDMAN, ESQ.
LITTLER MENDELSON

13 Attorney for Plaintiff
14 CHAD CARTER

Attorneys for Defendant
RENT-A-CENTER, INC.

16 **ORDER**

17 IT IS SO ORDERED.

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UNITED STATES MAGISTRATE JUDGE

DATED: May 19, 2015

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