

1 ROGER L. GRANDGENETT II, ESQ., Bar # 6323
 2 CRYSTAL J. HERRERA, ESQ., Bar # 12396
 3 LITTLER MENDELSON, P.C.
 3960 Howard Hughes Parkway, Suite 300
 4 Las Vegas, NV 89169-5937
 Telephone: 702.862.8800
 Fax No.: 702.862.8811

5 Attorneys for Defendants,
 6 SUN CAB, INC. d/b/a NELLIS CAB COMPANY
 and NELLIS CAB, LLC

7
 8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

11 DIANE SANCHEZ-LAZO,
 12 Plaintiff,

13 vs.

14 SUN CAB, INC., a Nevada Corporation
 15 d/b/a NELLIS CAB COMPANY; NELLIS
 16 CAB, LLC., a Nevada Corporation; DOES
 1 through 25, inclusive; and ROE
 17 CORPORATIONS 1 through 25, inclusive,
 Defendant.

Case No. 2:15-cv-00983-JCM-CWH

**~~PROPOSED~~ STIPULATION AND
 ORDER TO STAY DISCOVERY**

FIRST REQUEST

19 Defendants Sun Cab, Inc. d/b/a Nellis Cab Company and Nellis Cab, LLC ("Defendants")
 20 and Plaintiff Diane Sanchez-Lazo ("Plaintiff"), by and through their respective attorneys, hereby
 21 stipulate and agree to stay discovery until the Court has ruled on Defendants' Motion to Dismiss
 22 Plaintiff's Complaint in its entirety (Dkt. #7).

23 In assessing a request to stay discovery, the Court decides whether it is necessary to speed
 24 the parties along in discovery or whether it is more appropriate to delay discovery and spare the
 25 parties of the associated expense. *Tradebay, LLC, v. Ebay, Inc.*, 278 F.R.D. 597, 603 (D. Nev.
 26 2011). To make this assessment, the court takes a "preliminary peek" at the merits of the
 27 purportedly dispositive motion, though, importantly, this "preliminary peek" does not prejudice the
 28 outcome of the motion, it merely evaluates whether an order staying discovery is warranted. *Id.* The

1 merits of the pending motion will ultimately be determined by the district judge, who may have a
2 different view than the magistrate judge. *Id.*

3 Defendants' Motion is of the type warranting a stay in discovery. First, Defendants contend
4 that Plaintiff's entire complaint should be dismissed. Defendants argue that Plaintiff fails to state a
5 *prima facie* case for disability discrimination because, among other things, she does not allege any
6 plausible disability within the meaning of the ADA. (*See* Dkt. #7, generally). Further, Plaintiff's
7 state tort claims for negligent hiring, supervision, and training and intentional infliction of emotional
8 distress warrant dismissal because they are premised on discrimination and remedied under statute
9 and equally fail to state plausible claims upon which relief can be granted. *Id.* Plaintiff obviously
10 disputes the legal arguments made in Defendants' Motion to Dismiss and has filed an Opposition to
11 the Motion. (Dkt. #10). However, the parties agree that the motion is of the type warranting a stay
12 of discovery and that discovery is not necessary while the Court resolves the legal issues raised by
13 the motion. Accordingly, requiring the parties to conduct discovery on claims that may not be
14 curable by amendment would cause an unnecessary expense on the parties and could potentially clog
15 the Court's docket with discovery disputes related to these claims, which may ultimately be
16 dismissed.

17 Second, because Defendants have moved to dismiss the entire case, Plaintiff has not been
18 apprised of which factual allegations Defendants intend to admit, and which Defendants intend to
19 deny. Nor has Plaintiff been apprised of the defenses Defendants intend to assert. Plaintiff believes
20 this would severely limit her opportunity to conduct full discovery while the Motion is pending.

21 Moreover, an Early Neutral Evaluation ("ENE") has been scheduled for August 17, 2015,
22 which has the potential to resolve this matter in full. As such, and in order to fully and productively
23 explore settlement at the ENE, the Parties have already held their Rule 26(f) Conference (on July 30,
24 2015), and will exchange Initial Disclosures within two weeks thereof, by August 13, 2015. Doing
25 so will allow the Parties useful insight into their respective legal positions and Plaintiff's calculation
26 of damages without the expense of proceeding with formal discovery.

27 Therefore, the parties jointly request the Court to stay discovery while Defendants' Motion to
28 Dismiss is pending.

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Accordingly, discovery shall be stayed until the Court has ruled on Defendant's Motion to Dismiss (Dkt. #7). If some or all of Plaintiff's claims survive, the Parties will submit a Proposed Discovery Plan and Scheduling Order within ten (10) days of the Court's Order.

Dated: August 6, 2015
Respectfully submitted,

Dated: August 6, 2015
Respectfully submitted,

/s/ Patrick W. Kang
PATRICK W. KANG, ESQ.
ERICA D. LOYD, ESQ.
KANG & ASSOCIATES, PLLC

/s/ Crystal J. Herrera
ROGER L. GRANDGENETT II, ESQ.
CRYSTAL J. HERRERA, ESQ.
LITTLER MENDELSON, P.C.

Attorneys for Plaintiff,
DIANE SANCHEZ-LAZO

Attorneys for Defendants,
SUN CAB, INC. d/b/a NELLIS CAB
COMPANY and NELLIS CAB, LLC

ORDER

IT IS SO ORDERED.

Dated: August 20, 2015.



UNITED STATES MAGISTRATE JUDGE