

1 the resolution of its motion. This stay would relieve the parties of incurring the potentially
2 unnecessary expenses of discovery should the District Court grant the Motion to Dismiss.

3 DISCUSSION

4 The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of
5 discovery when a potentially dispositive motion is pending. *See Skellerup Indus. Ltd. V. City of L.A.*,
6 163 F.R.D. 598, 600-1 (C.D. Cal. 1995). Ordinarily, a dispositive motion does not warrant a stay of
7 discovery. *See Twin City Fire Insurance v. Employers of Wausau*, 124 F.R.D. 652, 653 (D. Nev.
8 1989). *See also Turner Broadcasting System, Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev.
9 1997). The moving party carries the heavy burden of making a strong showing of why discovery
10 should be denied. *Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013).

11 Courts have broad discretionary power to control discovery. *See Little v. City of Seattle*, 863
12 F.2d 681, 685 (9th Cir.1988). When deciding whether to grant a stay of discovery, the Court is
13 guided by the objectives of Fed. R. Civ. P. 1 that ensures a “just, speedy, and inexpensive
14 determination of every action.” *Kor Media Group*, 294 F.R.D. at 581. It is well known that the
15 purpose of Fed. R. Civ. P. 12(b)(6) is to enable defendants to challenge the legal sufficiency of a
16 complaint without subjecting themselves to discovery. *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597,
17 601 (D. Nev. 2011). To establish good cause for a stay, the moving party must show more than an
18 apparently meritorious Rule 12(b)(6) motion. *Turner Broadcasting System*, 175 F.R.D. at 556.

19 The Court may grant a motion to stay discovery when “(1) the pending motion is potentially
20 dispositive; (2) the potentially dispositive motion can be decided without additional discovery; and
21 (3) the Court has taken a “preliminary peek” at the merits of the potentially dispositive motion and is
22 convinced that the plaintiff will be unable to state a claim for relief.” *Kor Media Group*, 294 F.R.D.
23 at 581. Common examples of when a stay is warranted are cases involving jurisdiction, venue, or
24 immunity as preliminary issues. *Twin City Fire Ins. Co.*, 124 F.R.D. at 653. Furthermore, a stay of
25 discovery might be appropriate where the complaint was utterly frivolous, or filed merely for
26 settlement value. 4 J. Moore, *Federal Practice* § 26.70[2], at 461.

27 Having reviewed Plaintiff’s Complaint and the briefs on the motion to dismiss, the Court
28 finds that a stay of discovery is appropriate here. Defendant BANA’s primary argument in its motion

1 to dismiss is that this Court lacks subject matter jurisdiction over Plaintiff's claims. Based on the
2 Court's "preliminary peak," this argument is well taken and appears to be meritorious. Discovery
3 would therefore serve no purpose until the District Court has determined whether the Court has
4 subject matter jurisdiction over this case. Accordingly,

5 **IT IS HEREBY ORDERED** that Defendant Bank of America's Motion to Stay Discovery
6 Pending a Ruling on Defendant's Motion to Dismiss (ECF. 45) is **granted**.

7 DATED this 2nd day of February, 2017.

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10 GEORGE FOLEY, JR.
11 United States Magistrate Judge
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