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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MARINA L. GAST,

Plaintiff,

v.

ALASKA AIRLINES, INC.,

Defendant.

Case No. 2:16-cv-02890-MMD-PAL

ORDER

Before the court is the parties’ Stipulated Discovery Plan and Scheduling Order (ECF No. 25). The proposed plan would require the parties to exchange initial disclosures only after defendant’s pending motion to dismiss is decided, any amended complaint allowed filed and subsequent motions to dismiss decided. The proposed plan would establish a November 19, 2018 discovery cutoff. However, it is clear the parties have no intention of conducting any discovery until after the “pleading have closed”, i.e., until after the district judge determines whether plaintiff may proceed with one or more claims.


A pending potentially dispositive motion is not ordinarily sufficient to stay or delay discovery until after decision of preliminary motions to dismiss challenging the sufficiency of the complaint. However, the court has taken a “preliminary peek” at the motion to dismiss which raises substantial statute of limitations issues. Having reviewed and considered the matter, the court will deny the parties’ proposed discovery plan, but will grant a stay of discovery until after decision of the pending Motion to Dismiss (ECF No. 11). The court will require the parties to submit a proposed discovery plan and scheduling order 14 days of decision on the motion to dismiss should any claim survive. However, the court will not stay the parties’ requirement to attend a mandatory early neutral evaluation before The Honorable George W. Foley currently scheduled for March 2, 2018 at 9:00 a.m.

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IT IS SO ORDERED:

1. The parties proposed discovery plan and scheduling order is not approved and is **DENIED**.
2. The parties shall submit a proposed discovery plan and scheduling order within 14 days of decision of the pending motion to dismiss in the event any claim survives.
3. A temporary stay of discovery is entered until after decision of the defendant's pending motion to dismiss.
4. The request to stay the ENE scheduled for March 2, 2018 before the Honorable George W. Foley is **DENIED**.

DATED this 4th day of January 2018.



PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE