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

12 DARWIN MAZARIEGOS-DIAZ, ) Case No. 2:17-cv-00440-JCM-GWF  
13 Plaintiff, )  
14 v. ) **STIPULATION TO STAY DISCOVERY**  
15 UNITED STATES OF AMERICA; )  
16 JESSICA JACOBSEN, )  
17 Defendants. )

18 IT IS HEREBY STIPULATED between Plaintiff Darwin Mazariegos-Diaz and  
19 Defendant United States as follows:

20 During their Rule 26(f) conference, counsel agreed to stay discovery pending disposition  
21 of a motion for summary judgment. The United States anticipates being able to file the motion  
22 in the next approximately thirty days. The basis for the anticipated motion is the six month  
23 limitations period in 28 U.S.C. § 2401(b), part of Federal Tort Claims Act, 28 U.S.C. §§  
24 1346(b)(1), 1402(b), 2401(b), 2402, 2671-2680 (“FTCA”). Because this limitations period  
25 commences from service of the federal agency’s letter denying Plaintiff’s administrative tort  
26 claim, and such denial letter is not mentioned in Plaintiff’s Complaint, the United States will  
27 raise the limitations period defense through a motion for summary judgment rather than a  
28 motion to dismiss.

1 If granted, the motion for summary judgment will be dispositive of the entire case.

2 Counsel agree that it would be prudent and conserve resources and expenses to have  
3 such motion adjudicated before engaging in discovery.

4 This Court has previously approved stays of discovery pending adjudication of a  
5 limitations period defense. *See, e.g., Holmes v. Metro. Police Dep't*, No. 2:13-cv-00877-APG-  
6 GWF, 2014 WL 3734282, at \*3 (D. Nev. July 29, 2014).

7 Accordingly, counsel stipulate to, and request that this Court approve, a stay of  
8 discovery pending adjudication of the United States' upcoming motion for summary judgment.

9 In entering into this stipulation, Plaintiff agrees only to the stay of discovery; nothing  
10 herein should be construed as an admission or waiver by Plaintiff relative to the merits of the  
11 limitations period defense.

12 Respectfully submitted this 24th day of August 2017.

13 PATTI, SGRO & ROGER

STEVEN W. MYHRE

Acting United States Attorney

14  
15 /s/ Andrew D. Sedlock

/s/ Patrick A. Rose

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22 **IT IS SO ORDERED:**

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**UNITED STATES MAGISTRATE JUDGE**

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26 **DATED: 8/28/2017**  
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