

1 potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken
2 a “preliminary peek” at the merits of the potentially dispositive motion and is convinced that the plaintiff
3 will be unable to state a claim for relief. *See Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D.
4 Nev. 2013).

5 The Court finds that a stay of discovery is not appropriate in this case. Most significantly, the
6 Court has taken a preliminary peek at the motion to dismiss and is not convinced that it will be granted.¹
7 It bears repeating that the filing of a non-frivolous dispositive motion, standing alone, is simply not
8 enough to warrant staying discovery. *See, e.g., Tradebay*, 278 F.R.D. at 603. Instead, the Court must
9 be “convinced” that the dispositive motion will be granted. *See, e.g., id.* “That standard is not easily
10 met.” *Kor Media*, 294 F.R.D. at 583. “[T]here must be *no question* in the court’s mind that the
11 dispositive motion will prevail, and therefore, discovery is a waste of effort.” *Id.* (quoting *Trazska v.*
12 *Int’l Game Tech.*, 2011 WL 1233298, *3 (D. Nev. Mar. 29, 2011)) (emphasis in original). The Court
13 requires this robust showing that the dispositive motion will succeed because applying a lower standard
14 would likely result in unnecessary delay in many cases. *Id.* (quoting *Trazska*, 2011 WL 1233298, at *4).

15 Accordingly, the Court **DENIES** Defendant’s motion to stay discovery and **ORDERS** the parties
16 to file a joint proposed discovery plan by December 5, 2017.

17 IT IS SO ORDERED.

18 DATED: November 28, 2017

19 
20 _____
21 NANCY J. KOPPE
22 United States Magistrate Judge
23
24

25 _____
26 ¹ Conducting the preliminary peek puts the undersigned in an awkward position because the assigned
27 district judge who will decide the motion to dismiss may have a different view of its merits. *See Tradebay*,
28 278 F.R.D. at 603. The undersigned’s “preliminary peek” at the merits of that motion is not intended to
prejudice its outcome. *See id.* As a result, the undersigned will not provide a lengthy discussion of the
merits of the pending motion to dismiss in this instance. Nonetheless, the undersigned has carefully
reviewed the arguments presented in the motion to dismiss and subsequent briefing.