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13 **UNITED STATES DISTRICT COURT**
14
15 **DISTRICT OF NEVADA**
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17 THOMAS HILLERY, an individual, and as
18 Guardian Ad Litem for MARY JANE
19 HILLERY, an adult,

20 Plaintiffs,

21 vs.

22 SUN CITY ANTHEM COMMUNITY
23 ASSOCIATION, INC.; DOE INDIVIDUALS
24 1 through 100; ROE BUSINESS
25 ENTITIES 1 through 25, inclusive

26 Defendants.

CASE NO.: 2:17-cv-02639-MMD-GWF

**STIPULATION AND ORDER TO STAY
DISCOVERY PENDING FINAL
RESOLUTION OF DEFENDANT'S
MOTIONS TO STRIKE/DISMISS (ECF
NO. 7, 9, 10)**

27 COME NOW Plaintiffs and Defendant, through their counsel of record, and stipulate
28 as follows:

1. On October 12, 2017, Plaintiffs filed their complaint in the instant action. ECF No. 3. The Complaint has causes of action under Federal Fair Housing Act 42. U.S.C. §§ 3601 et seq.; Americans with Disabilities Act, 42 U.S.C. § 12101, et Seq.; Nevada Revised Statutes Chapter 651; Breach of Contract; and Unjust Enrichment.

2. On November 8, 2017, Defendant filed a Motion to Strike, a Motion to Dismiss Claims Two and Four, and a Motion to Dismiss Claims Eight and Nine. ECF No. 7,

1 9, 10. One Motion to Dismiss is for vagueness and alternatively seeks a more definite
2 statement. The Other Motion to Dismiss is based on subject matter jurisdiction.

3 3. Briefing on Defendant's Motions to Strike/Dismiss is Complete.

4 4. Parties have filed a Stipulated Discovery Plan and submitted initial
5 disclosures. Current Discovery Cut-Off Date is May 7, 2018.

6 5. The Parties seek a stay of Discovery until after the Court rules on
7 Defendant's Motions to Strike/Dismiss.

8 6. Federal district courts have "wide discretion in controlling discovery." Little
9 City of Seattle, 863 F.2d 61, 685 (9th Cir. 1988).

10 7. To determine if a continued stay is appropriate, the Court considers (1)
11 damage from the stay; (2) hardship or inequity that befalls one party more than the other;
12 and (3) the orderly course of justice. See Dependable Highway Exp., Inc. v. Navigators
13 Ins. Co., 498 F.3d 1059, 1066 (9th Cir. 2007) (setting forth factors). Here, the factors
14 support a stay of litigation.

15 8. Damage from Stay: Any damage from a temporary stay in this case will be
16 minimal if balanced against the potential fees, costs, and time which would surely ensue in
17 this matter if litigation were allowed to continue and claims were subsequently dismissed.
18 Moreover, the Court will be relieved of expending further time and effort, which could
19 include discovery motions related to claims that may be dismissed, until the Motions to
20 Dismiss are resolved. Thus, a stay will benefit all parties involved herein.

21 9. Hardship or Inequity: There will be no significant hardship or inequity that
22 befalls one party more than the other. This relatively equal balance of equities results from
23 the need for all parties to have finality and direct discovery efforts appropriately. The
24 parties agree that any hardship or inequity falling on any of them is outweighed by the
25 benefits of a stay.

26 10. Orderly Course of Justice: At the center of this case is a determination of
27 whether the Defendant, had a duty to accommodate a disability in specific ways. While the
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1 parties may disagree on the merits of the arguments in the Motion, they agree that the facts
2 and law are set out in such a way that this Court can make a preliminary judgment as to
3 their validity. The parties believe a stay is warranted because they will be able to avoid the
4 cost and expense of written discovery and depositions that may be irrelevant depending on
5 the outcome of the Motions to Strike/Dismiss. Further, the Court will be relieved of
6 expending further time and effort considering any discovery-related motions or protective
7 orders.

8 11. The parties agree and request that all discovery deadlines in this case be
9 stayed pending final resolution of the Motions to Strike/Dismiss.

10 12. Any party may file a written motion to lift stay at any time if either party
11 determines it appropriate.

12 DATED this 21st day of February, 2018

DATED this 21st day of February, 2018

13 LIPSON NEILSON, P.C.

N.R. DONATH & ASSOCIATES PLLC

14 /s/ David T. Ochoa

/s/ Nicolas R. Donath

15 By: _____

By: _____

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ORDER

IT IS SO ORDERED


UNITED STATES MAGISTRATE JUDGE

DATED: 2/22/2018