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UNITED STATES DISTRICT COURT**DISTRICT OF NEVADA**

Case No.: 3:18-cv-00199-MMD-CSD

PATRICIA G. BARNES,

Plaintiff

v.

KILOLO KIJAKAZI,
Acting Commissioner of
Social Security Administration, et al.,

Defendants

Order

Re: ECF Nos. 220, 221

Defendant Kilolo Kijakazi has filed a motion to lift the stay and to amend the discovery plan and scheduling order. (ECF Nos. 220, 221.)¹ Plaintiff filed a response. (ECF No. 223.)

Defendants Kilolo Kijakazi and Jimmy Elkins filed a motion to dismiss Plaintiff's fourth amended complaint (ECF No. 186), and a motion to stay the case until the motion to dismiss was decided (ECF No. 187). Plaintiff did not oppose the motion to stay, and Chief Judge Du granted the motion staying the action pending resolution of the motion to dismiss. (ECF No. 208.) Plaintiff filed a motion for reconsideration of that order (ECF No. 213), which Chief Judge Du denied (ECF No. 215).

On May 2, 2022, Chief Judge Du issued an order granting the motion to dismiss the First Amendment retaliation claim from the fourth amended complaint, but allowed the ADEA disparate-impact age discrimination claim to proceed. (ECF No. 219.) This motion to lift the stay and amend the discovery plan and scheduling order deadlines followed. (ECF Nos. 220/221.)

¹ These documents are identical, but were filed separately by the Clerk's Office.

1 Preliminarily, the motion to dismiss has been determined; therefore, it is appropriate to
2 lift the stay.

3 Defendant seeks to extend the scheduling order deadlines by approximately six months,
4 making the discovery completion deadline November 1, 2022; the dispositive motions deadline
5 December 1, 2022; and the deadline for the joint pretrial order (if dispositive motions are not
6 filed) January 3, 2023. Plaintiff opposes the request, stating that this will unduly delay this matter
7 which will prejudice Plaintiff. Plaintiff requests that the court approve a new scheduling order
8 that begins on the date the court rules on Plaintiff's motion to compel discovery, and extend the
9 discovery completion deadline out 30 days from that date.

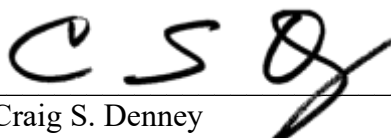
10 Defendant's motion does not provide a basis for an extension of six months when this
11 case has been pending since 2018; however, the court declines to enter the scheduling order
12 requested by Plaintiff. Instead, the court will schedule a hearing to determine a reasonable
13 extension of the discovery plan and scheduling order deadlines.

14 **CONCLUSION**

15 The motion to lift the stay (ECF No. 220) is **GRANTED**. The motion to amend the
16 scheduling order deadlines (ECF No. 221) is **DENIED WITHOUT PREJUDICE**. The court
17 will schedule a hearing to determine a reasonable extension of the discovery plan and scheduling
18 order deadlines.

19 **IT IS SO ORDERED.**

20 Dated: May 19, 2022

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22 _____
23 Craig S. Denney
United States Magistrate Judge