

1 JAMES E. MURPHY  
2 Nevada Bar No. 8586  
3 LEWIS BRISBOIS BISGAARD & SMITH LLP  
4 6385 S. Rainbow Boulevard, Suite 600  
5 Las Vegas, Nevada 89118  
6 Telephone: (702) 893-3383  
7 Fax: (702) 893-3789  
8 E-Mail: James.Murphy@lewisbrisbois.com  
9 *Attorneys for THE HERTZ CORPORATION*

10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 ISABEL APARECIDA AULER, an  
13 individual, CARLOS ALBERTO  
14 RODRIGUES DE FREITAS an individual,

15 Plaintiffs,

16 vs.

17 THE HERTZ CORPORATION, a  
18 Delaware corporation, ROBERT  
19 CHARLES STEVENS, an individual, and  
20 DOES 1-10 inclusive,

21 Defendants.

CASE NO.: 2:18-CV-01522-JAD-BNW

**MOTION TO EXTEND DISCOVERY  
DEADLINES**

**(SECOND REQUEST)**

22 Defendant, THE HERTZ CORPORATION, by and thought its attorneys, LEWIS  
23 BRISBOIS BISGAARD SMITH LLP, respectfully requests this Court to issue an Order  
24 extending certain discovery deadlines in this case.

25 **MEMORANDUM IN SUPPORT**

26 Pursuant to Local Rules (LR) 2604, LR6-1 and LR 26-1, Defendant, by and  
27 through its attorneys, James Murphy, Esq. of Lewis Brisbois Bisgaard & Smith LLP,  
28 hereby moves this Court to extend the discovery deadlines for the disclosure of expert  
reports and to amend pleadings and add parties in the above-captioned case for a period  
of twenty-one (21) days.

Local Rule (LR) 2604 provides that applications to extend any date set by the  
discovery plan, scheduling order or other order must, in addition to satisfying the

1 requirements of LR6-1, be supported by showing of good cause for the extension.

2 LR26-1 also requires that an application for the extension of a deadline must be  
3 received by the court no later than 21 days before extension of the subject deadline.

4 LR6-1 provides the “(a) request made after the expiration of the specified period  
5 shall not be granted unless the moving party, attorney or other person demonstrates the  
6 failure to act as a result of excusable neglect.”

7 **DISCOVERY REMAINING**

8 1. Plaintiffs will complete the deposition of Hertz Corporation pursuant to  
9 FRCP 30 (b) 6 by August 30, 2019;

10 2. The parties will complete all written discovery and provide necessary  
11 supplements thereto;

12 3. The parties will take the depositions of any and all other witnesses garnered  
13 through discovery.

14 This Request for an extension of time is not sought for any improper purpose or  
15 other purpose of delay. Rather, it is sought by the parties solely for the purpose of  
16 allowing sufficient time to conduct discovery.

17 **WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

18 Defendant Hertz Corporation, through its counsel Mr. Lazar, Esq. and Mr. Murphy,  
19 Esq. spoke with Plaintiffs’ counsel Mr. Capp, Esq. twice on Monday July 29, 2019 and  
20 again via email on Tuesday, July 30, 2019. Generally, more time was requested to  
21 accommodate counsel and Hertz Cooperation. In these communications Plaintiffs  
22 advised Defendant Hertz Corporation that Plaintiffs are agreeable to an extension of time  
23 to complete discovery on the strict condition that the continued deposition of Hertz  
24 Corporation takes place and is completed by August 30th at the very latest. *See* Affidavit  
25 of James E. Murphy, Esq., attached hereto as **Exhibit A**. A separate communication took  
26 place between James E. Murphy, Esq. and Mr. Cisneros, Esq., counsel for Mr. Robert  
27 Stevens, and Mr. Cisneros expressed his agreement with a modest extension of the

1 deadlines as well. *Id.*

2 Extension or Modification of The Discovery Plan and Scheduling Order. LR 26-4  
3 governs modifications or extension of this discovery plan and scheduling order. Any  
4 stipulation or motion must be made no later than twenty-one (21) days before the  
5 expiration of the subject deadline, and comply fully with LR 26-4.

6 The following is a list of the current discovery deadlines as ORDERED by the  
7 Court on May 21, 2019 (Doc#35) and the parties' proposed extended deadlines.

Scheduled Event	Current Deadline	Proposed Deadline
Discovery Cut-off	October 9, 2019	Unchanged
<b>Amendment to Pleadings or adding parties</b>	<b>August 9, 2019</b>	<b>August 30, 2019</b>
Interim Status Report	July 10, 2019	Unchanged
<b>Expert Disclosure pursuant to Fed R. Civ. P. 26 (a)(2)</b>	<b>August 19, 2019</b>	<b>September 9, 2019</b>
Rebuttal Expert Disclosure pursuant to Fed. R. Civ. P. 26(a)(2)	<b>September 18, 2019</b>	<b>October 11, 2019</b>
Dispositive Motions	November 7, 2019	Unchanged
Joint Pretrial Order	December 6, 2019	Unchanged

20 This Request for an extension of certain deadlines is not sought for any improper  
21 purpose or other purpose of delay. Rather, it is sought by the parties solely for the  
22 purpose of allowing sufficient time to conduct discovery in this case and adequately  
23 prepare their respective cases for trial. Specifically, the deposition of Hertz Corporation  
24 pursuant to FRCP 30 (b) 6 is contemplated to take place by August 30, 2019 and added  
25 time is necessary to permit the various designees of Hertz Corporation to appear, and be  
26 prepared ahead of time by Counsel for Hertz Corporation given the travel schedules of all  
27 concerned.

1 This is the second request for extension of time in this matter. The parties  
2 respectfully submit that the reasons set forth above constitute compelling reasons and  
3 good cause for the short extension with respect the dates specified above.

4 WHEREFORE, the parties respectfully request that this Court extend the deadline  
5 to disclose expert reports by a period of twenty-one days (21) days from the current  
6 deadline of August 19, 2019 up to and including September 9, 2019 and the deadline to  
7 amend pleadings or add parties by a period of twenty-one days (21) days from the current  
8 deadline of August 9, 2019 up to and including August 30, 2019 and the deadline for  
9 Rebuttal Expert Disclosure from September 18, 2019 to October 11, 2019 pursuant and  
10 the other discovery dates as outlined in accordance with the table above remain  
11 unchanged.

12 DATED this 30<sup>th</sup> day of July , 2019.


13 LEWIS BRISBOIS BISGAARD & SMITH LLP

14 BY

15  
16 JAMES E. MURPHY  
17 Nevada Bar No. 8586  
18 6385 S. Rainbow Boulevard, Suite 600  
19 Las Vegas, Nevada 89118  
20 *Attorneys for Defendant*  
21 *THE HERTZ CORPORATION*

22 IT IS SO ORDERED

23 DATED: August 08, 2019

24 

25 BRENDA WEKSLER  
26 UNITED STATES MAGISTRATE JUDGE

1 CERTIFICATE OF SERVICE

2 Pursuant to FRCP 5(b), I certify that I am an employee of, and that on this 30<sup>th</sup> day  
3 of July, 2019, I did cause a true copy of MOTION TO EXTEND DISCOVERY  
4 DEADLINES to be served via electronic service by the U.S. District Court CM/ECF  
5 system to the parties on the Electronic Filing System.

6 Jonathan C. Capp  
7 13891 Bassmore Drive  
8 San Diego, CA 92129  
9 Phone 760-231-6498  
10 Fax: 858-435-2510  
11 Email: [jcclex@gmail.com](mailto:jcclex@gmail.com)  
12 Attorney for Plaintiffs

13 Kevin Lazar [kevin@bakerattorneys.net](mailto:kevin@bakerattorneys.net)

14 Martin L. Welsh [mwelsh@lvlaw.com](mailto:mwelsh@lvlaw.com), [k.bratton@hayesandwelsh.onmicrosoft.com](mailto:k.bratton@hayesandwelsh.onmicrosoft.com),  
15 [m.mchenry@lvlaw.com](mailto:m.mchenry@lvlaw.com)

16 Paul Kirst [Paul.kirst@allstate.com](mailto:Paul.kirst@allstate.com), [lasvegaslegal@allstate.com](mailto:lasvegaslegal@allstate.com)

17 Phillip R Emerson [receptionist@emersonlawgroup.com](mailto:receptionist@emersonlawgroup.com),  
18 [emersonlawgroup@gmail.com](mailto:emersonlawgroup@gmail.com)

19 Renee E. Jensen [rjensen@fwhb.com](mailto:rjensen@fwhb.com), [lduarte@fwhb.com](mailto:lduarte@fwhb.com)

20 Shayne L. Wulterin [shayne@fwhb.com](mailto:shayne@fwhb.com), [awood@fwhb.com](mailto:awood@fwhb.com), [cbrorson@fwhb.com](mailto:cbrorson@fwhb.com),  
21 [diane@fwhb.com](mailto:diane@fwhb.com), [jtaylor@fwhb.com](mailto:jtaylor@fwhb.com), [nmanno@fwhb.com](mailto:nmanno@fwhb.com)

22 By Isl Anne Cordell  
23 an Employee of LEWIS BRISBOIS  
24 BISGAARD & SMITH LLP

EXHIBIT A

EXHIBIT A

AFFIDAVIT OF JAMES E. MURPHY  
Auler v. The Hertz Corporation / Case No. 2:18-CV-01522-JAD-BNW



**AFFIDAVIT OF JAMES E. MURPHY, ESQ. IN SUPPORT OF  
DEFENDANT'S MOTION TO EXTEND DISCOVERY (SECOND REQUEST)**

STATE OF NEVADA       )  
  ) ss:  
COUNTY OF CLARK     )

James E. Murphy, Esq., being first duly sworn, now deposes and says as follows:

1. Affiant is a partner in the law firm of LEWIS BRISBOIS BISGAARD SMITH, LLP. Counsel for Defendant Hertz Corporation. I give this affidavit of my own personal knowledge and in support of Defendant's Motion to Extend Discovery Deadlines (Second Request).

2. Defendant Hertz Corporation, through its counsel Mr. Lazar, Esq. and Affiant, spoke with Plaintiffs' counsel Mr. Capp, Esq. twice on Monday July 29, 2019 and again via email on Tuesday, July 30, 2019. Plaintiffs advised Defendant Hertz Corporation Plaintiffs are agreeable to an extension of time to complete discovery assuming the deposition of Hertz Corporation takes place by August 30th at the very latest. Affiant advised this request would be issued.

3. Affiant has also spoken directly with Mr. Cisneros, Esq. representing Mr. Robert Stevens. Mr. Cisneros, Esq. expressed his agreement with the concepts outlined herein.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Signed:

\_\_\_\_\_  
JAMES E. MURPHY, ESQ.

Title: Partner

Date: July 30, 2019

SUBSCRIBED and SWORN to before me this 30 day of July, 2019.

Melissa Y. Latrell  
NOTARY PUBLIC in and for State of Nevada, County of Clark.

