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

13 SYDNEY SHACKERFORD,

14 Plaintiff,

15 v.

16 JAMES DZURENDA, et al.,

17 Defendants.

Case No. 2:19-cv-00469-GMN-DJA

**UNOPPOSED MOTION TO EXTEND
 THE DISPOSITIVE MOTIONS
 DEADLINE BY FIFTY DAYS FROM
 MAY 12, 2021, TO JULY 1, 2021
 (FIRST REQUEST TO EXTEND THE
 DISPOSITIVE MOTIONS
 DEADLINE)**

19 Defendants, Melvin Cravin, Efrain Lona, and Glenda Stewart, by and through
 20 counsel, Aaron D. Ford, Nevada Attorney General, and Alexander J. Smith, Deputy
 21 Attorney General, of the State of Nevada, Office of the Attorney General, hereby move to
 22 extend by a modest fifty days the dispositive motions deadline only from May 12, 2021, to
 23 July 1, 2021.¹

24 On May 10, 2021, counsel for Defendants and Plaintiff Sydney Shackerford engaged
 25 in a pleasant, amicable, and co-operative telephonic meet and confer to discuss this motion

26
 27 ¹ Setting a dispositive motions deadline of May 12, 2021, a January 12, 2021
 28 scheduling order states that “[m]otions for summary judgment . . . must be filed and served
 no later than 30 days after the close of discovery, which is April 12, 2021.” (ECF No. 21
 at 3)

1 to extend the deadline to file dispositive motions and to discuss any possible settlement
2 offer from Shackerford.

3 This motion is unopposed, and Defendants move for a dispositive motions deadline
4 extension for the reasons stated below.

5 MEMORANDUM OF POINTS AND AUTHORITIES

6 I. LAW AND ARGUMENT

7 A. Rule 6(b), Federal Rules Of Civil Procedure.

8 Rule 6(b)(1), Federal Rules of Civil Procedure, governs extensions of time and states:

9 When an act may or must be done within a specified time, the
10 court may, for good cause, extend the time: (A) with or without
11 motion or notice if the court acts, or if a request is made, before
12 the original time or its extension expires; or (B) on motion made
after the time has expired if the party failed to act because of
excusable neglect.

13 If additional time for any purpose is needed, the proper procedure is to present a
14 request for extension of time before the time fixed has expired. *Canup v. Mississippi Val.*
15 *Barge Line Co.*, 31 F.R.D. 282 (W.D. Pa. 1962). An extension of time may always be sought
16 and is usually granted on a showing of good cause if timely made under subdivision (b)(1)
17 of the Rule. *Creedon v. Taubman*, 8 F.R.D. 268 (N.D. Ohio 1947).

18 B. Local Rules IA 6-1 And 26-3.

19 LR IA 6-1 requires that a motion to extend time must state the reasons for the
20 extension requested and will not be granted if requested after the expiration of the specified
21 period unless the movant demonstrates that the failure to file the motion before the
22 deadline expired resulted because of excusable neglect. LR 26-3 requires that a motion to
23 extend any date set by the discovery plan, scheduling order, or other order must, as well as
24 satisfying the requirements of LR IA 6-1, demonstrate good cause for the extension, and
25 such a motion filed after the expiration of the deadline will not be granted unless the
26 movant demonstrates that the failure to act resulted from excusable neglect.

27 Finally, LR 26-3 lists four factors that are considered upon adjudication of a motion
28 to extend a discovery deadline or to reopen discovery: (a) a statement specifying the

1 discovery completed; (b) a specific description of the discovery that remains to be completed;
2 (c) the reasons why the deadline was not satisfied or the remaining discovery was not
3 completed within the time limits set by the discovery plan; and (d) a proposed schedule for
4 completing all remaining discovery.

5 **C. Good Cause Exists, Thus An Order Should Grant Defendants' Motion**
6 **For An Extension Of The Dispositive Motions Deadline**

7 Here, good cause exists for extending the dispositive motions deadline by fifty days.
8 Both parties intend to move for summary judgment, and Defendants will, among other
9 things, argue that there is no genuine dispute as to any material fact concerning
10 Shackerford's Eighth Amendment excessive force claims; Defendants continue to assert
11 that no constitutional violations occurred, thus Defendants are entitled to judgment as a
12 matter of law. By extending the deadline by fifty days, Shackerford is under no danger of
13 prejudice, and the delay is short.

14 Counsel for the defense, Attorney Smith, represents the interests of several hundred
15 defendants in approximately fifty cases. Over the last six or so weeks, Attorney Smith has
16 worked on several other summary judgments. Other tasks have included a complex
17 Rule 12(c), Federal Rules of Civil Procedure, motion; much factual and legal research into
18 a motion for a preliminary injunction to allow a particular faith-group access under the
19 Religious Land Use and Institutionalized Persons Act to a prison chapel; several hearings
20 and briefs in state court on the constitutional right of access to the courts in the COVID
21 pandemic; several depositions; much discovery-related work; Attorney-General work-
22 related training and office administrative tasks; mentoring and assisting newly appointed
23 attorneys with their work; several mediation conferences and preparation beforehand; and
24 all of the other routine tasks expected of an attorney.

25 Also, because of the nature of this case, Attorney Smith requires more time to obtain
26 further declarations from Defendants and others and to finish his internal factual enquiries
27 that will eventually assist the court in the adequate adjudication of Defendants' motion for
28 summary judgment, which will be filed if no settlement is reached following Shackerford's

1 latest settlement offer.² In sum, because of many deadlines and last-minute assignments
2 over the last several weeks (and indeed months), Attorney Smith needs additional time in
3 which to adequately move for summary judgment.

4 Finally, because of the COVID pandemic, Attorney Smith has continued to work
5 from home most of the time, and this has made discovery and various other tasks more
6 difficult than usual; his ability to access records (in addition to necessary declarations and
7 the like) has been impeded and slowed down; however, Attorney Smith is working
8 diligently to defend this action. In sum, for the reasons stated above and because no rushed
9 work product is good work product, Attorney Smith needs additional time in order to
10 adequately brief the court for summary judgment in this action.

11 **D. The Four Factors Contained Within LR 26-3 Are Satisfied³**

12 The four factors contained within LR 26-3—(a) a statement specifying the discovery
13 completed; (b) a specific description of the discovery that remains to be completed; (c) the
14 reasons why the deadline was not satisfied or the remaining discovery was not completed
15 within the time limits set by the discovery plan; and (d) a proposed schedule for completing
16 all remaining discovery—are satisfied. Defendants have completed discovery in this action,
17 and no further discovery is needed. The reasons why Defendants are unable to adhere to
18 the dispositive motions deadline are succinctly and thoroughly elaborated on at length in
19 the preceding paragraphs. No discovery remains, but Defendants move to amend the
20 scheduling order to extend by fifty days the May 12, 2021 dispositive motions deadline.

21
22 ² In the meet and confer, Shackerford also extended a new, more modest settlement
23 offer to Defendants. Thus Defendants would benefit from an extension of time, which will
24 allow Attorney Smith to liaise with the relevant staff at (i) the Attorney General's Office
25 (such as the Nevada Tort Claims Manager) and (ii) the Nevada Department of Corrections
26 about possibly settling this case before the filing of any dispositive motions and thus
27 conserving precious judicial resources and taxpayers' money; however, the consideration of
28 a settlement offer takes time because of legislative and executive imposed procedures.

³ LR 26-3 lists four factors that are considered. Arguably, these apply only when a party moves for an extension to extend a discovery deadline or to reopen discovery; here, Defendants neither move to extend a discovery deadline nor move to reopen discovery, but because this motion seeks to extend a deadline—originally established by a January 12, 2021 scheduling order (ECF No. 21)—to July 1, 2021, out of an abundance of caution, the factors contained within LR 26-3 are addressed in case the court decides that the four-factor requirement contained within that rule applies in this instance.

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the State of Nevada, Office of the Attorney General,
3 and that on May 12, 2021, I electronically filed the foregoing **UNOPPOSED MOTION TO**
4 **EXTEND THE DISPOSITIVE MOTIONS DEADLINE BY FIFTY DAYS FROM**
5 **MAY 12, 2021, TO JULY 1, 2021 (FIRST REQUEST TO EXTEND THE**
6 **DISPOSITIVE MOTIONS DEADLINE)** via this Court’s electronic filing system. Parties
7 who are registered with this Court’s electronic filing system will be served electronically.

8 Sydney Shackerford, #1148998
9 High Desert State Prison
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12 Email: HDSP_LawLibrary@doc.nv.gov
13 *Plaintiff, Pro Se*

14 /s/ Carol A. Knight
15 CAROL A. KNIGHT, an employee of the
16 Office of the Nevada Attorney General
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