

1 Jason A. Close, Esq.
Nevada Bar No. 13674
2 CLOSE LAW GROUP
2831 Saint Rose Pkwy STE 240
Henderson, NV 89052
3 Phone: (702) 983-4254
Fax: (702) 924-4645
4 Jason@CloseLawGroup.com
Attorney for Plaintiffs

5
6 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

7 WAYNE MAYES, as Guardian for HARRY
MICHAEL REID; and, LUCILLE
8 LAGASSE,

Plaintiffs,

9 v.

10 THE UNITED STATES OF AMERICA;
DOE INDIVIDUALS I-X; and, ROE
11 ENTITIES I-X, inclusive,

Defendants.
12

Case No. 2:21-cv-00296-APG-BNW

**STIPULATION TO EXTEND
DISCOVERY DEADLINES
(Tenth Request)**

13 Pursuant to LR 26-1 and LR IA 6-1, it is hereby stipulated by and between Plaintiffs
14 Wayne Mayes, as Guardian for Harry Michael Reid, and Lucille Lagasse (“Plaintiffs”) and
15 Defendant United States of America (“USA”) (together, the “Parties”) that the deadlines
16 specified in this Court’s Discovery Plan and Scheduling Order (ECF No. 36) be extended
17 one-hundred twenty (120) days. This is the Parties’ tenth request to extend the scheduling
18 order.

19 1. Reasons to Extend.

20 As mentioned in the Parties’ last stipulation (ECF No. 36), both Mr. Mayes
21 (guardian for Mr. Reid) and Plaintiffs’ retained economist Dr. Terrence “Mike” Clauretie
22 have recently passed away. As described in the Parties’ last five stipulations to extend
23 discovery (ECF No. 26, No. 28, No. 31, No. 34, & No. 36), guardian Wayne Mayes had
24 been treating his recently-diagnosed, advanced-stage cancer. Although Mr. Mayes was
wrapping up treatment and reported a positive outcome, he took a sudden turn for the

1 worst in June.

2 **Plaintiff Lucille Lagasse has a hearing set for November 16, 2023, in the state**
3 **guardianship court on her petition to become successor guardian over her husband**
4 **Harry.** In the meantime, in this case, counsel for Plaintiffs is at a roadblock without a
5 personal representative to make strategic client and financial litigation decisions for Mr.
6 Reid. Accordingly, future deadlines should be reset based upon that state guardianship
7 hearing, plus some leeway for any unforeseen issues in that court.

8 Regarding Dr. Clauretie's passing, Plaintiffs require a forensic economist to prove
9 damages. Dr. Clauretie was Plaintiffs' retained economist since before litigation (*i.e.*, he
10 prepared a report submitted with Plaintiffs' prelitigation FTCA Administrative Claim).
11 Plaintiffs must retain a successor expert economist with sufficient time before initial
12 expert deadlines, which is not possible without a guardian to make Mr. Reid's client /
13 financial decisions over funds held in trust pursuant to the state guardianship court's
14 order.

15 Further, as mentioned in the Parties' prior stipulation, there has been some
16 difficulty obtaining Plaintiff Lucille Lagasse's mental health records. A subpoena for the
17 mental health records was issued on June 21, 2023. A few responsive documents were
18 provided; however, the mental health treatment center indicated that the licensed
19 therapist that was treating Ms. Lagasse is no longer employed by their office and no
20 patient notes or files were provided. The United States has begun the process of
21 determining whether the files no longer exist or were taken by the licensed therapist when
22 she left the employment of the mental health treatment center.

23 Complete records would be beneficial to physician depositions, for expert reports
24 and depositions, and for accurate damages calculations. Further, the written reports of
the expert(s) would likely change based upon final medical records, and which would
require both Parties to likely incur additional and substantial litigation costs. Finally, not
planning for the above issues now would likely result in more difficult, last-minute delays
on orders-shortening-time further into discovery.

1 Additionally, as set forth in the prior stipulations, counsel for the United States
2 has sought the deposition of the author of the NHP Crash Report. Although the United
3 States believed it had secured a date, Officer Muir has not returned repeated phone calls
4 to confirm a date for Plaintiffs' and Defendant's counsel to travel out of state to conduct
5 the deposition. As a result, at this juncture, a deposition subpoena will need to be served
6 on Officer Muir in order to compel his attendance at a deposition.

7 Because Officer Muir's testimony would assist the Parties' liability experts, the
8 Parties would incur additional and substantial litigation costs to do multiple rounds of
9 expert reports under the current schedule, if Officer Muir's deposition transcript were
10 unavailable prior to the current Expert Disclosure Deadline.

11 For the reasons set forth above, the Parties believe good cause exists to
12 extend the discovery deadlines in this matter.

13 2. Discovery Completed:

- 14 a. The Parties have disclosed several Rule 26 disclosures and supplements.
- 15 b. Plaintiffs served their First Supplement to Initial Disclosures on June 14,
16 2021
- 17 c. Defendant USA has issued over a dozen subpoenas duces tecum to third
18 Parties, most of which have been returned
- 19 d. USA served their First Requests for Production of Documents and First
20 Set of Interrogatories to Plaintiff William Mayes as Guardian for Harry
21 Michael Reid on August 30, 2021
- 22 e. USA served their First Requests for Production of Documents and First
23 Set of Interrogatories to Plaintiff Lucille Lagasse on August 30, 2021
- 24 f. USA served their First Supplement to Initial Disclosures on September 1,
25 2021
- g. Plaintiffs served their Second Supplement to Initial Disclosures on
 October 11, 2021
- h. Plaintiff requested updated medical records from currently-treating

1 providers on October 12, 2021

2 i. Plaintiffs served their Third Supplement to Initial Disclosures on October
3 14, 2021

4 j. Plaintiffs served their Fourth Supplement to Initial Disclosures on
5 October 16, 2021

6 k. Plaintiffs served their Fifth Supplement to Initial Disclosures on
7 November 5, 2021

8 l. Plaintiff propounded a first set of discovery requests (interrogatories and
9 requests for production) to USA on December 7, 2021

10 m. USA served their Second Supplement to Initial Disclosures on December
11 17, 2021

12 n. USA served their Third Supplement to Initial Disclosures on January 25,
13 2022

14 o. USA produced responses to Plaintiff's first set of discovery requests on
15 February 4, 2022

16 p. USA served their Fourth Supplement to Initial Disclosures on February
17 4, 2022

18 q. Counsel for parties met and conferred on March 11, 2022 regarding
19 Plaintiffs' discovery disputes relate to USA's first responses to Plaintiffs'
20 written discovery requests, and have had subsequent e-mail
21 correspondence

22 r. Plaintiffs served their Sixth Supplement to Initial Disclosures on April 4,
23 2022

24 s. USA took Plaintiff Harry Reid's deposition on April 7, 2022

t. USA took Guardian Wayne Mayes' deposition on April 14, 2022

u. Defense IME (Neurologist) of Plaintiff occurred on June 11, 2022

v. Plaintiffs served their Seventh Supplement to Initial Disclosures on June
21, 2022

- 1 w. USA served their Fifth Supplement to Initial Disclosures on July 1, 2022
- 2 x. USA served their First Supplemental Responses to Plaintiffs' First Set of
- 3 Interrogatories on July 1, 2022
- 4 y. USA served their First Supplemental Responses to Plaintiffs' First Set of
- 5 Requests for Production on July 1, 2022
- 6 z. Plaintiffs served their Eighth Supplement to Initial Disclosures on July
- 7 12, 2022
- 8 a. Plaintiffs took fact witness Walter "Buzz" Blankenship's deposition on
- 9 July 13, 2022
- 10 aa. USA took fact witnesses Duane Rios's Deposition on July 28, 2022
- 11 bb. Plaintiffs took fact witness NPS personnel Christopher Raynolds'
- 12 deposition on September 16, 2022
- 13 cc. Plaintiffs took fact witness NPS Ranger William Dentler's deposition on
- 14 September 16, 2022
- 15 dd. Plaintiffs served their Ninth Supplement to Initial Disclosures on October
- 16 6, 2022
- 17 ee. USA served their Sixth Supplement to Initial Disclosures on October 11,
- 18 2022
- 19 ff. USA served their Second Supplemental Responses to Plaintiffs' First Set
- 20 of Requests for Production on October 11, 2022
- 21 gg. USA took party witness Lucille Lagasse's deposition on October 7, 2022
- 22 hh. The undersigned conducted a meet-and-confer pursuant to FRCP
- 23 30(b)(6) on October 18, 2022, to discuss the scope of topics and
- 24 scheduling for USA's 30(b)(6) designee(s)
- ii. Plaintiffs took fact witness NPS personnel Charles "Chuck" Patton's
- deposition on October 21, 2022
- jj. Plaintiffs served their Tenth Supplement to Initial Disclosures on
- November 4, 2022

1 kk. Plaintiffs served their Eleventh Supplement to Initial Disclosures on
2 March 8, 2023

3 ll. The Parties filed a Stipulation for Protective Order for Confidential
4 Information on March 10, 2023

5 mm. Protective Order was granted on March 13, 2023 (ECF No. 32)

6 nn. Plaintiffs took fact witness NHP Trooper Matthew MacKinnon's
7 deposition on April 26, 2023 and May 5, 2023

8 oo. Plaintiffs took fact witness NHP Trooper Tyler Mleczko on May 5, 2023

9 3. Discovery Remaining:

10 a. Deposition of former NHP Trooper Mason Muir

11 b. Defendant 30(b)(6) Deposition once schedules are reviewed after formal
12 noticing.

13 c. Expert Witness Disclosures (All Parties)

14 d. Rebuttal Witness Disclosures (All Parties)

15 e. Expert/Rebuttal Witness Depositions (All Parties)

16 f. Additional Disclosure Supplements, As Needed (All Parties)

17 g. Additional Written Discovery, As Needed (All Parties)

18 h. Potential, Additional Fact Witness Depositions, As Needed

19 4. Proposed Modification:

20 Based on the foregoing, the Parties seek to modify the discovery plan as
21 follows:

22 a. Close of Discovery: Extended from Tuesday, December 26, 2023 to
23 **Wednesday, April 24, 2024.**

24 b. Deadline for Disclosure of Experts: Extended from Monday, October 30,
2023 to **Monday, February 26, 2024.**¹

c. Deadline for Disclosure of Rebuttal Experts: Extended from Monday,

¹ In the event a deadline occurs on a Saturday, Sunday or legal holiday recognized by the Federal Rules of Civil Procedure (or the Court's Local Rules), then the time for complying with the deadline shall be extended to the next business day.

1 November 27, 2023 to **Wednesday, March 27, 2024.**

2 d. Deadline to file Dispositive Motions: Extended from Thursday, January
3 25, 2024 to **Friday, May 24, 2024.**

4 e. Deadline for filing Joint Pretrial Order: Extended from Monday,
5 Monday, February 26, 2024 to **Monday, June 24, 2024.**¹ If a dispositive
6 motion is filed, this deadline will be suspended until 30 days after the
7 Court rules on the dispositive motion.

8 5. This request is made in good faith and not for purposes of delay, and is
9 brought at least 21 days prior to the expiration of any existing discovery
10 deadline extended herein.

11 **IT IS SO STIPULATED.**

12 Dated this 29th day of September, 2023
13 CLOSE LAW GROUP

Dated this 29th day of September, 2023
14 JASON M. FRIERSON
15 UNITED STATES ATTORNEY
16 DISTRICT OF NEVADA

17 /s/ Jason A. Close
18 JASON A. CLOSE, ESQ.
19 2831 Saint Rose Pkwy Ste 240
20 Henderson, NV 89052


/s/ Summer A. Johnson
SUMMER A. JOHNSON
501 Las Vegas Blvd. So., Suite 1100
Las Vegas, Nevada 89101

21 *Attorney for Plaintiffs*

Attorneys for the United States

22 **ORDER**

23 IT IS SO ORDERED:

24 
HONORABLE BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

DATED: 10/02/2023

Notice: The Court cautions the parties that given the amount of prior requests, it will not be inclined to grant another continuance in the future.