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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

Maricopa County, Arizona; Maricopa County
Sheriff's Office; and Joseph M. Arpaio, in his
official capacity as Sheriff of Maricopa
County, Arizona,

Defendants.

No. 2:10-cv-01878-LOA

**PLAINTIFF'S OPPOSITION TO
MOTION TO EXTEND TIME**

The United States opposes the second request for an extension of time filed by Defendants Maricopa County Sheriff's Office and Sheriff Joseph M. Arpaio ("MCSO") (Doc. 35). The United States advised MCSO before it filed its motion that the United States would consent to a reasonable extension of fourteen days to respond

1 to the United States' summary judgment motion. MCSO has not demonstrated good
2 cause for its unreasonable ninety-day extension request, especially in a lawsuit that is
3 premised on allegations of unwarranted delay.

4 The United States filed its motion for summary judgment on September 13, 2010
5 (Doc. 18). Under Local Rule 56.1(d), the ordinary time for MCSO to respond was
6 thirty days, to October 13. This Court's order granting MCSO's motion for a
7 continuance extended that deadline by an additional twenty-one days, to November 3.
8 MCSO's current request for an additional ninety days would give it a total of 141 days
9 to respond to the United States' seventeen-page motion for summary judgment –
10 nearly five times the ordinary thirty-day response period allowed by the Local Rules.

11 Rule 6 permits an extension of time "for good cause." Fed. R. Civ. P. 6(b)(1)(A).
12 Although the United States is prepared to consent to a fourteen-day extension in light
13 of MCSO's association of new counsel, MCSO has not demonstrated good cause for
14 the lengthy ninety-day extension (and 141 days of total response time) it now seeks.
15 As the United States noted in opposing MCSO's first request for an extension, this is a
16 lawsuit about unreasonable delay in complying with obligations imposed by Title VI
17 of the Civil Rights Act of 1964. Further delay prejudices the United States by
18 undermining the rights that the United States seeks to vindicate and impeding the
19 United States' compliance with its "congressionally mandated duty to investigate
20 whether public programs receiving federal funds are complying with Title VI." *United*
21 *States v. Phoenix Union High Sch. Dist.*, 681 F.2d 1235, 1238 (9th Cir. 1982).

22 In addition, Rule 6 must be applied consistent with Rule 1, which directs the
23 Court "to secure the just, speedy, and inexpensive determination of every action and
24 proceeding." Fed. R. Civ. P. 1; *see* Wright & Miller, 4B Federal Practice & Procedure
25 § 1165, at 520 & n.5 (3d ed. 2002 & supp. 2010). A ninety-day extension, for a total
26 of 141 days of total response time to the summary judgment motion, would impair the
27 speedy determination of this action. *See Spears v. City of Indianapolis*, 74 F.3d 153,
28 157-58 (7th Cir. 1996) (holding that the district court did not abuse its discretion in

1 denying a party's third request for more time to respond to a summary judgment
2 motion, noting that the party had already been allowed fifty-seven days to oppose
3 summary judgment, and explaining that "courts should be mindful that the rules are
4 'intended to force parties and their attorneys to be diligent in prosecuting their causes
5 of action.' Deadlines, in the law business, serve a useful purpose and reasonable
6 adherence to them is to be encouraged." (quoting *Geiger v. Allen*, 850 F.2d 330, 331
7 (7th Cir. 1988))).

8 MCSO contends that because the United States undertook exhaustive pre-suit
9 efforts at voluntary compliance, the United States cannot now argue for compliance
10 with reasonable litigation deadlines (Doc. 35). But the United States was required by
11 regulation to make reasonable attempts to secure voluntary compliance before filing
12 this lawsuit, *see* 28 C.F.R. § 42.108(d), and the length of time required to exhaust
13 efforts at voluntary compliance was necessitated by MCSO's dilatory tactics between
14 March 2009 and September 2010. *See generally* SOF ¶¶ 34-73 (Doc. 19). The United
15 States' willingness and obligation to exhaust all possible cooperative outcomes before
16 resorting to litigation should not now be held against it by setting unreasonably
17 expansive litigation deadlines.

18 For these reasons, the United States respectfully requests that the Court deny
19 MCSO's second request for an extension of time. A fourteen-day extension of time, to
20 November 17, 2010, allows new counsel ample time after their entry of appearance on
21 October 13 (Doc. 33) to familiarize themselves with this matter and prepare an
22 appropriate response.

23
24 Dated: November 1, 2010

Respectfully submitted,

25 Thomas E. Perez
26 Assistant Attorney General

27 Dennis K. Burke
28 United States Attorney

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/s/ Amin Aminfar

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CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2010, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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