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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 EZELL ANDERSON, JR., Doing Business As,)
Mom’s Choice Meats,) Case No. 2:14-cv-02307 JAM/CKD
11)
Plaintiff,) EX PARTE REQUEST TO EXTEND
12) DISCOVERY DEADLINE FOR
v.) LIMITED PURPOSE OF
13) COMPLETING PLAINTIFF’S
UNITED STATES OF AMERICA; KEVIN) DEPOSITION; ORDER
14)
CONCANNON, Undersecretary for Food,)
Nutrition and Consumer Services; UNITED)
15) STATES DEPARTMENT OF
AGRICULTURE; JOCELYN KEH, Section)
16) Chief, Supplemental Nutrition Assistance
Program, Food and Nutrition Service, United)
17) States Department of Agriculture, and their
successors in office, ,)
18)
Defendants.)
19)

20 The United States requests a brief extension of time by which discovery is to be completed
21 from June 15, 2016 to and including July 22, 2016, for the limited purpose of completing the
22 deposition of Plaintiff, Ezell Anderson, Jr., based on the following:

23 1. The United States’ counsel took the deposition of Plaintiff Ezell Anderson, Jr. on
24 May 17, 2016. Toward the end of the deposition, a dispute arose regarding questions about a
25 “suggestion” made by Plaintiff in a settlement letter.

26 2. Counsel for the United States sought to resolve the dispute at the deposition by
27 offering Plaintiff two options. Either Plaintiff could answer the questions about the “suggestion,” or
28

1 maintain his refusal to discuss the “suggestion,” provided that, he would not assert the “suggestion”
2 in any future motions or at trial. Plaintiff would not agree to either option.

3 3. After the parties were unable to resolve the dispute informally at the deposition, it was
4 agreed that the parties would not complete the deposition, and the United States reserved the right to
5 complete the deposition if Plaintiff continued to maintain that he would not answer questions about
6 the “suggestion,” and assert that such undisclosed “suggestion” could be used in defense of any
7 motion or at trial.

8 4. Two more efforts were made to resolve the dispute informally after the deposition
9 with counsel for the United States originally sending a letter requesting the Plaintiff produce what
10 had been determined to be a “Form AD-287, dated March 6, 2013. (Exhibit “A”). Plaintiff refused
11 to produce the requested document by the date of June 3, 2016.

12 5. After Plaintiff refused to produce the document, counsel for the United States sought
13 to resolve the matter in a telephone conversation with Plaintiff on June 9, 2016. During the
14 conversation, Plaintiff agreed to produce the document not later than June 10, 2016. However, the
15 document was not produced on that date.

16 6. Because the document was not produced on the agreed to date of June 10, 2016,
17 counsel for the United States left several voice mail messages for Plaintiff to coordinate a date for a
18 Telephonic Discovery Dispute Conference with the Honorable Judge Delaney per the standing Order.

19 7. No response was made to United States’ counsel’s repeated voicemail messages.

20 8. Per letter dated June 13, 2016, counsel for the United States advised Plaintiff that the
21 efforts at informal resolution were unsuccessful, and the failure to respond to counsel’s voicemail
22 message rendered any attempt to comply with the Court’s Telephonic Discovery Dispute procedures
23 impractical. (Exhibit “B”).

24 9. The Court entered a Status (Pretrial Scheduling) Order on April 14, 2016. (Docket
25 No. 46). The Order provided that non-expert discovery be completed by June 15, 2016. However,
26 due to Plaintiff’s refusal to answer questions about his “Form AD-287 dated March 6, 2103,” and
27 refusal to resolve the dispute in accordance with the Court’s Telephonic Discovery Dispute
28

1 procedures (by refusing to respond to counsel for the United States' phone calls), a brief extension of
2 the discovery deadline for the limited purpose of completing the deposition of Plaintiff is warranted.

3 10. Accordingly, the United States respectfully requests that the Court extend the deadline
4 for non-expert discovery to July 22, 2016, so that the United States may complete the deposition of
5 Plaintiff on the limited topic of the "suggestion" as more specifically known as "Form AD-287, dated
6 March 6, 2013." The United States also requests that the Court order Plaintiff to provide dates that
7 he is available before July 22, 2106, to allow for the completion of his deposition at the Sacramento
8 United States Attorney's Office at 501 I Street.¹ Counsel for the United States is available on July
9 14, 15, 19, 20, 2016.

10 Dated: June 14, 2016

Respectfully submitted,

11 PHILLIP A. TALBERT
12 ACTING UNITED STATES ATTORNEY

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14 /s/Alyson A. Berg
15 ALYSON A. BERG
16 Attorney for Defendant United States

17 ORDER

18 Having reviewed the stipulation submitted by the parties, the dates are continued as
19 referenced above. It is further ordered that Plaintiff provide the United States with dates he is
20 available for his deposition not later than the close of business on June 20, 2016.

21 Dated: June 16, 2016

22 Carolyn K. Delaney
23 CAROLYN K. DELANEY
24 UNITED STATES MAGISTRATE JUDGE

25
26
27 ¹ Counsel for the United States is agreeable to a telephonic conference regarding the dispute if the
28 Court is inclined to resolve this matter in that fashion.