

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

WEST BEND MUTUAL  
INSURANCE COMPANY

PLAINTIFF

v.

CIVIL ACTION NO. 3:16-CV-00532-CRS

CARLESS SWAIN

AND

K&Q, INC.  
d/b/a LIL' KINGS AND QUEENS  
DEVELOPMENT CENTER

DEFENDANTS

**MEMORANDUM OPINION AND ORDER**

Defendant Carless Swain moves this Court for an extension of time to file her reply in support of her motion to dismiss the complaint of Plaintiff West Bend Mutual Insurance Company (“West Bend”). She filed two motions for an extension of time. The first, filed on November 17, 2016, requested an additional week in which to file her reply, ECF No. 16. The second, filed on November 24, 2016, requested two additional days, ECF No. 17. West Bend responded, ECF No. 19. Swain replied, ECF No. 21. Swain filed the subject reply in support of her motion to dismiss on November 26, 2016, ECF No. 18.

West Bend argues that the motions should be denied because Swain failed to show good cause. Resp. Opp. Mots. Extension 1–2, ECF No. 19. Federal Rule of Civil Procedure 6(b)(1) allows the court to extend the time for an act to be done when there is good cause. Local Rule 7.1(b) requires a party seeking an extension of time to set forth the reasons for the extension.

This Court prefers to adjudicate cases on the merits rather than procedural technicalities. See *Thacker v. City of Columbus*, 328 F.3d 244, 252 (6th Cir. 2003).

In her first motion for an extension of time, Swain gives no reason for the delay. She merely asserts that the short delay “will not prejudice any party to this action.” Mot. Extension 1, ECF No. 16. In her second motion, Swain asserts that her “counsel’s office computer was damaged and the delay in replacing the computer” prevented her from filing her reply. Second Mot. Extension 1, ECF No. 17. In her reply, Swain asserts several reasons for her first motion for an extension: (1) her counsel had multiple obligations related to Veteran’s Day and Marine Corps Birthday events; (2) her counsel was busy responding to motions in the underlying state court case, and (3) her counsel was busy conducting discovery and depositions in other cases. Reply Supp. Mots. Extension 2–3, ECF No. 21.

Given the Court’s preference for adjudicating on the merits and given the reasons asserted in Swain’s second motion and reply, the Court finds good cause for the requested extensions. The Court will consider the arguments made in Swain’s reply filed on November 26, 2016 in its analysis of Swain’s motion to dismiss West Bend’s complaint.

The Court **GRANTS** Swain’s motions for an extension of time (DN 16 & 17).

**IT IS SO ORDERED.**

April 20, 2017

A handwritten signature in black ink, appearing to read 'Charles R. Simpson III', is written over a faint circular seal of the United States District Court.

**Charles R. Simpson III, Senior Judge  
United States District Court**