

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION**

James Tarpey,  
Plaintiff and Counter-Defendant,  
vs.  
UNITED STATES OF AMERICA,  
Defendants and Counter-Plaintiff.

**CV 17-94-BU-BMM**

**ORDER**

Plaintiff James Tarpey filed a Second Motion to Extend Deposition Deadline. Doc. 106. Defendant United States opposed Plaintiff's motion. Doc. 107. The Court granted Plaintiff's previous motion (Doc. 104) to extend the deadline for deposing experts to January 18, 2021. Doc. 105. Plaintiff now seeks an additional 30 days to depose Defendant's expert witness, Mr. Dubinsky. Plaintiff bases this request on the IRS's delay in processing Plaintiff's FOIA requests.

Plaintiff has failed to show good cause to warrant an additional extension. Plaintiff's Second Motion to Extend Deposition Deadline (Doc. 106) is DENIED. Defendant has disclosed Mr. Dubinsky as an expert witness. Defendant has disclosed Mr. Dubinsky's report and the appendix indicating the documents on which Mr. Dubinsky relied to prepare his report. Plaintiff possesses everything necessary for an effective deposition.

The Freedom of Information Act (FOIA) constitutes an independent avenue for obtaining information. FOIA does not serve as a discovery tool for litigation that operates outside the bounds and requirements of the Court's scheduling order. Plaintiff possesses everything Plaintiff requires in order to explore effectively through deposition Mr. Dubinsky's testimony, his expert report, and the supporting documents on which he relied to prepare his expert report.

**IT IS HEREBY ORDERED** that Plaintiff's Motion to Extend Expert Deposition deadline (Doc. 106) is **DENIED**.

Dated the 21st day of December, 2020.

A handwritten signature in blue ink that reads "Brian Morris". The signature is written in a cursive style with a horizontal line underneath it.

Brian Morris, Chief District Judge  
United States District Court