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Attorneys for the Estate of E. Wayne Hage

IN THE UNITED STATES COURT
 FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	2:07-cv-01154-RCJ- LRL
Plaintiff ,)	
)	DEFENDANT ESTATE’S
v.)	UNOPPOSED MOTION FOR
)	EXTENSION OF TIME TO FILE
)	RESPONSE TO PLAINTIFF’S
THE ESTATE OF E. WAYNE HAGE,)	MOTION TO STRIKE RECENTLY
<i>et al.</i> ,)	NAMED WITNESSES FROM
)	PRETRIAL ORDER
)	
Defendants)	
_____	/	

MOTION

COMES NOW DEFENDANT/COUNTERCLAIMANT ESTATE OF E. WAYNE HAGE and moves this Court for an order extending time to file its response to Plaintiff’s Motion to Strike Recently Named Witnesses. Said Motion was filed on July 25, 2011 and

defendant Estate's response is due on August 11, 2011. Oral argument on the motion is currently set for September 30, 2011. Undersigned counsel for defendant/counterclaimant Estate ("the Estate") contacted counsel for plaintiff, Stephen Bartell, and codefendant Wayne N. Hage, *pro se*, by e-mail as to the Estate's intent to file this motion. By return e-mail, codefendant Hage consented to the extension and counsel for plaintiff United States indicated that it would not oppose the extension, both subject to the approval of this court.

Specifically, the Estate moves this Court for an order extending its time to file its brief in Opposition to Plaintiff's Motion to Strike 10 (ten) days to August 21, 2011. The reasons for this motion are, as described further below, counsel for the Estate's travel and work schedules, including for matters in this case, and family emergencies.

MEMORANDUM IN SUPPORT OF MOTION

Following the filing of Defendant Estate's First Amended Answer and Counterclaim, the Estate served on plaintiff a document denominated "Defendant Estate of E. Wayne Hage's Frpc 26 Initial Disclosures in Re: Counter-claim of the Estate of E. Wayne Hage and Supplemental Disclosures in Re: Complaint in Trespass" pursuant to Federal Rule of Civil Procedure ("FRCP") 26. The disclosure included, *inter alia*, a list of 12 witnesses, a number of whom were previously named, some of which were not. These witnesses were also included by defendants on the proposed pretrial order subsequently filed with this court. Also after the filing of the First Amended Answer and Counterclaim plaintiff filed a motion to dismiss the counterclaim to which the Estate filed its response before serving the FRCP disclosure described above on plaintiff/counterdefendant. On July 25, 2011, the United States filed the motion to strike some of the witnesses listed in the disclosure and in the proposed

pretrial order filed with this court.

For the reasons stated herein below, Defendant Estate of E. Wayne Hage moves this court for an order extending the time for the filing its response to the Motion to Strike 10 days to August 21, 2011.

(1) Counsel of Record, Mark L. Pollot, is a sole practitioner. He does not have an office staff and does all of his calendaring, preparation of briefs, motions, petitions, and other documents himself, using a computerized system, including the preparation of the briefs at issue herein. While Mr. John W. Hoffman is local counsel on this matter, the responsibility for the preparation of documents and the principal responsibility for the defense of this matter on behalf of the Estate is Mr. Pollot's, who was retained by the Estate for this purpose because of his expertise and experience in the subject matter of this and related actions. Mr. Pollot's office is in his home;

(2) at the time of the filing of the instant motion, attorney for the Estate, Mark L. Pollot, was two days into a vacation for a family function which had been planned for well more than a year and in a location in which e-mail and office facilities were not readily available;

(3) immediately upon his return, he had to prepare for, work with Mr. Hage on, travel to and from Las Vegas for, and participate in oral argument on plaintiff United States's motion to dismiss the counterclaim in the instant case; and

(4) home emergencies subsequent to his return, including the breaking of a hot water heater in the area adjacent to his office space and resultant flooding, air conditioning failure, and previously scheduled roofing work on his home, all requiring his attention,

disrupted counsel's ability to work on the response to United State's motion; and

(5) other previously scheduled work deadlines on other matters in the next several days require adjusting counsel's schedule.

For the above-stated reasons, though counsel for the Estate has been working diligently on its response to plaintiff's motion to strike, he cannot adequately complete it by its current filing date. In addition, plaintiff United States, codefendant Wayne N. Hage, and the Estate are working out discovery and pretrial order matters in the instant case, though this is temporarily hampered by problems with Mr. Hage's phone service which are expected to be resolved shortly. The United States has indicated it does not oppose the proposed 10-day extension and Mr. Hage has consented to it subject to this court's approval.

NOW THEREFORE, Defendant Estate herein respectfully requests that an order be issued granting the Estate's Motion extending the time for it to file its response to Plaintiff's Motion to Strike Recently Named Witnesses to and including August 21, 2011.

Respectfully submitted this 11th Day of August, 2011,

/s/ Mark L. Pollot
Mark L. Pollot, Esq.
Attorney for Defendant/Counter-
Claimant, Estate of E. Wayne Hage

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE
DATED: 8-12-11