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6
 7 **UNITED STATES DISTRICT COURT**
 8 **DISTRICT OF NEVADA**

9 LAURICE McCURDY,)
)
 10 Plaintiff,) Civil Action No. 2:08-cv-1742-PMP-(PAL)
)
 11 v.)
)
 12 LEROY KIRKEGARD, *et. al.*,)
)
 13 Defendants.)

14 **FEDERAL DEFENDANT’S SECOND MOTION FOR ENLARGEMENT**
 15 **OF TIME TO RESPOND TO PLAINTIFF’S AMENDED**
 16 **COMPLAINT AND MOTION FOR MISCELLANEOUS RELIEF**

17 **(Second Request)**

18 Pursuant to Rule 6(b)(1) of the Federal Rules of Civil Procedure and Rule 6-1 of
 19 this Court’s Local Rules, Federal Defendant Aaron Fisher, Deputy United States
 20 Marshal, respectfully requests that the Court provide Federal Defendant with an
 21 extension of time, to and until July 21, 2010, within which to file a response¹ to Plaintiff’s
 22 Amended Complaint and motion for miscellaneous relief that was filed on June 18, 2010
 23 (Pacer document 50). Had Plaintiff effected proper service, as required by Federal Rule
 24 of Civil Procedure 4(i), Federal Defendant’s response to Plaintiff’s Amended Complaint

25
 26 ¹ Federal Defendant anticipates responding with, among other arguments, a motion to dismiss for failure to state a claim upon which relief can be granted.

1 would be due on June 29, 2010. However, because Plaintiff has failed to properly
2 comply with service of process requirements, Federal Defendant is not required to
3 respond to Plaintiff's pleadings. Nonetheless, without waiving any arguments that may
4 be raised by Federal Defendant under Federal Rule of Civil Procedure 4, Federal
5 Defendant respectfully requests that the Court permit him to file a response to Plaintiff's
6 pleadings on or before July 21, 2010. This is Federal Defendant's second request for
7 an extension of time, having previously requested until July 14, 2010 to file a response.
8 In support of this request, Federal Defendant relies upon the memorandum of points
9 and authorities set forth below.

10 **MEMORANDUM OF POINTS AND AUTHORITIES**

11 Federal Rule of Civil Procedure 6(b)(1) provides: "When by these rules or by a
12 notice given thereunder or by order of court an act is required or allowed to be done at
13 or within a specified time, the court for cause shown may at any time in its discretion (1)
14 with or without motion or notice order the period enlarged if request therefore is made
15 before the expiration of the period originally prescribed or as extended by a previous
16 order" In this case, Federal Defendant's request for additional time is warranted for
17 the reasons set forth below.

18 Undersigned counsel, with the able assistance of a summer law clerk, has
19 completed a first draft of Federal Defendant's response to Plaintiff's Amended
20 Complaint and motion for miscellaneous relief. However, additional time is needed to
21 properly review the draft and receive appropriate feedback from agency counsel.
22 Agency counsel is expected to be out of the office this Thursday and Friday.
23 Accordingly, an additional week, or until July 21, 2010, will provide ample time to
24 accomplish the foregoing, that is, finalize the draft and ensure proper agency review
25 prior to its being filed with the Court.
26

Conclusion

In light of the foregoing, Federal Defendant respectfully requests that the Court allow Defendant until July 21, 2010 to respond to the Amended Complaint and the motion for miscellaneous relief.

Respectfully submitted,

DANIEL G. BOGDEN
United States Attorney

/s/ Paul S. Padda

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Attorneys for the Federal Defendant

Dated: July 13, 2010

“IT IS SO ORDERED:

Without waiving any service of process arguments that may exist, Federal Defendant shall have until July 21, 2010 within which time to respond to the Amended Complaint and the motion for miscellaneous relief that was filed by Plaintiff on June 18, 2010.


UNITED STATES DISTRICT JUDGE

Dated: July 13, 2010

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document entitled "FEDERAL DEFENDANT'S SECOND MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO PLAINTIFF'S AMENDED COMPLAINT AND MOTION FOR MISCELLANEOUS RELIEF" was served by United States mail on July 13, 2010 (first-class, postage prepaid) upon the following individual:

Laurice McCurdy
USP Victorville
P.O. Box 5300
Adelanto, California 92301

/s/ Paul S. Padda

Paul S. Padda
Assistant United States Attorney