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 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
 15 **FEDERAL DEFENDANT'S THIRD MOTION FOR ENLARGEMENT**
OF TIME TO RESPOND TO PLAINTIFF'S AMENDED
 16 **COMPLAINT AND MOTION FOR MISCELLANEOUS RELIEF**

17 **(Third 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 a one-day
 21 extension of time, to and until July 22, 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). In support of this request, Federal Defendant relies upon the
 24 memorandum of points and authorities set forth below.

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.

MEMORANDUM OF POINTS AND AUTHORITIES

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

9 Undersigned counsel has completed a draft of Federal Defendant’s response to
10 Plaintiff’s Amended Complaint. However, due to unanticipated formatting issues with
11 the document, which only his legal assistant has the expertise to correct, undersigned
12 counsel is not in a position to timely file the document as originally anticipated.
13 Because his legal assistant has left for the day, undersigned counsel will have to work
14 with her tomorrow to fix the problems in the document. Despite his best efforts to
15 correct the vexing formatting problems, undersigned counsel has had no success.
16 Accordingly, and regrettably, undersigned counsel must request a one-day extension of
17 time to file the responsive document. Counsel for Federal Defendant can assure the
18 Court that the response will be filed before the end of the work day tomorrow.

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Conclusion

In light of the foregoing, Federal Defendant respectfully requests that the Court allow Defendant until July 22, 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 21, 2010

“IT IS SO ORDERED:

Without waiving any service of process arguments that may exist, Federal Defendant shall have until July 22, 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 23, 2010

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document entitled "FEDERAL DEFENDANT'S THIRD 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 21, 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