

1 **JOHN T. MORAN, JR., ESQ.**

Nevada Bar No. 2271

2 **JEFFERY A. BENDAVID, ESQ.**

Nevada Bar No. 6220

3 **JUSTIN W. SMERBER, ESQ.**

Nevada Bar No. 10761

4 **MORAN LAW FIRM, LLC**

5 630 S. 4th Street

Las Vegas, Nevada 89101

6 (702) 384-8424

7 Attorney for Defendants,

WESTERN CAB COMPANY,

8 LUCKY CAB COMPANY OF NEVADA,

9 ON DEMAND SEDAN SERVICES, LLC,

BLS LIMOUSINE SERVICES OF LAS VEGAS, INC.,

10 DESERT CAB, INC., and SUN CAB, INC.

11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 THEODORE TRAPP, on his own behalf) Case No: 2:09-CV-00995

And on behalf of all others similarly)

14 situated,)

15 Plaintiff,)

16)
17)
18)
19 vs.)
20)

BIG POPPA'S, LLC, a Nevada limited)

Liability company d/b/a BADDA BING)

21 MEN'S CLUB; *et al.*,)

22 Defendants.)
23)

24 **DEFENDANTS, WESTERN CAB COMPANY, LUCKY CAB COMPANY**
25 **OF NEVADA, ON DEMAND SEDAN SERVICES, LLC, BLS LIMOUSINE**
26 **SERVICES OF LAS VEGAS, INC., DESERT CAB, INC., AND SUN CAB,**
27 **INC.'S OPPOSITION TO PLAINTIFF'S MOTION FOR AN**
28 **ENLARGEMENT OF TIME TO RESPOND TO THE MOTION OF**
DEFENDANTS, DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, LITTLE
DARLINGS OF LAS VEGAS, LLC, AND LAS VEGAS ENTERTAINMENT,
LLC, FOR DISMISSAL OF THE COMPLAINT AND FOR LEAVE TO



MORAN LAW FIRM LLC
MORAN BRANDON BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568

1 **FILE A CONSOLIDATED RESPONSE IN OPPOSITION TO ANY**
2 **CURRENT AND FUTURE MOTIONS TO DISMISS THE COMPLAINT**

3 Defendants, WESTERN CAB COMPANY, a Nevada corporation, dba
4 WESTERN CAB COMPANY AND WESTERN LIMOUSINE, LUCKY CAB
5 COMPANY OF NEVADA a Nevada corporation, dba LUCKY TRANS, SUN
6 CAB, INC., A Nevada corporation, dba NELLIS CAB COMPANY, ON
7 DEMAND SEDAN SERVICES, LLC, a Nevada limited liability company, dba
8 ODS LIMOUSINE and ODS CHAUFFEURED TRANSPORTATION, BLS
9 LIMOUSINE SERVICES OF LAS VEGAS, INC., a Nevada corporation, dba BLS
10 LIMOUSINE SERVICE OF LAS VEGAS, and DESERT CAB, INC., a Nevada
11 corporation dba DESERT CAB COMPANY AND ODYSSEY LIMOUSINE
12 (collectively, the “Defendant Cab/Limousine Companies”) by and through their
13 counsel of record, JOHN T. MORAN, JR., ESQ., JEFFERY A. BENDAVID,
14 ESQ. and JUSTIN W. SMERBER, ESQ. of the Moran Law Firm, LLC, opposes
15 Plaintiff’s Motion for an Enlargement of Time to Respond to the Motion of
16 Defendants, Déjà vu Showgirls of Las Vegas, LLC, Little Darlings of Las Vegas,
17 LLC, and Las Vegas Entertainment, LLC, for Dismissal of the Complaint and for
18 Leave to File a Consolidated Response in Opposition to Any Current and Future
19 Motions to Dismiss the Complaint.

20
21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///



MORAN LAW FIRM LLC
MORAN BRANDON BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568

1 This Opposition is made and based upon the Memorandum of Points and
2 Authorities submitted herewith, together with the papers and pleadings on file
3 herein, and any oral arguments at the time of a Hearing.
4

5 Dated this 5th day of August, 2009.
6

7 **MORAN LAW FIRM, LLC**

8 **/s/JOHN T. MORAN, JR., ESQ.**

9 **JOHN T. MORAN, JR., ESQ.**

10 Nevada Bar No. 2271

11 **JEFFERY A. BENDAVID, ESQ.**

12 Nevada Bar No. 6220

13 **JUSTIN W. SMERBER, ESQ.**

14 Nevada Bar No. 10761

15 630 S. 4th Street

16 Las Vegas, Nevada 89101

17 (702) 384-8424

18 *Attorneys for Defendant Cab/Limousine*
19 *Companies*
20
21
22
23
24
25
26
27
28



MORAN LAW FIRM^{LLC}
MORAN BRANDON BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. FACTS**

3 Plaintiff, Theodore Trapp (the “Plaintiff”), a resident of California, alleges
4 that while visiting Las Vegas, Nevada on January 17, 2009, he retained the services
5 of an unknown taxicab from the taxi-stand at Caesar’s Palace. *See Plaintiff’s*
6 *Complaint at 15.* Plaintiff alleges that his initial destination was the Gentlemen’s
7 club, “Play It Again Sam.” *Id.* Upon informing the unidentified cab driver of his
8 intended destination, Plaintiff alleges that the unidentified cab driver informed
9 Plaintiff that this club was “kinda sketchy.” *Id.* The unknown cab driver then
10 allegedly informed Plaintiff that he would take him to a “better club.” *Id.* Plaintiff
11 alleges that the cab driver then proceeded, apparently without any refusal on the
12 part of Plaintiff, to take him to the Spearmint Rhino Gentlemen’s club. *See Id.*
13 Upon Plaintiff’s arrival, Plaintiff alleges that the unidentified cab driver received a
14 tip from an employee of this club. *See Id.*

15
16
17 Based on these allegations alone, which constitute nothing more than a
18 single cab ride of less than three (3) miles from an unknown taxi, driven by an
19 unidentified driver to one Gentlemen’s club, Plaintiff, on June 2, 2009, filed a
20 forty-one (41) page Complaint in the United States District Court for Southern
21 Nevada against nearly every Gentlemen’s club, cab, and limousine company
22 operating in Clark County, Nevada¹. *See Id. at 15.* Plaintiff and his attorneys are
23 also seeking to certify a class of Plaintiffs consisting of “over 100,000,” separate
24 members. *See Id. at 16.*
25
26
27
28

¹ Plaintiff identifies 27 Defendants in his Motion.



1 Since the filing of Plaintiff's Complaint, numerous Defendants have filed
2 Motions to Dismiss Plaintiff's Complaint, including, but not limited to, the
3 Defendant Cab/Limousine Companies, which was filed on July 31, 2009. *See*
4 *Plaintiff's Motion at 2. See also, Defendant Cab/Limousine Companies' Motion to*
5 *Dismiss Plaintiff's Complaint at 1 (Docket Item #161).* In response to the Motions
6 to Dismiss that are pending, Plaintiff has now filed a Motion with the District
7 Court seeking to enlarge the time permitted to oppose these Motions as well as
8 enter a single, consolidated response to "any current or future motions to dismiss."
9 *Plaintiff's Motion at 2-3.* Specifically, Plaintiff has absurdly sought a second
10 extension of time to respond to all pending and future Motions to Dismiss of thirty
11 (30) from the date whenever all Defendants including, those that have yet to be
12 served with Plaintiff's Complaint, enter a response. *See Id.*

15 As argued below, Plaintiff's requests are made without good cause and if
16 granted, will be highly prejudicial to all Defendants. As such, Plaintiff's Motion
17 should be denied and the due date for Plaintiff's Opposition to the Defendant
18 Cab/Limousine Companies' Motion to Dismiss should remain as August 18, 2009.

20 **II. LEGAL ARGUMENT**

21 **A. Plaintiff's Motion Must Be Denied Since Plaintiff Has Not Established** 22 **Good Cause for the Enlargement of Time and the Enlargement Sought** 23 **by Plaintiff Will Be Highly Prejudicial to Defendants.**

24 Plaintiff has brought his Motion pursuant, in part, to Fed. R. Civ. P.
25 6(b)(1)(A)². Generally, Motions for the enlargement of time such as Plaintiff's are
26 at the discretion of the District Court if the District Court finds "good cause" for
27

28 ² Plaintiff's request for filing a consolidated Response does not reference any suitable law and Plaintiff offers no argument in support of such a request. *See Plaintiff's Motion at 2-4.*



MORAN LAW FIRM LLC
MORAN BRANDON BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568

1 such an enlargement. *See Fed. R. Civ. P. 6(b)(1)*. However, in granting or denying
2 such a motion, the District Court should be aware that deadlines are “intended to
3 force parties and their attorneys to be diligent in prosecuting their causes of
4 action.” *Spears v. City of Indianapolis*, 74 F.3d 153, 157-58 (7th Cir. 1996) (citing
5 *Geiger v. Allen*, 850 F.2d 330, 331 (7th Cir. 1988)³.
6

7 Here, Plaintiff contends that his already second motion for an enlargement
8 of time exhibits good cause since such an enlargement and a consolidated response
9 will “avoid duplication, promote judicial economy, and preserve the resources of
10 the litigants.” *Plaintiff’s Complaint at 3*. The problem is that Plaintiff offers no
11 explanation or argument as to how these requests will accomplish these alleged
12 results. *See Id. at 2-4*. For this absence alone, Plaintiff’s Motion should be denied.
13

14 Regardless, Plaintiff’s Motion should be denied since his request is
15 ridiculously unreasonable. Plaintiff’s second request for an enlargement of time
16 requests that any response to the three (3) identified Motions to Dismiss be delayed
17 until 30 days after all of the Defendants have responded. *See Id. at 3*. In reality,
18 this alleged “30 day” request will allow Plaintiff to avoid responding to any
19 pending motions for at least another 107 days. This is because, as Plaintiff
20 concedes, there are still two (2) Defendants remaining to be served by Plaintiff.
21 *See Id. at 2*. Plaintiff is not obligated to serve these remaining parties for 120 days
22 from the date of his Complaint (June 2, 2009). *See Fed. R. Civ. P. 4(m)*. Thus,
23 Plaintiff will not have to perfect service of these remaining two (2) Defendants for
24 another 57 days, or by September 30, 2009. *See Id.*
25
26
27
28

³ “Delays are a particularly abhorrent feature of today’s trial practice.”



1 Then, these Defendants will have at least 20 days, or until October 20, 2009
2 to respond to Plaintiff's Complaint. *See Fed. R. Civ. P. 12(a)(1)(A)(i)*. Only after
3 these events will Plaintiff's requested 30 days begin. Assuming that no extensions
4 are granted and there is no restraint on Plaintiff to grant such extension requests,
5 Plaintiff will not have to enter any response to any Motion to Dismiss, including
6 Defendant Cab/Limousine Companies' Motion to Dismiss filed on July 31, 2009,
7 until at least November 19, 2009 (*i.e.*, 107 days from August 4, 2009). By
8 granting Plaintiff's second Motion for an Enlargement of Time, Plaintiff will be
9 able to avoid responding to any Defendant's Motions to Dismiss for nearly five (5)
10 months. Plaintiff will achieve this result because Plaintiff has also cleverly sought
11 to enter a single, consolidated response, which will allow Plaintiff to refrain on
12 responding to all pending Motions to Dismiss at least until the week before
13 Thanksgiving. *See Plaintiff's Motion at 3*.

14 Such an extension is completely unreasonable and prejudicial to all
15 Defendants. It was Plaintiff who chose to sue nearly every Gentlemen's club, cab
16 company, and limousine company operating in Clark County, Nevada, based on a
17 single cab ride in an unknown cab with an unknown cab driver. *See Plaintiff's*
18 *Complaint at 15*. A plaintiff is ordinarily only entitled to fifteen (15) days in order
19 to respond to a Motion Dismiss. *See LR 7-2(b)*. Plaintiff's Motion is effectively
20 requesting to expand this ordinary response time at least seven-fold (from 15 days
21 to 107 days), without as much as an explanation as to why he needs such an
22 enormous enlargement of time. *See Plaintiff's Motion at 2-4*. Such an exorbitant
23
24
25
26
27
28



MORAN LAW FIRM LLC
MORAN BRANDON BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568

1 extension is unreasonable on its face, especially without any explanation in
2 support, and Plaintiff's Motion should therefore be denied.

3 Further, Plaintiff and his attorneys had a clear obligation under *Fed. R. Civ.*
4 *P. 11* to reasonably investigate and tailor Plaintiff's Complaint according to the
5 circumstances surrounding Plaintiff's claims. Instead, Plaintiff elected to sue
6 nearly every Gentlemen's club, cab company, and limousine company operating in
7 Clark County, Nevada, based on a single cab ride in an unknown cab with an
8 unknown cab driver. *See Plaintiff's Complaint at 15.* Plaintiff cannot now seek
9 the mercy of this District Court and effectively stall this case out for nearly five (5)
10 more months because all of these Defendants have recognized the obvious failures
11 of Plaintiff's Complaint and accordingly, filed Motions to Dismiss.

14 The fact that Plaintiff is now faced with responding to several Motions to
15 Dismiss at this time is his fault and is hardly the "good cause" required by *Fed. R.*
16 *Civ. P. 6(b)*. Plaintiff should have considered this likelihood when he attempted,
17 through his Complaint, to stuff twenty-seven (27) Defendants into a Complaint
18 consisting of a single cab ride. *Fed. R. Civ. P. 6(b)* does not and cannot supply
19 Plaintiff with a suitable, legal "clown car" to bail out such an ill-advised effort.
20 Defendants have just as much right as Plaintiff to resolve this matter as
21 expeditiously as possible. A second extension of time of at least another 107 days
22 (7 times greater than the allotted 15 days) completely strangles those rights to the
23 detriment of all the Defendants.

26 As such, Plaintiff's Motion must be denied since he has not established
27 "good cause" and if granted, would be unreasonable as to Defendants. As a result,
28



MORAN LAW FIRM LLC
MORAN BRANDON BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568

1 Plaintiff's response to Defendant Cab/Limousine's Companies' Motion to Dismiss
2 should remain due on August 18, 2009, as ordered by the District Court.

3
4 **III. CONCLUSION**

5 Plaintiff's Motion for an Enlargement of Time to Respond to the Motion of
6 Defendants, Déjà vu Showgirls of Las Vegas, LLC, Little Darlings of Las Vegas,
7 LLC, and Las Vegas Entertainment, LLC, for Dismissal of the Complaint and for
8 Leave to File a Consolidated Response in Opposition to Any Current and Future
9 Motions to Dismiss the Complaint must be denied since Plaintiff has not
10 established the necessary "good cause" required for such an extension and if
11 granted, Plaintiff's request for an extension of at least 107 days is highly
12 prejudicial to all of the Defendants' right to resolve this matter as expeditiously as
13 possible.
14

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///



MORAN LAW FIRM^{LLC}
MORAN BRANDON BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568

1 Based upon the foregoing, the Defendant Cab/Limousine Companies
2 respectfully request that Plaintiff's Motion be denied and that Plaintiff's response
3 to Defendant Cab/Limousine's Companies' Motion to Dismiss remain due on
4 August 18, 2009, as ordered by the District Court.
5

6
7 Dated this 5th day of August, 2009.

8 **MORAN LAW FIRM, LLC**

9 **/s/JOHN T. MORAN, JR., ESQ.**

10 **JOHN T. MORAN, JR., ESQ.**

11 Nevada Bar No. 2271

12 **JEFFERY A. BENDAVID, ESQ.**

13 Nevada Bar No. 6220

14 **JUSTIN W. SMERBER, ESQ.**

15 Nevada Bar No. 10761

16 630 S. 4th Street

17 Las Vegas, Nevada 89101

18 (702) 384-8424

19 *Attorneys for Defendant Cab/Limousine*
20 *Companies*
21
22
23
24
25
26
27
28



MORAN LAW FIRM, LLC
MORAN BRANDON BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568