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 7 *Dr. Robert Bannister, Dwight Neven,*  
*Pat Diliddo, Tamiia Grisham, and*  
 8 *Jane Balao-Cledera*

9  
 10 **IN THE UNITED STATES DISTRICT COURT**  
 11 **FOR THE DISTRICT OF NEVADA**

12 JOHN CROWLEY,  
 Plaintiff,  
 13 v.  
 14 STATE OF NEVADA, et al.,  
 Defendants.  
 15

CASE NO. : 2:10-cv-00150-KJD-LRL

**MOTION FOR ENLARGEMENT OF TIME  
(SECOND REQUEST)**

17 The Office of the Attorney General of the State of Nevada, by and through counsel,  
 18 CATHERINE CORTEZ MASTO, Attorney General, and RAELENE K. PALMER, Deputy  
 19 Attorney General, on behalf of Defendants DR. ROBERT BANNISTER (sued as Dr.  
 20 Bannister), DWIGHT NEVEN (sued as Warden Neven), PAT DILIDDO (erroneously sued as  
 21 Pat Dilido), TAMIIA GRISHAM (erroneously sued as Toma Grisham), and JANE BALAO-  
 22 CLEDERA (sued as Jane Cledera), (hereinafter "Defendants") hereby respectfully submit the  
 23 instant MOTION FOR ENLARGEMENT OF TIME (SECOND REQUEST) in the above-  
 24 referenced matter. This Motion is brought pursuant to Fed.R.Civ.P. 6(b), LR 6-2, the attached  
 25 Points and Authorities, and the papers and pleadings on file with the Court herein.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. PROCEDURAL HISTORY**

3 Plaintiff first commenced an action on or about February 3, 2010, in the United States  
4 District Court District of Nevada: *John Crowley vs. State of Nevada; NDOC; Howard Skolnik;*  
5 *Dr. Bannister; Warden Neven; Jane Doe I-III; John Doe I-X*, Case No. 2:10-cv-00151-KJD-  
6 LRL, alleging a cause of action pursuant to 42 U.S.C. § 1983, in violation of various  
7 Amendments to the United States Constitution. (Court Docket ("CD") #4). On May 5, 2010,  
8 the Court screened the Complaint, and dismissed the Complaint without prejudice for failure to  
9 state a claim upon which relief could be granted; Plaintiff was given leave to amend within 30  
10 days to correct the deficiencies in the Complaint. (CD #3).

11 On or about November 30, 2010, Plaintiff filed another Complaint, (CD #5), and then he  
12 filed another on or about January 28, 2011, (CD #6) (hereinafter "Amended Complaint"),  
13 which this Court screened on April 25, 2010. (CD #9). The Court does not appear to have  
14 addressed the Complaint filed as CD #5. See CD #9. In the Amended Complaint, Plaintiff  
15 names six defendants: Bruce Bannister, Dwight Neven, Pat Diliddo, Tamiia Grisham, Jane  
16 Balao-Cledera, and Daniel Sussman. Pursuant to the Court's Order, the Office of the Attorney  
17 General accepted service on behalf of all the Defendants except Daniel Sussman, on May 18,  
18 2011<sup>1</sup>. (CD ## 9, 12). The CM/ECF system then generated a due date of June 17, 2011, by  
19 which Defendants must file an answer or otherwise respond to the Amended Complaint.

20 Defendants requested and received an enlargement of time until August 16, 2011, by  
21 which to answer or otherwise respond to Plaintiff's Complaint. (CD ## 13, 14). Defendants  
22 are again requesting a small extension of three days until August 19, 2011, for reasons set  
23 forth below.

24 **II. LEGAL ARGUMENT**

25 Fed.R.Civ.P. 6(b)(1)(A) provides, in pertinent part:

26 (b) *Extending Time.*

27 (1) *In General.* When an act may or must be done within a

28 <sup>1</sup> Service was erroneously accepted on behalf of Howard Skolnik, who is not a named Defendant in the Amended Complaint.

1 specified time, the court may, for good cause, extend the time:  
2 (A) with or without motion or notice if the court acts, or if a  
request is made, before the original time or its extension expires[.]

3 Rule 6(b)(1) allows for a party to move for an enlargement of time, the determination of  
4 which lies with the presiding court. "The Court has inherent power and discretion to control its  
5 docket, and the proceedings within the cases on its docket." *Ford v. County of Missoula,*  
6 *Mont.*, 2010 WL 2674036, 1 (D.Mont., 2010) (citing *Landis v. North American Co.*, 299 U.S.  
7 248, 254 (1936); see also Fed.R.Civ.P. 6(b) (advisory committee note, 1946) ("Rule 6(b) is a  
8 rule of general application giving wide discretion to the court to enlarge these time limits or  
9 revive them after they have expired . . .").

10 Defendants are requesting a small three-day extension of time to file their Answer or  
11 other response to Plaintiff's Complaint before the deadline has expired. Defendants are  
12 making this request based upon good cause because while reviewing Plaintiff's medical  
13 records, which had been transcribed, counsel for Defendants discovered that a small but  
14 relevant portion of the medical records containing Physician's Orders were not transcribed<sup>2</sup>.  
15 These documents are important, because they memorialize factual evidence which will enable  
16 Defendants to accurately respond to Plaintiff's Complaint. *Id.* Moreover, it is necessary to  
17 receive good faith clarification from a physician on these Orders regarding the causation  
18 allegations made by Plaintiff before providing their response. *Id.*

19 In Defendants' first request for enlargement of time, Defendants explained that the Las  
20 Vegas Office of the Attorney General Litigation Division had a temporary, forty-percent staff  
21 reduction from five to three attorneys in March 2011, (CD #13 at 15-16), and was not fully  
22 staffed again until July 2011. The unit is diligently working as quickly as possible on both the  
23 previously delayed cases and the recently filed cases to ensure that all pertinent information is  
24 received well in advance of the deadlines, but occasionally, as in this case, something is  
25 missed, and a second extension becomes necessary. See n.2, *supra*.

26 Therefore, Defendants respectfully request a three-day enlargement of time in which to  
27 file an answer or otherwise respond to Plaintiff's Complaint to and including August 19, 2011.

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<sup>2</sup> See Affidavit of RAELENE K. PALMER, attached hereto as "Exhibit A."

1 This request is made in good faith and not for purposes of delay.

2 **III. CONCLUSION**

3 Because good cause has been shown, Defendants respectfully request the Court to  
4 enlarge the time by which they must file a response to Plaintiff's Complaint pursuant to  
5 Fed.R.Civ.P. 6(b) by three days to August 19, 2011.

6 Dated this 16th day of August, 2011.

7 Respectfully submitted,  
8 CATHERINE CORTEZ MASTO  
9 Nevada Attorney General

10 By: /s/ RAELENE K. PALMER \_\_\_\_\_  
11 RAELENE K. PALMER  
12 Deputy Attorney General  
13 Public Safety Division  
14 *Attorney for Defendants*

15 "IT IS SO ORDERED:

16   
17 \_\_\_\_\_  
18 UNITED STATES MAGISTRATE JUDGE

19 DATED: 8-17-11 \_\_\_\_\_"

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1 CERTIFICATE OF SERVICE

2 I, Haunani Magalianes, hereby certify that I am an employee of the State of Nevada,  
3 Office of the Attorney General and that on the 16th day of August, 2011, I served the  
4 foregoing **MOTION FOR ENLARGEMENT OF TIME (SECOND REQUEST)** by causing a true  
5 and correct copy thereof to be filed with the Clerk of the Court using the CM/ECF system and  
6 by causing a true and correct copy thereof to be delivered to the Department of General  
7 Services, for mailing at Las Vegas, Nevada, addressed to the following:

8  
9 JOHN CROWLEY #72248  
10 LOVELOCK CORRECTIONAL CENTER  
11 1200 PRISON ROAD  
12 LOVELOCK NV 89419

13 /s/ Haunani Magalianes  
14 An employee of the Office of the Attorney General  
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