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

11 JEFFREY L. DRYDEN,  
 12 Plaintiff,

13 vs.

14 ANDREA E. BAREFIELD, JAND DOE #1,  
 15 AND JANE DOE #2,  
 16 Defendants.

CASE NO.: 2:13-CV-01896-RCJ-PAL

**DEFENDANT'S MOTION TO  
 EXTEND TIME AND/OR APPROVE  
 DEFENDANT'S TIMING OF FILING  
 HER OPPOSITION TO  
 PLAINTIFF'S MOTION TO ALTER  
 OR AMEND THIS COURT'S  
 JUDGMENT ENTERED ON  
 FEBRUARY 10, 2014 [NRCP 59] *sic*  
 [Doc #29]**

18 Defendant, Andrea E. Barefield, individually and in her official capacity ("**Barefield**") by  
 19 and through counsel, Debra L. Pieruschka, Esq., Assistant General Counsel, University of Nevada,  
 20 Las Vegas, Office of General Counsel, hereby submits Defendant's Motion to Extend Time and/or  
 21 Approve Defendant's Timing of Filing Her Opposition to Plaintiff's Motion to Alter or Amend  
 22 this Court's Judgment Entered on February 10, 2014 pursuant to NRCP 59 *sic* [Doc. #29]  
 23 ("**Motion**") and requests this Court extend the time to file and approve Defendant's timing of  
 24 filing her opposition to Plaintiff's Motion to Alter or Amend this Court's Judgment Entered on  
 25 February 10, 2014 [NRCP 59] *sic*.

26 This Motion is based on Fed. R. Civ. P. 6, Local Rule 6-1, Local Rule 6-2, the following  
 27 Memorandum of Points and Authorities, the pleadings and papers on file herein, and any oral  
 28 argument to be made at the hearing on this matter.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Defendant Barefield seeks approval of this Court to grant her an extension up to and  
3 including March 30, 2015 to file her Opposition to Plaintiff's Motion to Alter or Amend this  
4 Court's Judgment entered on February 10, 2014 pursuant to NRCP 59 *sic* [Doc. #28] ("**Motion**").  
5 On March 10, 2015, Plaintiff filed his Motion to alter or amend the February 10, 2015 decision  
6 based on his contention the court erred when it struck Plaintiff's Second Amended Complaint and  
7 granted judgment in favor of Defendant Barefield. [Doc. #28]. Defendant Barefield had up to and  
8 include March 27, 2015 to file her opposition to Plaintiff's Motion. Fed. R. Civ. P. 6. Although  
9 Defendant Barefield's Opposition was complete and ready to be filed on March 27, 2015, due to  
10 counsel being ill that day, it was not. However, upon her immediate return to work the next  
11 business day, March 30, 2015, Defendant Barefield's Opposition was filed. [Doc. #29].

12 Rule 6(b)(1) permits a court, for good cause appearing, to extend the time to complete an  
13 act, after the time has expired to do so, if a party files a motion demonstrating it failed to act  
14 because of excusable neglect. FED. R. CIV. P. 6(b)(1)(B). Excusable neglect exists where a party's  
15 failure to comply with a deadline was negligent. *See Lemoge v. United States*, 587 F.3d 1188,  
16 1195 (9th Cir.2009). There are at least four factors in determining whether neglect is excusable:  
17 (1) the danger of prejudice to the opposing party; (2) the length of the delay and its potential  
18 impact on the proceedings; (3) the reason for the delay; and (4) whether the movant acted in good  
19 faith. *See Bateman v. U.S. Postal Serv.*, 231 F.3d 1220, 1223-24 (9th Cir. 2000) (*citing Pioneer*  
20 *Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993)). The determination of  
21 whether neglect is excusable is ultimately an equitable one, taking account of all relevant  
22 circumstances surrounding the party's omission. *See Pioneer*, 507 U.S. at 395. This equitable  
23 determination is left to the discretion of the district court. *See Pincay v. Andrews*, 389 F.3d 853,  
24 860 (9th Cir. 2004).

25 Applying the *Pioneer* facts, this Court should grant Defendant Barefield's Motion to  
26 Extend Time and Approve the Timing of the Filing of her Opposition [Doc. 29] because she has  
27 demonstrated excusable neglect warranting such action. First, there is no prejudice to Plaintiff  
28 because he will have his seven (7) days after service of Defendant's response to file his reply to it.

1 Second, the delay was less than one (1) business day after the specified deadline and has no impact  
2 on the current judicial proceedings. Last, there was no bad faith in the failure to timely file; it was  
3 just plain simple human error.

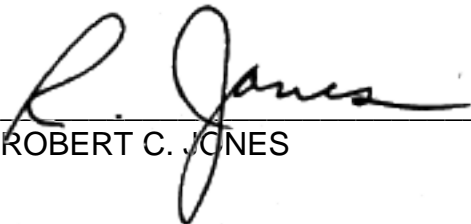
4 Based upon the foregoing, the Defendant Barefield respectfully requests this Court grant  
5 her Motion to Extend Time and deem Defendant's Opposition [Doc. 29] as timely.

6 DATED: MARCH 30, 2015.

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IT IS SO ORDERED this 14th day of May, 2015.

  
ROBERT C. JONES