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9 *Frank Dreesen, Jerry Howell, Joseph Hanson,*
Romeo Aranas, Cynthia Sablica, and Linda Adams

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

14 STANLEY RIMER,

15 Plaintiff,

16 vs.

17 STATE OF NEVADA, *ex rel.* NEVADA
18 DEPARTMENT OF CORRECTIONS, *et al.*

19 Defendants.

Case No. 2:14-cv-00889-RFB-CWH

**DEFENDANTS' UNOPPOSED
MOTION TO EXTEND REMAINING
SCHEDULING DEADLINES**

(FIRST REQUEST)

20 Defendants Dwight Neven, Harold Wickham, Jennifer Nash, Timothy Filson,
21 Frank Dreesen, Jerry Howell, Joseph Hanson, Romeo Aranas, Cynthia Sablica, and
22 Linda Adams, by and through counsel, Adam Paul Laxalt, Attorney General for the State
23 of Nevada, and Jared M. Frost, Senior Deputy Attorney General, hereby move for a thirty
24 (30) day extension of the remaining non-discovery scheduling deadlines in this matter.
25 This unopposed motion is made and based on the following points and authorities, the
26 attached declaration, the pleadings and papers on file, and any additional evidence the
27 Court deems appropriate to consider.

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1 **I. Background**

2 Plaintiff is an inmate in the lawful custody of the Nevada Department of
3 Corrections. Plaintiff initiated this action by filing an inmate civil rights complaint
4 pursuant to 42 U.S.C. section 1983. *See* ECF No. 6 (first-amended complaint filed June
5 30, 2014). Plaintiff's Amended Complaint alleges six (6) causes of action against twenty-
6 four (24) named defendants. On July 21, 2014, the Court issued its screening order and
7 dismissed Counts IV and V, and further dismissed the institutional Defendants. ECF No.
8 9 at 11. In its screening order, the Court interpreted Counts I, II, and III as a single claim
9 for deliberate indifference to serious medical needs. *Id.* at 6-7.

10 On February 2, 2015, Defendants filed a motion to dismiss Plaintiff's Amended
11 Complaint in part. ECF No. 9. On March 10, 2015, this Court issued a scheduling order.
12 ECF No. 53. The scheduling order provided that all discovery must be completed by June
13 7, 2015. *Id.* at 1-2.

14 On August 3, 2015, the Court issued an order dismissing Defendants Chang and
15 Manley, and by extension Count VI. ECF No. 195; *see also* ECF No. 9 at 11 (allowing
16 Count VI to proceed only against Defendant "Nurse Nichole [Manley]").

17 On April 21, 2016, the Court issued an order granting Defendants' partial motion
18 to dismiss. ECF No. 208. Pursuant to the Court's order, Defendants Lee, Sowell, Rainone,
19 Leavitt, Cortez-Masto, Sandoval, Miller, Cox, and McDaniel were dismissed with
20 prejudice. *Id.* at 9.

21 On May 5, 2016, Defendants Neven, Wickham, Nash, Filson, Dreesen, Howell,
22 Hanson, Aranas, Sablica, and Adams filed an Answer. ECF No. 209.

23 On May 11, 2016, Defendants filed a motion for a tiered scheduling order. ECF No.
24 210. On August 16, 2016, the Court granted Defendants' motion for a tiered scheduling
25 order. ECF No. 222. Pursuant to the Court's order, the limited discovery permitted by the
26 tiered scheduling order was to close by November 17, 2016, and dispositive motions are
27 due December 28, 2016. *Id.* On November 28, 2016, the Court denied Plaintiff's motions
28 to extend the discovery period and to enlarge the number of requests for admissions

permitted by the Court's scheduling order. ECF No. 230. This motion for an extension of the remaining scheduling deadlines follows.

II. ARGUMENT

Pursuant to Federal Rule of Civil Procedure 6(b)(1)(A), the Court may extend the time to perform an act within a specified time for good cause shown. Defendants submit that their request to extend the remaining non-discovery scheduling deadlines by 30 days is supported by good cause here. The undersigned has been working diligently on a dispositive motion, and had hoped to complete the motion by December 23, 2016, prior to taking planned leave during the week of December 26. Exhibit 1 (Declaration of Counsel). However, the undersigned has been unable to complete the motion due to his responsibilities in other cases and because of the significant number of Defendants, records, and legal issues presented by this matter. *Id.* In addition, Plaintiff does not oppose the motion, the motion is filed prior to the expiration of the deadline, this is Defendants' first request for an extension, and the motion is made in good faith and not for the purposes of delay. *Id.* Defendants propose the following new dates for the remaining scheduling deadlines:

January 30, 2017 Dispositive motion deadline

February 28, 2017 Joint pretrial order due (suspended until 30 days after the Court rules on any dispositive motions)

Defendants acknowledge that this motion was not filed more than 21 days prior to the expiration of the dispositive motion deadline, and therefore provide the following information concerning excusable neglect: as noted above, the undersigned has been working diligently on a dispositive motion, and had hoped to complete the motion by December 23, 2016, prior to taking planned leave during the week of December 26. The undersigned is seeking the extension now after determining that his prior estimation of the time needed to complete the motion was overly optimistic, and after arranging to speak with Plaintiff concerning the request on December 27, 2016.

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1 **III. CONCLUSION**

2 Defendants' motion to extend the remaining scheduling deadlines should be
3 granted.

4 DATED this 27th day of December, 2016.

5 Respectfully submitted,

6 ADAM PAUL LAXALT
7 Attorney General

8 By: /s/ Jared M. Frost

JARED M. FROST (Bar No. 11132)
9 Senior Deputy Attorney General

10 *Attorneys for Defendants*

11 IT IS SO ORDERED.

12 DATED December 28, 2016

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UNITED STATES MAGISTRATE JUDGE
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EXHIBIT 1

DECLARATION OF COUNSEL

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19 Defendants.

Case No. 2:14-cv-00889-RFB-CWH

DECLARATION OF COUNSEL

20 I, JARED M. FROST, hereby declare, based on personal knowledge and/or
21 information and belief, that the following assertions are true:

22 1. I am a Senior Deputy Attorney General employed by the Nevada Attorney
23 General in the Litigation Division, and I make this declaration on behalf of unopposed
24 motion to extend remaining scheduling deadlines in the above-captioned matter for thirty
25 (30) days. This is Defendants' first request to extend the dispositive motion deadlines in this
26 matter.

27 2. Pursuant to this Court's order dated August 16, 2016, dispositive motions are
28 currently due December 28, 2016.

1 3. I have been working diligently to meet the dispositive motion deadline, and
2 hoped to have completed the motion by December 23, 2016, prior to talking planned annual
3 leave from December 26, 2016, through January 2, 2017.

4 4. Due to my responsibilities to meet deadlines in other cases, the planned leave,
5 and the significant number of Defendants, records, and legal issues presented in this
6 matter, I will be unable to complete the dispositive motion within the allotted time. Some of
7 the other state and federal cases that have impacted my ability to complete the dispositive
8 motion in this matter include: *Martinez v. Cox*, USDC Case No. 2:16-cv-1546 (multiple
9 discovery requests served by Plaintiff 11/22/16, multiple requests served by Defendants
10 12/14/16); *Walters v. Williams*, 2:15-cv-2196 (motion for summary judgment filed 12/05/16);
11 *Houston v. Berrett*, 8th JD Case No. A-17-743551-W (merits hearing held 12/19/16);
12 *Williams v. Neven*, USDC Case No. 2:15-cv-01327 (answer filed 12/19/16); *Johnson v. State*
13 *of Nevada*, USDC Case No. 2:14-cv-1425 (response to motion to compel filed 12/19/16);
14 *Porchia v. State of Nevada*, USDC Case No. 2:16-cv-02987 (petition for removal filed
15 12/23/16)

16 5. On December 27, 2016, I contacted Plaintiff by phone regarding Defendants'
17 extension request. Plaintiff indicated that he had no objection to the request and stated that
18 the request could be filed unopposed.

19 6. Defendants' motion is made in good faith and not for the purpose of delay.

20 7. Excusable neglect supports Defendants' motion as the motion is filed as soon
21 as it became clear that Defendants' motion would not be completed before the expiration of
22 the current deadline and after I arranged to speak with Plaintiff concerning the extension
23 request.

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1 Pursuant to 28 U.S.C. section 1746 Declarant certifies, under penalty of perjury, that
2 the foregoing is true and correct.

3 DATED this 27th day of December, 2016.

4 Respectfully submitted,

5 ADAM PAUL LAXALT
6 Attorney General

7 By: /s/ Jared M. Frost

JARED M. FROST (Bar No. 11132)
8 Senior Deputy Attorney General

9 *Attorneys for Defendants*
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