

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

1 ADAM PAUL LAXALT
Nevada Attorney General
2 DENISE S. MCKAY
Senior Deputy Attorney General
3 Nevada Bar No. 10507
E-mail: dmckay@ag.nv.gov
4 Public Safety Division
555 E. Washington Ave., Ste. 3900
5 Las Vegas, Nevada 89101
P: (702) 486-3420
6 F: (702) 486-3773
Attorneys for Defendants James G. Cox,
7 *Dwight Neven, Jerry Howell, Paul Bitar, and*
Joseph Hanson
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12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**

14 PETER J. HELFRICH,) Case No.: 2:14-cv-01725-RFB-(NJK)
15 Plaintiff,)
16 vs.) **ORDER GRANTING**
17 DWIGHT NEVEN, et al.,) **DEFENDANTS' MOTION TO AMEND**
18 Defendants.) **SCHEDULING ORDER**
19) **(FIRST REQUEST)**

20 Defendants, James G. Cox, Dwight Neven, Jerry Howell, Dr. Paul Bitar ("Dr. Bitar"), and
21 Dr. Joseph Hanson ("Dr. Hanson"), by and through their counsel of record, Adam Paul Laxalt,
22 Nevada Attorney General, and Denise S. McKay, Senior Deputy Attorney General, hereby

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1 move for an amendment of the Scheduling Order on file with regard only to the deadline for
2 submission of motions for summary judgment. This Motion is made and based on the enclosed
3 Memorandum of Points and Authorities, declaration of Denise S. McKay, and the papers and
4 pleadings on file.

5 DATED this 17th day of April, 2015.

6 Respectfully submitted,

7 ADAM PAUL LAXALT
8 Nevada Attorney General

9 By: /s/ Denise S. McKay
10 DENISE S. MCKAY
11 Senior Deputy Attorney General
12 Nevada State Bar No. 10507

13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 **I. SUMMARY OF REQUEST**

15 Pursuant to the Scheduling Order issued by this Court on April 6, 2015, the parties'
16 motions for summary judgment are due by August 5, 2015. (Dkt. # 83). Defendants seek a
17 60-day extension of that deadline only, to October 5, 2015.

18 **II. RELEVANT PROCEDURAL HISTORY**

19 Plaintiff commenced this civil rights action alleging a deprivation of his Eighth Amendment
20 rights pursuant to 42 U.S.C. § 1983. The Court screened Plaintiff's amended complaint on
21 October 29, 2014, holding that Plaintiff stated colorable claims under the Eighth Amendment in
22 Counts I, II, V, VII, VIII, IX, and X against Defendants Cox Neven, Howell, Bitar, and Hanson, as
23 well as John Doe Sgt. and Jane and John Doe Pill Call Nurses. (Dkt. # 8). The Court further
24 addressed Plaintiff's motion for preliminary injunction (Dkt. # 4) and ordered Defendants to
25 respond to it by November 12, 2014. (Dkt. # 8). Defendants did (Dkt. # 13), and the motion for
26 preliminary injunction is now fully briefed and pending. The Court also stayed the action for
27 90 days and referred it for participation in the Early Mediation Conference (EMC) program.

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1 Following the parties' failure to reach a settlement at the EMC on January 30, 2015,
2 Defendants filed an Answer to Plaintiff's First Amended Complaint on April 3, 2015. (Dkt. # 82).
3 The Court issued its Scheduling Order on April 6, 2015. (Dkt. # 83). The Scheduling Order set
4 August 5, 2015, as the deadline for the parties to submit motions for summary judgment.
5 Defendants now seek a 60-day extension of that deadline only.

6 **III. DEFENDANTS REQUEST A 60-DAY EXTENSION TO THE DEADLINE FOR**
7 **SUBMISSION OF MOTIONS FOR SUMMARY JUDGMENT.**

8 Federal Rule of Civil Procedure 6(b) authorizes the court to extend the time for the doing
9 of an act upon a showing of good cause if the request is made before the original time expires.

10 Defendants' counsel will be taking 12 weeks of personal leave beginning on or around
11 June 1, 2015. (Declaration of Denise S. McKay attached hereto as **Exhibit A**). It is because
12 counsel will be on leave during the time set for submission of motions for summary judgment
13 that Defendants make this request. By extending the summary judgment deadline by 60 days,
14 Defendants' counsel will have adequate time to return from leave and submit a thorough and
15 complete motion for summary judgment by October 5, 2015. While another Deputy Attorney
16 General from the Nevada Office of the Attorney General will be assigned to this matter during
17 undersigned counsel's leave period to provide coverage concerning any discovery disputes,
18 undersigned counsel requests the extension so that she may be responsible for submitting the
19 Defendants' motion for summary judgment as she has been the attorney assigned to this matter
20 from its inception and is most familiar with the claims at issue. The extension of this deadline will
21 not prejudice Plaintiff, as it will not shorten or otherwise impact his ability to conduct discovery,
22 nor will it affect his ability to obtain emergency injunctive relief, since such relief is the subject of
23 a separate, fully-briefed and pending motion for preliminary injunction.

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1 Defendants submit that they have shown good cause justifying a 60-day extension to the
2 deadline for the parties' submission of motions for summary judgment and they request that the
3 Court grant the same.

4 DATED this 17th day of April, 2015.

5 Respectfully submitted,

6 ADAM PAUL LAXALT
7 Nevada Attorney General

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9 By: /s/ Denise S. McKay
10 DENISE S. MCKAY
11 Senior Deputy Attorney General
12 Nevada State Bar No. 10507
13 *Attorneys for Defendants*

14 IT IS SO ORDERED.

15 DATED: April 20, 2015

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18 NANCY J. KOPPE
19 United States Magistrate Judge
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on the 17th day of April, 2015, I served the foregoing, **DEFENDANTS’ MOTION TO AMEND SCHEDULING ORDER (FIRST REQUEST)**, by causing a true and correct copy thereof to be filed with the Clerk of the Court, using the electronic filing system, and by causing a true and correct copy thereof to be delivered to the Department of General Services, for mailing at Las Vegas, Nevada, addressed to the following:

Peter Helfrich, #1111875
High Desert State Prison
P.O. Box 650
Indian Springs, Nevada 89070
Plaintiff, Pro Se

/s/ Carol Knight
CAROL KNIGHT
An employee of:
STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

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EXHIBIT A

EXHIBIT A

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DECLARATION OF DENISE S. MCKAY PURSUANT TO 28 U.S.C. § 1746

I, DENISE S. MCKAY, present this Declaration in support of Defendants' Motion to Amend Scheduling Order (First Request) in the United States District Court for the District of Nevada Case Number 2:14-cv-01725-RFB-NJK, *Helfrich v. Neven, et al.*; I have personal knowledge of and am competent to testify regarding the matters stated in this Declaration.

1. I am a licensed member of the State Bar of Nevada (Bar No. 10507), and I am authorized to practice before this Court.


2. I am employed by the Nevada Office of the Attorney General as a Senior Deputy Attorney General in the Litigation Division primarily representing the Nevada Department of Corrections.

3. I will be taking 12 weeks of personal leave beginning on or around June 1, 2015, with an anticipated return date of on or around September 1, 2015.

4. I have been the sole attorney assigned to this action since its inception, and while another Deputy will be assigned to cover the matter in my absence, I am requesting a 60-day extension of time to file motions for summary judgment in this action to allow me to file the motion rather than the temporarily-assigned Deputy.

5. Pursuant to Title 28, United States Code, Section 1746, I declare under penalty of perjury under that the foregoing is true and correct to the best of my knowledge and belief.

Executed in Las Vegas, Nevada on April 17, 2015.



Denise S. McKay