

1 David R. Koch (NV Bar No. 8830)  
 2 [dkoch@kochscow.com](mailto:dkoch@kochscow.com)  
 3 Steven B. Scow (NV Bar No. 9906)  
 4 [sscow@kochscow.com](mailto:sscow@kochscow.com)  
 5 Brody R. Wight (NV Bar No. 13615)  
 6 [bwight@kochscow.com](mailto:bwight@kochscow.com)  
 7 KOCH & SCOW, LLC  
 8 11500 S. Eastern Ave., Suite 210  
 9 Henderson, NV 89052  
 10 Telephone: (702) 318-5040  
 11 Facsimile: (702) 318-5039  
 12 *Attorneys for Defendant Western Architectural*  
 13 *Services, LLC*  
 14 Attorneys for Defendant/Counterclaimant

15 **UNITED STATES DISTRICT COURT**  
 16 **DISTRICT OF NEVADA**

17 ABOVE THE CEILING, LLC, a Nevada limited  
 18 liability company,

19 Plaintiff,

20 vs.

21 WESTERN ARCHITECTURAL SERVICES,  
 22 LLC, a Utah limited liability company; THE  
 23 HASKELL COMPANY, a foreign corporation;  
 24 CORPORATION OF THE PRESIDENT TO  
 25 THE CHURCH OF JESUS CHRIST OF  
 26 LATTER-DAY SAINTS, a foreign non-profit  
 27 corporation; TRAVELERS CASUALTY AND  
 28 SURETY COMPANY OF AMERICA, a foreign  
 corporation; DOES I through XX; and ROE  
 CORPORATIONS XXI through XL,

Defendants.

---

WESTERN ARCHITECTURAL SERVICES,  
 LLC, a Utah limited liability company,

Counterclaimant,

vs.

ABOVE THE CEILING, LLC, a Nevada limited  
 liability company,

Counter-defendant,

CASE NO: 2:15-cv-01766 JAD-GWF

**JOINT MOTION BY DEFENDANTS  
 AND ~~PROPOSED~~ ORDER TO  
 EXTEND DISCOVERY DEADLINES  
 PURSUANT TO LR 26-4**

**(FIRST REQUEST)**

1 Defendants Western Architectural Services, LLC (“Western Architectural”) and  
2 Corporation of the President to the Church of Jesus Christ of Latter-day Saints (the “LDS  
3 Church”) (collectively referred to herein as “Defendants”) jointly move this Court for an  
4 extension of all applicable discovery deadlines. Defendants have attempted to obtain a  
5 stipulation from Plaintiff Above the Ceiling, LLC (“Above the Ceiling”) for this  
6 extension, and they do not believe there is any opposition to this request, but to date they  
7 have not received a response. This is the first requested extension of the discovery  
8 deadlines.

9 I.

10 **Discovery Completed**

11 The parties have submitted initial disclosures, and written discovery has taken  
12 place or is underway. Western Architectural recently provided responses to Plaintiff’s  
13 Requests for Production of Documents and Interrogatories, and currently pending are  
14 Western Architectural’s Requests for Production of Documents propounded to Plaintiff.  
15 Western Architectural has also noticed the deposition of Jerry Williams, one of the  
16 principals of Above the Ceiling, LLC, which is scheduled to take place on July 21, 2016.  
17 For its part, the LDS Church has been in discussions regarding resolution of the case  
18 upon presentation of certain information regarding payment of the sums claimed by  
19 Above the Ceiling, but these discussions have not yet resulted in a final resolution.

20 II.

21 **Discovery to Be Completed**

22 The amount of discovery to be completed will depend in part upon whether the  
23 LDS Church remains in the case. This action involves claims by Above the Ceiling that it  
24 was not fully paid for work on an LDS temple located in Tijuana, Mexico. The LDS  
25 Church has offered proof that it made all payments required of it under the construction  
26 contracts, and upon satisfactory information being provided, the LDS Church anticipates  
27 that it will no longer be part of this case. Defendants The Haskell Company and  
28

1 Travelers Casualty and Surety Company of America were previously dismissed from the  
2 case on October 19, 2015 (Doc. #16.)

3 If the LDS Church remains in the case, it will need to take depositions of Above  
4 the Ceiling's corporate representative and seek documents from Above the Ceiling  
5 regarding the claims being made in the case.

6 For its part, Western Architectural anticipates that additional document requests  
7 and 2-3 depositions will be necessary after the deposition of Jerry Williams is completed.  
8 Among the depositions that remain is the deposition of Arturo Spencer, a former Above  
9 the Ceiling employee who is alleged to have absconded with substantial funds delivered  
10 by Western Architectural for the purpose of paying employees on the jobsite. Western  
11 Architectural believes and alleges that Mr. Spencer fled the project in Mexico and may be  
12 located in Nevada currently, and it has been attempting to locate and serve him with a  
13 deposition subpoena.

14 It is not known what additional discovery, if any, Plaintiff Above the Ceiling  
15 believes it needs to complete.

### 16 III.

#### 17 Reasons Additional Time Is Required and Good Cause Therefore

18 Good cause exists to extend discovery because the parties have attempted to work  
19 toward resolution of the case through both informal and formal discovery, and the  
20 parties anticipate that the additional time permitted to complete discovery will allow the  
21 full investigation into the facts of payment and work completed at the construction  
22 project at issue. In addition, with the difficulty in locating Arturo Spencer, some  
23 additional time is necessary to allow Western Architectural to attempt to locate this  
24 individual to obtain information that may be critical to the case. The parties believe that  
25 a 60-day extension will be sufficient to allow all matters to be investigated so that the  
26 parties will have the information necessary to prepare the case for trial if resolution  
27 cannot be reached.

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IV.

**Proposed Schedule**

The current schedule has discovery closing on July 22, 2016. The parties seek approximately 60 additional days to complete discovery, according to the following proposed schedule.

Interim Status Report (LR-26-3):	Already submitted.
Discovery cutoff:	September 20, 2016
Amending pleadings:	Closed.
Initial/rebuttal expert designations:	Closed.
Dispositive motions:	October 20, 2016

Pretrial Order: the joint pretrial order shall be filed no later than thirty (30) days after the date set for filing dispositive motions. In the event additional dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until thirty (30) days after the decision of the dispositive motions or further order of the court.

Dated: July 1, 2016

**KOCH & SCOW, LLC**

/s/ David R. Koch  
David R. Koch  
Attorneys for Western Architectural  
Services, LLC

Dated: July 1, 2016

**LEWIS ROCA ROTHGERBER CHRISTIE LLP**

/s/ John Bragonje  
John Bragonje  
Attorneys for Corporation of the President to the  
Church of Jesus Christ of Latter-day Saints

Dated: July 5, 2016

**IT IS SO ORDERED:**

George Foley Jr.  
UNITED STATES MAGISTRATE JUDGE