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6 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

7 ANDREW ARRAND,  
 8  
 9 Plaintiff,

CASE No. 2:16-cv-01293-RFB-VCF

10 -vs.-

11 COMMISSIONER OF SOCIAL SECURITY  
 12 Defendant.

13  
 14 **STIPULATION AND ORDER EXTENDING TIME TO OBJECT TO THE REPORT**  
 15 **AND RECOMMENDATIONS FILED ON OCTOBER 23, 2018**  
 16 **(First Request)**

17 The Court filed a Report and Recommendation on October 23, 2018. Objections, if any,  
 18 are due on November 6, 2018. Based on the stipulation hereinbelow, Plaintiff requests an  
 19 additional (1) week to file his objection.

20 FRCP 6(b) states:

21 (b) Extending Time:  
 22 (1) In General.

23 When an act may or must be done within a specified time, the court may, for good cause, extend  
 the time:

- 24 (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; or
- 25 (B) On motion made after the time has expired if the party failed to act because of  
 excusable neglect.

26 Local Rule 6-1 states:  
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- (a) Every motion requesting a continuance, extension of time, or order shortening time shall be “Filed” by the Clerk and processed as an expedited matter. Ex parte motions and stipulations shall be governed by LR 6-2.
- (b) Every motion or stipulation to extend time shall inform the Court of any previous extensions granted and state the reasons for the extension requested. A request made after the expiration of the specified period shall not be granted unless the moving party, attorney, or other person demonstrates that the failure to act was the result of excusable neglect. Immediately below the title of such motion or stipulation there shall also be included a statement indicating whether it is the first, second, third, etc., requested extension, i.e.:

STIPULATION FOR EXTENSION OF TIME TO FILE MOTIONS  
(First Request)

- (c) The Court may set aside any extension obtained in contravention of this Rule.
- (d) A stipulation or motion seeking to extend the time to file an opposition or final reply to a motion, or to extend the time fixed for hearing a motion, must state in its opening paragraph the filing date of the motion.

Local Rule 6-2 states:

- (a) Any stipulations, ex parte or unopposed motions requesting a continuance, extension of time, or order shortening time, and any other stipulation requiring an order shall not initially be “Filed” by the Clerk, but shall be marked “Received.” Every such stipulation 20 | Page or ex parte or unopposed motion shall include an “Order” in the form of a signature block on which the Court or Clerk can endorse approval of the relief sought. This signature block shall not be on a separate page, but shall appear approximately one inch (1”) below the last typewritten matter on the right-hand side of the last page of the stipulation or ex parte or unopposed motion, and shall read as follows:

“IT IS SO ORDERED:  
[UNITED STATES DISTRICT JUDGE,  
UNITED STATES MAGISTRATE JUDGE,  
UNITED STATES DISTRICT COURT CLERK]  
(whichever is appropriate)

DATED: \_\_\_\_\_”

- (b) Upon approval, amendment or denial, the stipulation or ex parte or unopposed motion shall be filed and processed by the Clerk in such manner as may be necessary.

The Ninth Circuit has held in Ahanchian v. Xenon Pictures, Inc., 624 F.3d 1253, 1258-59 (9<sup>th</sup> Cir. 2010) that Fed. R. Civ. P. 6(b)(1) “ [is] to be liberally construed to effectuate the general

1 purpose of seeing that cases are tried on the merits.’ *Rodgers v. Watt*, 722 F.2d 456, 459 (9th  
2 Cir.1983) (quoting *Staren v. American Nat’l Bank & Trust Co. of Chicago*, 529 F.2d 1257, 1263  
3 (7th Cir.1976)); *see also* Fed.R.Civ.P. 1 (“[The Federal Rules] should be construed and  
4 administered to secure the just, speedy, and inexpensive determination of every action and  
5 proceeding.”). Consequently, requests for extensions of time made before the applicable deadline  
6 has passed should “normally ... be granted in the absence of bad faith on the part of the party  
7 seeking relief or prejudice to the adverse party.” 4B Charles Alan Wright & Arthur R.  
8 Miller, *Federal Practice and Procedure* § 1165 (3d ed. 2004).” *Id.*  
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10 In this case as shown in the declaration immediately below, Plaintiff’s counsel did not  
11 receive notice of the Report and Recommendation that was filed on October 23, 2018 until  
12 November 2, 2018. Apparently, the ECF notice went to Plaintiff’s attorney’s spam folder.  
13 Therefore, Plaintiff is requesting additional time to prepare an objection to the Report and  
14 Recommendation filed.  
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#### 16 **DECLARATION OF COUNSEL**

- 17 1. Plaintiff’s counsel did not receive notice of the Report and Recommendation filed on  
18 October 23, 2018 until November 2, 2018.
- 19 2. Apparently, the Report and Recommendation was sent to the Plaintiff’s counsel’s spam  
20 folder by mistake.
- 21 3. Plaintiff’s counsel routinely gets notification from federal bankruptcy court of various  
22 filings and routinely received filings in this case via ECF without having any of the  
23 filings directed to the spam folder.  
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**THE PARTIES THEREFORE STIPULATE AND AGREE AS FOLLOWS:**

1. That Plaintiff will have until November 13, 2018 to file an objection to the Report and Recommendations filed by this Court on October 23, 2018.


Dated: November 6, 2018

Dated: November 6, 2018

/s/ Randal R. Leonard, Esq.  
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Attorney for Defendant

IT IS SO ORDERED:

  
\_\_\_\_\_  
RICHARD F. BOULWARE, II  
UNITED STATES DISTRICT JUDGE

DATED this 8th day of November, 2018.