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KATHRYN FALK and
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d/b/a ROMANTIC TIMES MAGAZINE

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

RANDI ALEXANDER, an Individual,)
and JACKSON YOUNG, an Individual,)
Plaintiffs,)

vs.)

CASE NO.: 2:16-CV-02268-MMD-GWF

KATHRYN FALK, an Individual;)
ROMANTIC TIMES, INC., d/b/a)
ROMANTIC TIMES MAGAZINE, a)
New York Corporation; JANE DOE)
a/k/a "GRACIE WILSON", an)
Individual; DOE DEFENDANTS 1)
through 100; and ROE ENTITIES, 1)
through 100,)
Defendants.)

JOINT MOTION TO AMEND JULY 19, 2018 ORDER (ECF No. 89)
TO EXTEND DEADLINE TO MEET AND CONFER AND FILE A
PROPOSED SCHEDULING ORDER REGARDING EXPERT WITNESS
DISCLOSURE FROM JULY 27, 2018 TO AUGUST 1, 2018

1
2 COME NOW the parties, by and through their respective counsel, and pursuant to
3 Federal Rule of Civil Procedure 60(b)(f) hereby move the Court to extend the deadline
4 established by the Court for the parties to meet and confer and file a proposed scheduling
5 order regarding expert witness disclosures in its July 19, 2018 Order (ECF No. 89) for
6 three business days from July 27, 2018 to August 1, 2018 due to the unexpected and
7 emergency medical condition of counsel for defendants from July 20, 2018 to July 30,
8 2018.
9

10 This motion is supported by the memorandum of points and authorities below and
11 the declaration Cheryl Wilson, Esq., attached hereto.
12

13 **I. STATEMENT OF FACTS**

14 On July 19, 2018, the Court issued its Order subsequent to a hearing of the same
15 date as a result of the Motion filed by the Defendants on June 21, 2018. (ECF No. 89).
16 The Order provided, in pertinent part, that the parties meet and confer and file a proposed
17 scheduling order regarding expert witness disclosures no later than July 27, 2018.
18

19 On July 20, 2018, counsel for the Defendants was stricken suddenly ill,
20 hospitalized and caused to be absent from the office until July 30, 2018. As a result, the
21 parties were unable to comply with the Court's Order as the defense counsel who was ill
22 was the counsel most knowledgeable about those specific issues and unable to
23 communicate. (See attached Declaration of Cheryl Wilson, Esq.).
24

25 On July 30, 2018, upon return to office, counsel for the Defendants immediately
26 communicated with counsel for the Plaintiffs and asked and was granted permission to
27

1
2 file a joint motion for a three day extension of the July 27, 2018 deadline to Wednesday,
3 August 1, 2018.

4 **II. LEGAL ARGUMENT**

5 Federal Rule of Civil Procedure 60 (f) provides, in pertinent part:

6 Rule 60. Relief from a Judgment or Order

7 ***

8 (b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion
9 and just terms, the court may relieve a party or its legal representative
10 from a final judgment, order, or proceeding for the following reasons:

11 ***

12 (6) any other reason that justifies relief.

13 (c) Timing and Effect of the Motion.

14 (1) Timing. A motion under Rule 60(b) must be made within a reasonable time and
15 for reasons (1), (2), and (3) no more than a year after the entry of the judgment or
16 order or the date of the proceeding.

17 In this matter, the parties are seeking a three day extension to fulfill the obligations
18 imposed by Order of the Court but delayed due to the unexpected illness of counsel. If the
19 relief is granted, Counsel have committed to work diligently and shall comply with the
20 August 1, 2018 deadline to file their stipulated expert disclosure deadline.

21 The extension will not impair any of the other dates imposed by the Court in the
22 July 19, 2018 Order. (ECF No. 89).

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2 **III. CONCLUSION**

3 For the foregoing reasons, the parties jointly move to amend the Court's July 19,
4 2018 Order to extend the deadline for the parties to meet and confer and file a proposed
5 scheduling order regarding expert witnesses from July 27, 2018 to August 1, 2018.
6

7 DATED this 30th day of July, 2018.

8 PERRY & WESTBROOK
9 A Professional Corporation

10 */s/ Cheryl H. Wilson*

11
12

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Attorneys for Defendants
18

19 DATED this 30th day of July, 2018.

20 */s/ R. Duane Frizell*

21
22

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10 Attorneys for Plaintiffs

11 **DECLARATION OF CHERYL WILSON, ESQ.**

12 CHERYL WILSON, UNDER PENALTIES OF PERJURY DECLARES AS FOLLOWS:

13 1. The undersigned, CHERYL WILSON, is an attorney licensed in the State of
14 Nevada and associate of PERRY & WESTBROOK which is counsel for the Defendants,
15 KATHRYN FALK and ROMANTIC TIMES, INC., in the subject action.

16 2. On July 19, 2018, I appeared on behalf of the Defendants and argued the Motion
17 which is the subject of the Court's Order (ECF No. 89) issued the same day.

18 3. On July 20, 2018, in the early morning hours, I was stricken ill and caused to be
19 hospitalized on that date for successive days due to a medical emergency and finally cleared to
20 return to employment on Monday, July 30, 2018.

21 4. Due to the unexpected and emergency nature of my absence, I was unable to
22 prepare any other attorneys in the office to meet with plaintiffs' counsel and otherwise unable to
23 meet and confer with plaintiffs' counsel to comply with the Court's July 19, 2018 Order.

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5. I returned to the office on July 30, 2018 and have resumed all responsibilities.
I declare under the laws of the State of Nevada that the foregoing is true and correct.
Dated this _____ day of July, 2018.

/s/ Cheryl H. Wilson

CHERYL H. WILSON

IT IS SO ORDERED this 31st day of July, 2018.

George Foley Jr.

UNITED STATES MAGISTRATE JUDGE