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13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15 LAUSTEVEION JOHNSON,

16 Plaintiff,

17 v.

18 JAMES DZURENDA; FRANK DREESEN;
 19 REGINA BARRETT; JOSEPH LEWIS;
 20 TIMOTHY KNATZ; DAVID WILLIS AND
 21 JO GENTRY,

22 Defendants.

CASE NO. 2:17-cv-01671-APG-EJY

**STIPULATION AND ORDER TO
 CONTINUE THE STATUS
 CONFERENCE SCHEDULED FOR
 JULY 8, 2022**

(FIRST REQUEST)

23 Plaintiff, Lausteveion Johnson (“Plaintiff”), by and through his appointed counsel, Frank
 24 M. Flansburg, III, Esq., Emily A. Ellis, Esq., and Troy P. Domina, Esq., of the law firm Brownstein
 25 Hyatt Farber Schreck, LLP, and Defendants, James Dzurenda, Regina Barrett, David Willis, and
 26 Jo Gentry (“Defendants”) by and through their counsel Aaron D. Ford, Esq., and Austin T. Barnum,
 27 Esq., hereby submit this Joint Stipulation and Order to Continue the Status Conference Scheduled
 28 for July 8, 2022, at 9:00 a.m.

MEMORANDUM OF POINTS AND AUTHORITIES

I. RELEVANT BACKGROUND

On May 24, 2022, this Court ordered a status conference in this matter to be held on Friday,
 July 8, 2022 at 10:00am (the “Status Conference”) to discuss the pretrial needs of the case and
 schedule a trial date (the “Order”).¹ Counsel for plaintiff was to further confer with Plaintiff

¹ See Minute Order, dated May 24, 2022.

1 regarding previously proposed exhibits, witnesses, and motions *in limine* to help streamline pretrial
2 proceedings in the time between the Order and the Status Conference. Despite making appropriate
3 arrangements and preparation with the Nevada Department of Correction’s telephonic and
4 electronic mail service providers, counsel for Plaintiff, Frank M. Flansburg, Emily A. Ellis, and
5 Troy P. Domina had difficulties communicating with Plaintiff, Lausteveion Johnson, in the
6 Northern Nevada Correctional Center in Carson City, Nevada. With assistance from Mr. Austin
7 Barnum at the Attorney General’s office, Plaintiff’s counsel was able to resolve the issue and
8 establish communication on June 23, 2022.

9 Since that time, Plaintiff’s counsel and Plaintiff have worked diligently to prepare for the
10 Status Conference, but were unable to complete discussions regarding all of the topics and issues
11 necessary to participate in the Status Conference due to the delay in establishing communication.
12 As a result, the Parties conferred and request the Status Conference be continued to enable Plaintiff
13 and his counsel to complete their preparation, confer with Defendants’ counsel, and report back to
14 the Court at a conference.

15 Plaintiff’s counsel and Senior Deputy Attorney General Austin Barnum held a meet and
16 confer via teleconference concerning this extension on July 5, 2022. Mr. Barnum expressed no
17 objection and agreed to providing more time for Plaintiff and counsel to prepare.

18 **II. LEGAL DISCUSSION**

19 **A. EXTENDING TIME.**

20 (1) In General. When an act may or must be done within a specified time, the
21 court may, for good cause, extend the time:

22 (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

23 (B) on motion made after the time has expired if the party failed to act
because of excusable neglect.

24 Fed.R.Civ.P. 6(b)(1).²

26 ² LR IA 6-1(a): “A motion or stipulation to extend time must state the reasons for the
27 extension requested and must inform the court of all previous extensions of the subject deadline the
28 court granted.” Further, a “stipulation or motion seeking to extend the time to file an opposition or
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 subject motion or the date of the subject hearing.” LR IA 6-1(c).

1 The United States Supreme Court has recognized, “Rule 6(b) gives the court *extensive*
2 *flexibility* to modify the fixed time periods found throughout the rules, whether the enlargement is
3 sought before or after the actual termination of the allotted time.” *Lujan v. Nat'l Wildlife Fed.*, 497
4 U.S. 871, 906 n. 7 (1990) (internal quotation marks and citation omitted) (emphasis added); *see*
5 *also Perez-Denison v. Kaiser Found. Health Plan of the Nw.*, 868 F. Supp. 2d 1065, 1079 (D. Or.
6 2012) (citing and quoting *Lujan*, 497 U.S. at 906). Further, this rule, like all the Federal Rules of
7 Civil Procedure is to be liberally construed to effectuate the general purpose of seeing that cases
8 are tried on the merits. *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258 (9th Cir. 2010).
9 Regarding “good cause,” it is a non-rigorous standard that has been construed broadly across
10 procedural and statutory contexts. *Id.* (citing several circuits *Venegas–Hernandez v. Sonolux*
11 *Records*, 370 F.3d 183, 187 (1st Cir.2004); *Thomas v. Brennan*, 961 F.2d 612, 619 (7th Cir.1992);
12 *Lolatchy v. Arthur Murray, Inc.*, 816 F.2d 951, 954 (4th Cir.1987)).

13 Consequently, requests for extensions of time made before the applicable deadline has
14 passed should “normally ... be granted in the absence of bad faith on the part of the party seeking
15 relief or prejudice to the adverse party.” *Ahanchian*, 624 F.3d at 1259 (quoting 4B Charles Alan
16 Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1165 (3d ed. 2004).

17 Based on the foregoing, the Parties hereby stipulate and request the Court grant a two-week
18 continuance to July 22, 2022, or a date at the Court’s convenience, for the Status Conference to
19 enable Plaintiff and his counsel to complete their preparation and confer with Defendants’ counsel
20 before reporting to the Court.

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III. CONCLUSION

For the reasons stated above, the Parties hereby stipulate and respectfully request the Court continue the Status Conference for a period of two weeks, to July 22, 2022, or to a date at the Court's convenience.

DATED this 6th day of July, 2022	DATED this 6 th day of July, 2022
BROWNSTEIN HYATT FARBER SCHRECK, LLP BY: <u>/s/ Emily A. Ellis</u> FRANK M. FLANSBURG III, ESQ., EMILY A. ELLIS, ESQ., TROY P. DOMINA, ESQ., <i>Attorneys for Plaintiff Lausteveion Johnson</i>	STATE OF NEVADA OFFICE OF ATTORNEY GENERAL BY: <u>/s/ Austin T. Barnum</u> AARON D. FORD, Attorney General AUSTIN T. BARNUM Deputy Attorney General <i>Attorneys for Defendants Regina Barrett, Frank Dreesen, James Dzurenda, Timothy Knatz, Joseph Lewis, and David Willis</i>

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the foregoing stipulation is approved and the Status Conference currently scheduled for July 8, 2022, at 9:00 a.m. is VACATED and rescheduled for August 2, 2022 at 10:30 a.m.

IT IS SO ORDERED.



UNITED STATES DISTRICT JUDGE

DATE: July 8, 2022

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CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), and Section IV of the District of Nevada Electronic Filing Procedures, I hereby certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP and that on the 6th day of July, 2022, I caused to be served a true and correct copy of **STIPULATION AND ORDER TO CONTINUE THE STATUS CONFERENCE SCHEDULED FOR JULY 8, 2022 (FIRST REQUEST)**, via electronic service through the Court's CM/ECF Filing System, to all parties and counsel as identified on the court-generated Notice of Electronic Filing.

/s/ Paula Kay
an employee of Brownstein Hyatt Farber Schreck, LLP