

1 LYSSA S. ANDERSON
Nevada Bar No. 5781
2 KRISTOPHER J. KALKOWSKI
Nevada Bar No. 14892
3 KAEMPFER CROWELL
1980 Festival Plaza Drive, Suite 650
4 Las Vegas, Nevada 89135
Telephone: (702) 792-7000
5 Fax: (702) 796-7181
landerson@kcnvlaw.com
6 kkalkowski@kcnvlaw.com

7 *Attorneys for Defendants,*
Daniel Holm, Craig Garnette,
8 *Gary Ramirez (erroneously sued as P. Ramirez),*
Alex Gonzalez (erroneously sued as Alex Gonzales),
9 *and Ernest Spear*

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

13 TONEY A. WHITE,
14 Plaintiff,
15 vs.
16 MICHELLE LEAVITT; ET AL.
17 Defendants.

CASE NO.: 2:18-cv-00008-JAD-BNW

**LVMPD DEFENDANTS' MOTION FOR
EXTENSION OF TIME TO FILE
REPLY BRIEF**

18 Defendants Daniel Holm, Craig Garnette, Gary Ramirez, Alex Gonzalez, and Ernest
19 Spear (collectively, "LVMPD Defendants"), through their counsel, Kaempfer Crowell, move for
20 a one-week extension of time to file a Reply in support of their Motion to (1) Revoke Plaintiff's
21 In Forma Pauperis Status and (2) Issue an Order to Show Cause as to Why This Case Should Not
22 Be Dismissed With Prejudice, (ECF Nos. 75, 76). The current due date for the Reply is
23 November 10, 2022. The extended due date will be November 17, 2022. Good cause supports
24 this extension based on an unexpected medical procedure for the undersigned counsel, as further

1 explained in the Memorandum of Points and Authorities below.

2 DATED this 7th day of November, 2022.

3 KAEMPFER CROWELL

4 By: /s/ Kristopher J. Kalkowski

5 LYSSA S. ANDERSON (Nevada Bar No. 5781)
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14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **I. BACKGROUND**

16 Plaintiff Toney White is pursuing this lawsuit in his pro se capacity while incarcerated at
17 the High Desert State Prison. One month after being served with this lawsuit for the first time,
18 LVMPD Defendants filed the now-pending Motion to (1) Revoke Plaintiff's In Forma Pauperis
19 ("IFP") Status and (2) Issue an Order to Show Cause as to Why This Case Should Not Be
20 Dismissed With Prejudice, (ECF Nos. 75, 76). This Motion concerns Plaintiff's apparently
21 fraudulent procurement of IFP status so that he could proceed without paying the filing fees
22 required from all litigants when bringing a civil lawsuit in this District.

23 Twelve days after LVMPD Defendants filed their Motion, (ECF Nos. 75, 76), Plaintiff
24 requested a thirty extension of time to file a Response. (Mot. Ext. Time, ECF No. 77) (filed
October 12, 2022). The Court granted Plaintiff's request, making the due date November 13,
2022. (Order, ECF No. 78). Plaintiff ultimately filed his Response on November 3, 2022.
Accordingly, the deadline for LVMPD Defendants' Reply is now November 10, 2022.

1 **II. ARGUMENT**

2 LVMPD Defendants request a one-week extension of time to file a Reply in support of
3 their Motion to (1) Revoke Plaintiff's In Forma Pauperis ("IFP") Status and (2) Issue an Order to
4 Show Cause as to Why This Case Should Not Be Dismissed With Prejudice, (ECF Nos. 75, 76).
5 Federal Rule of Civil Procedure 6 and this District's Local Rule IA 6-1 govern this request. Both
6 Rules impose a "good cause" standard to secure an extension of a deadline that has not yet
7 expired. "Good cause" is "a non-rigorous standard" that is satisfied when the movant provides
8 reasons why adequate briefing cannot occur under current deadlines. *Ahanchian v. Xenon*
9 *Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010). Requests for extensions of time made before
10 the applicable deadline should "normally . . . be granted in the absence of bad faith on the part of
11 the party seeking relief or prejudice to the adverse party." *Id.* (quoting 4B Charles Alan Wright
12 & Arthur R. Miller, Federal Practice and Procedure § 1165 (3d ed. 2004)).

13 Here, good cause exists for a one-week extension of time based on the undersigned
14 having an unexpected and urgent surgery scheduled for November 7, 2022. The undersigned
15 will likely be out of the office until November 10, 2022, which is the same day as the current
16 deadline to file the at-issue Reply. A one-week extension of time will ensure that counsel has
17 enough time to properly brief the potentially case-dispositive issues raised in LVMPD
18 Defendant's Motion.

19 No prejudice will occur to the parties from a one week extension. Discovery in this case
20 will continue on its current schedule, and the parties will not have to re-schedule hearings,
21 depositions, or other critical events in this case if the Court grants this limited extension of time.

22 **III. CONCLUSION**

23 LVMPD Defendants respectfully request a one-week extension of time to file a Reply in
24 support of their Motion to (1) Revoke Plaintiff's In Forma Pauperis Status and (2) Issue an Order

1 to Show Cause as to Why This Case Should Not Be Dismissed With Prejudice, (ECF Nos. 75,
2 76), so that the due date will change from November 10, 2022, to November 17, 2022.

3 DATED this 7th day of November, 2022.

4 KAEMPFER CROWELL

5
6 By: /s/ Kristopher J. Kalkowski

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15 *and Ernest Spear*

16 **ORDER**

17 IT IS ORDERED that ECF No. 81 is GRANTED
18 for good cause shown.

19 IT IS SO ORDERED

20 DATED: 4:59 pm, November 08, 2022

21 

22 BRENDA WEKSLER
23 UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I certify that I am an employee of KAEMPFER CROWELL, and that on the date below, I caused the foregoing **LVMPD DEFENDANTS’ MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF** to be served via CM/ECF and/or First Class Mail (where indicated) addressed to the following:

Toney A. White, #1214172
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89074

Plaintiff, Pro Se

*(Via CM/ECF, pursuant to Fifth Amended
General Order 2012-01)*

DATED this 7th day of November, 2022.



an employee of Kaempfer Crowell