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Attorney for Plaintiffs, Nathan Leftenant,  
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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\_\_\_\_\_  
**NATHAN LEFTENANT,**  
**ARNETT LEFTENANT,**  
**JERYL BRIGHT &**  
**GREGORY JOHNSON**  
Plaintiffs,

Case No.  
**2:18-cv-01948-RCJ-GWF**

**Motion To Correct Motion  
To Amend Scheduling  
Order & Motion  
For Extension of Time**

**LAWRENCE (“LARRY”) BLACKMON,**  
Defendant.  
\_\_\_\_\_

**MOTION TO CORRECT MOTION TO  
AMEND SCHEDULING ORDER**

**&**

**MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF**

**I. MOTION TO CORRECT MOTION TO AMEND SCHEDULING ORDER**

**UPDATED FACTS**

On May 15, 2019, Plaintiffs Nathan Leftenant, Arnett Leftenant, Jeryl Bright and Gregory Johnson moved this Court to amend the Scheduling Order to allow 30 additional days for discovery in this matter. [ECF# 26] This Court has indicated that unless Defendant Blackmon filed an

Opposition by May 24, 2019, that the Court would grant the Motion to Extend the Scheduling Order. [ECF# 27] Defendant Blackmon does not object to this Motion to extend the Scheduling Order and has communicated to Plaintiffs' counsel that he does not intent to file an opposition to this Motion. Given these events Plaintiffs propose that 30 days be added to the current discovery cut-off date, August 4, 2019, so that discovery ends on September 4, 2019.<sup>1</sup>

Plaintiffs have now sent Defendant Blackmon requests for production of documents and interrogatories and have issued various subpoenas. No depositions have taken place.

### **PROPOSED NEW SCHEDULE**

The parties now propose that the Scheduling Order be amended as follows:

1. All fact discovery is to be completed no later than **September 4, 2019**.
2. All expert disclosures, including reports, production of underlying documents, and depositions shall be completed pursuant to the following deadlines:
  - a. Expert(s) of Plaintiff(s) **July 5**.
  - b. Expert(s) of Defendant(s) **August 5**.
3. Dispositive Motions are due **October 3, 2019**.
4. Joint Pretrial Order due **November 4, 2019**, unless dispositive Motions are filed in which case the Joint Pre-Trial Order is due 30 days after decision by the Court, unless the Court orders otherwise. The disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections to them must be included in the joint pretrial order.

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<sup>1</sup> When the Scheduling Order was initially set by this Court on March 1, 2019, the Court ordered the following schedule:

1. No additional parties may be joined except with leave of the Court after **May 6, 2019**.
2. Amended pleadings, may not be filed except with leave of the Court after **May 6, 2019**.
3. Initial disclosures pursuant to Rule 26(a)(1) shall be completed no later than **April 6, 2019**.
4. The Defendant filed an Answer and Counterclaim on January 17, 2019 and Plaintiffs Answered the Counterclaim on February 5, 2019. All fact discovery is to be completed in 180 days or no later than **August 4, 2019**.
5. All expert disclosures, including reports, production of underlying documents, and depositions shall be completed pursuant to the following deadlines:
  - a. Expert(s) of Plaintiff(s) **June 5**.
  - b. Expert(s) of Defendant(s) **July 5**.
6. Dispositive Motions are due **September 3, 2019**.
7. Joint Pretrial Order due **October 3, 2019**, unless dispositive Motions are filed in which case the Joint Pre-Trial Order is due 30 days after decision by the Court, unless the Court orders otherwise. The disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections to them must be included in the joint pretrial order.

A revised proposed Order has been included with this Motion with Magistrate Judge George Foley, Jr.'s signature line.

## **II. MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF**

Prior to the cut of date of May 6, 2019, in the Scheduling Order, on April 22, 2019, Plaintiffs filed a Motion to Amend the Complaint to add an additional party and additional claims of promissory estoppel and breach of fiduciary duty [ECF# 19-20]. That Motion was withdrawn and refiled on April 30, 2019. [ECF# 21-23] On May 14, 2019, Defendants filed an Opposition to Plaintiffs' Motion to Amend the Complaint. [ECF# 25]

Plaintiffs now request an additional week, not including the Memorial Day Holiday weekend, or until Friday, May 31, 2019, to file their Reply Memorandum of Law in connection with Plaintiffs' Motion to Amend the Complaint.

Defendants have consented to this request.

Dated: May 21, 2019

Respectfully submitted,

/s/ David Lee Phillips

**DAVID LEE PHILLIPS, ESQ.**

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**CERTIFICATE REGARDING CONSENT**

Defendant Blackmon does not object to Amending the Scheduling Order and has consent to Plaintiffs' request to extension of time to file a Reply Memorandum.

Dated: May 21, 2019

By:     /s/ David Phillips    

David Phillips, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that on May 21, 2019, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Dated: May 21, 2019

By:     /s/ David Phillips    

David Phillips, Esq.

**SERVICE LIST**

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**Production Format.** The parties agree to produce responsive ESI in pdf format. The parties further agree to de-duplicate the responsive ESI on a per custodian basis so as to eliminate the production of multiple copies of the same ESI file and/or document.

**Inadvertent Production** The parties agree to a "clawback" provision which shall govern the inadvertent production of ESI that is protected by the attorney-client privilege and/or work-product immunity.

**Protective Order.** The parties foresee the need for a protective order governing the dissemination and disclosure of certain documents produced in the case. The parties agree to work together to submit an agreed upon two-tier protective order for entry by the court. In the event that a party believes there is a need for a sealing, the party desiring the sealing shall file and notice a motion with the Court for a protective order for sealing in accordance with the Local Rules.

**Electronic Evidence.** A jury trial has been demanded, Plaintiffs and Defendant intend to present evidence in electronic format to jurors for the purposes of jury deliberations, in a format compatible with the court's electronic jury evidence display system.

5. Dispositive Motions are due **October 3, 2019**.
6. Joint Pretrial Order due **November 4, 2019**, unless dispositive Motions are filed in which case the Joint Pre-Trial Order is due 30 days after decision by the Court, unless the Court orders otherwise. The disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections to them must be included in the joint pretrial order.
7. ~~The Court will conduct a post-discovery conference on \_\_\_\_\_.~~  
[To be completed by the Court.]
8. The parties certify that they met and conferred about the possibility of using alternative dispute-resolution processes including mediation, arbitration, and if applicable, early neutral evaluation.
9. Parties have conferred and their present best estimate of the length of trial is five days.

**SO ORDERED:**

DATED: June 3, 2019  
Las Vegas, Nevada

  
UNITED STATES MAGISTRATE JUDGE

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