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11 **UNITED STATES DISTRICT COURT**
 12 **DISTRICT OF NEVADA**

14 REFLEX MEDIA, INC., a Nevada
 15 corporation,
 16 **Plaintiff,**
 17 vs.
 18 AARON WALLACE, an individual; et al,
 19 **Defendants.**

Case No.: 2:18-cv-02423-RFB-BNW

Judge: Hon. Richard F. Boulware, II

Magistrate: Hon. Brenda Weksler

**DEFENDANT AARON WALLACE'S
 NOTICE OF MOTION AND MOTION TO
 ENLARGE TIME TO FILE A REPLY
 BRIEF; MEMORANDUM OF POINTS
 AND AUTHORITIES; PROPOSED
 ORDER; DECLARATION OF NICOLAS
 W. SPIGNER**

1 (“Motion”). The Motion was filed on Friday, December 16, 2022, at 4:16 p.m. (Spigner
2 Declaration ¶ 5). Plaintiff’s Opposition was filed on Friday, December 30, 2022, at 9:58 p.m.
3 (PST). (Spigner Declaration ¶ 7). As such, the courts electronic filing system (“ECF”)
4 automatically set the date for Wallace to file a Reply as January 6, 2023. Due to: (1) the
5 Opposition being filed well-after normal business hours (although timely); (2) the New Year’s
6 Holiday; and, (3) the related Court Holiday (1/2/2023), Wallace’s counsel did not receive a notice
7 the Opposition was filed until Tuesday, January 3, 2022. (Spigner Declaration ¶ 11). Effectively,
8 Wallace’s counsel only had four days to file a Reply. (Spigner Declaration ¶ 7). As such, Wallace
9 Respectfully Requests an extension of two (2) court days to file a Reply, on January 10, 2023.

10 An enlargement of time to file a Reply Brief can be granted under, FRCP 6 and LR IA 6-

11 1. These rules are set out below:

12 LR IA 6-1. REQUESTS FOR CONTINUANCE, EXTENSION OF TIME, OR
13 ORDER SHORTENING TIME

14 (a) A motion or stipulation to extend time must state the reasons for
15 the extension requested and must inform the court of all previous extensions of
16 the subject deadline the court granted. (Examples: “This is the first stipulation
17 for extension of time to file motions.” “This is the third motion to extend time to
18 take discovery.”) A request made after the expiration of the specified period will
19 not be granted unless the movant or attorney demonstrates that the failure
20 to file the motion before the deadline expired was the result of excusable neglect.
21 Immediately below the title of the motion or stipulation there also must be a
22 statement indicating whether it is the first, second, third, etc., requested extension,
23 i.e.:

24 STIPULATION TO EXTEND TIME TO FILE MOTIONS (First Request)

(b) The court may set aside any extension obtained in contravention of this rule.

(c) 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.

FRCP 6: Computing and Extending Time; Time for Motion Papers

1 (b) Extending Time.

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

4 (A) with or without motion or notice if the court acts, or if a request is
5 made, before the original time or its extension expires; or

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

8 Under both rules, the moving party is only required to make a showing of excusable
9 neglect if the motion is made after the expatriation of the subject deadline. Since the Motion is
10 made before the expiration of the subject deadline, Wallace is not required to make a showing of
11 excusable neglect. Wallace must support the Motion with reasons (LR IA 6-1), specifically good
12 cause (FRCP 6(b)(1)(A)).

13 As set forth in the Spigner Declaration, the reason good cause exists to extend the time
14 for Wallace to file a brief by two court days: (1) the Opposition being filed well-after normal
15 business hours (although timely); (2) the New Year's Holiday; and, (3) the related Court Holiday
(1/2/2023). (Spigner Declaration ¶ 11).

16 **II.**
17 **CONCLUSION**

18 For the foregoing reasons, Defendant Aaron Wallace respectfully requests that the Court
19 grant this Motion for an Enlargement of Time for two court days (Tuesday, January 10, 2023), to
20 file a Reply to Reflex Media, Inc's Opposition [ECF 321] to Wallace's Motion for Case-
21 Dispositive Sanctions and, Alternatively, Further Discovery and Evidentiary Sanctions [ECF
22 320]. Alternatively, Aaron Wallace's Motion for Case-Dispositive Sanctions and, Alternatively,
23 Further Discovery and Evidentiary Sanctions [ECF 320], should be granted.
24

1 DATED: January 6, 2023

Respectfully submitted,

2 By: /s/ Nicolas Spigner

Nicolas W. Spigner, Esq.

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Local Counsel for Defendant Aaron Wallace

11 **ORDER**

12 For good cause shown, IT IS ORDERED
13 that ECF No. 322 is GRANTED.

14 IT IS SO ORDERED

DATED: 1:17 pm, January 09, 2023



15 BREND A WEKSLER
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2023, 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 below, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner, as specified, for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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DATED: January 6, 2023

By: /s/ Nicolas Spigner
Nicolas W. Spigner, Esq.