

1 AARON D. FORD
 Attorney General
 2 CHRISTOPHER M. GUY (Bar No. 15239)
 Deputy Attorney General
 3 State of Nevada
 Office of the Attorney General
 4 555 East Washington Avenue
 Suite 3900
 5 Las Vegas, Nevada 89101
 (702) 486-3326 (phone)
 6 (702) 486-3773 (fax)
 Email: cguy@ag.nv.gov

7 *Attorneys for Defendants*
 8 *Brian Williams, Jennifer Nash,*
Monique Hubbard-Pickett, James
 9 *Dzurenda, Michael Fuscarino,*
Frank Dreesen, Jerry Howell,
 10 *Sonya Carrillo, and Oliver Mora-Rocha*

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

15 DONALD ROBIN BARREN,
 16 Plaintiff,
 17 v.
 18 JAMES DZURENDA, *et al.*,
 19 Defendants.

Case No. 2:19-cv-00142-APG-VCF

**DEFENDANTS' MOTION TO
 EXTEND TIME TO RESPOND TO
 THE AMENDED COMPLAINT
 (ECF NO. 9)
 (FIRST REQUEST)**

20
 21 Defendants, Brian Williams, Jennifer Nash, Monique Hubbard-Pickett, James
 22 Dzurenda, Michael Fuscarino, Frank Dreesen, Jerry Howell, Sonya Carrillo, and Oliver
 23 Mora-Rocha, by and through counsel, Aaron D. Ford, Nevada Attorney General, and
 24 Christopher M. Guy, Deputy Attorney General, of the State of Nevada, Office of the
 25 Attorney General, request this Court extend the deadline for Defendants to respond to the
 26 Complaint from December 28, 2020, to January 27, 2020.

27 ///
 28 ///

MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND

On May 1, 2020, this Court issued its Screening Order on Amended Complaint.¹ The Court Ordered an Inmate Early Mediation Conference (EMC) be held on October 2, 2020.² Subsequent to the Court's Order setting the EMC, Plaintiff Donald Barren (Barren) was released from prison on August 14, 2020.³ Both parties attended the EMC in good faith, but were unable to settle the case.⁴

The undersigned counsel joined the Office of the Attorney General on November 30, 2020. On December 3, 2020, the undersigned counsel was admitted to practice in U.S. District Court, District Court of Nevada. Since his admission, counsel has recently been assigned the defense duties of this case.⁵

On December 22, 2020, undersigned counsel called Barren to request an extension of time to file a response to the Complaint. However, Barren did not answer. The undersigned counsel left Barren a Voicemail containing the request for an extension.⁶

However, with the holidays upon us, and out of an abundance of caution, Defendants file this motion requesting an extension to respond having made efforts to meet and confer. Defendants currently have until December 28, 2020, to respond to Barren's Amended Complaint.⁷

II. LEGAL ARGUMENT

Under Federal Rules of Civil Procedure Rule 6(b): Extending Time,

When an act may or must be done within a specified time, the court may, for good cause, extend the time:

¹ ECF No. 11.

² ECF No. 17.

³ ECF No. 18.

⁴ ECF No. 22.

⁵ The undersigned counsel has been assigned over 20 cases in varying stages of litigation since December 3, 2020. While counsel has worked diligently and without delay to get up to speed on all these assigned cases, his efforts have been complicated by the Governor's Stay at Home directive, which has significantly reduced access to the Attorney General's office and resources.

⁶ Ex. A (Declaration of defense counsel)

⁷ ECF No. 25.

1 (A) with or without motion or notice if the court acts, or if a
2 request is made, before the original time or its extension expires;
3 or
4 (B) on motion made after the time has expired if the party failed
5 to act because of excusable neglect.⁸

6 FRCP 6(b).⁹

7 Here, there is good cause to extend the time for Defendants to respond. As detailed
8 above, the case has moved forward with little delay. Defendants have acted diligently in
9 their defense of this case. However, Defendants have been unable to complete the response
10 due to several factors: (1) counsel was only recently appointed to defend this matter and
11 thus needs additional time to review the case, (2) due to Governor Sisolak's Stay at Home
12 2.0 order, counsel has been required to work from home, which reduced access to case files,
13 and (3) due to the upcoming holiday, the Office of the Nevada Attorney General will be
14 closed.

15 Further, additional time will allow undersigned counsel to confer with the individual
16 defendants to prepare a response. Moreover, undersigned counsel has made efforts to
17 confer with Barren so the motion would be a joint stipulation. However, due to the limited
18 time available, Defendants now move this Court for an extension of time to file a response.

19 Lastly, Plaintiff will not be prejudiced by this request. He is no longer in NDOC
20 custody and there are no outstanding declaratory relief issues that would require
21 immediate adjudication of the matter or temporally sensitive issues.

22 In the event that the parties are able to have a substantive telephone call or letter
23 exchange, the undersigned will provide a supplement to the instant motion.

24 **III. CONCLUSION**

25 Good cause exists for granting the extension. Defendants respectfully request 30
26 days from the current deadline of December 28, 2020. Defendants' request would make the

27 ///

28 ///

⁸ (2) Exceptions. A court must not extend the time to act under Rules 50(b) and (d),
52(b), 59(b), (d), and (e), and 60(b).

⁹ See also Local Rule 6-1

1 deadline to respond to Plaintiff's amended complaint¹⁰ January 27, 2021. There are no
2 other deadlines set that would be affected by this request.

3 DATED this 23rd day of December, 2020.

4 AARON D. FORD
5 Attorney General

6 By: /s/ Christopher M. Guy
7 CHRISTOPHER M. GUY (Bar. No. 15239)
8 Deputy Attorney General

9 *Attorneys for Defendants*

10
11 IT IS SO ORDERED.

12 1-8-2021

13 DATED: _____

14
15 

16 UNITED STATES MAGISTRATE JUDGE

17
18
19
20
21
22
23
24
25
26
27
28 _____
¹⁰ ECF No. 9.

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on December 23, 2020, I electronically filed the foregoing **DEFENDANTS' MOTION TO EXTEND TIME TO RESPOND TO THE AMENDED COMPLAINT (ECF NO. 9) (FIRST REQUEST)** via this Court's electronic filing system. Parties who are registered with this Court's electronic filing system will be served electronically. For those parties not registered, service was made by depositing a copy for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, addressed to the following:

Donald Barren
2737 Webster Street
North Las Vegas, Nevada 89030
Plaintiff, Pro Se

/s/ Carol A. Knight
CAROL A. KNIGHT, an employee of the
Office of the Nevada Attorney General

EXHIBIT A

Declaration of Counsel

EXHIBIT A

1 AARON D. FORD
Attorney General
2 CHRISTOPHER M. GUY (Bar No. 15239)
Deputy Attorney General
3 State of Nevada
Office of the Attorney General
4 555 East Washington Avenue
Suite 3900
5 Las Vegas, Nevada 89101
(702) 486-3326 (phone)
6 (702) 486-3773 (fax)
Email: cguy@ag.nv.gov

7 *Attorneys for Defendants*
8 *Brian Williams, Jennifer Nash,*
Monique Hubbard-Pickett, James
9 *Dzurenda, Michael Fuscarino,*
Frank Dreesen, Jerry Howell,
10 *Sonya Carrillo, and Oliver Mora-Rocha*

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

15 DONALD ROBIN BARREN,
16 Plaintiff,

17 v.

18 JAMES DZURENDA, *et al.*,
19 Defendants.

Case No. 2:19-cv-00142-APG-VCF

**DECLARATION OF COUNSEL IN
SUPPORT OF DEFENDANTS'
MOTION TO EXTEND TIME TO
RESPOND TO THE AMENDED
COMPLAINT (ECF NO. 9)
(FIRST REQUEST)**

20
21 I, Christopher M. Guy, hereby attest that to the best of my knowledge the following
22 statements are true and correct:

23 1. I am employed as a Deputy Attorney General in the Office of the Nevada
24 Attorney General. I am employed in the Public Safety Division.

25 2. I represent Defendants in the matter of *Donald Robin Barren v. James*
26 *Dzurenda, et al.*, Case No. 2:189-cv-00142-APG-VCF.

27 ///

28 ///

1 3. At approximately 1:53 P.M. on December 22, 2020, I placed a phone call to
2 Plaintiff Donald Barren (Barren) to request an extension to respond to his Amended
3 Complaint (ECF No. 9).

4 4. However, Barren did not answer. The undersigned counsel then left Barren a
5 voicemail containing the request for an extension.

6 5. Defendants currently have until December 28, 2020, to respond the Barren's
7 Amended Complaint.

8 6. Declarant has had limited access to case files since his appointment to this
9 matter due to Governor Sisolak's Stay at Home 2.0 order, which requires a work from home
10 protocol. Further, due to the upcoming holiday, the Office of the Nevada Attorney General
11 will be closed.

12 7. Under these circumstances, the Declarant has been unable to speak with his
13 clients or with Barren regarding this matter.

14 Pursuant to Title 28, United States Code, Section 1746, I declare under penalty of
15 perjury that the foregoing is true and correct to the best of my knowledge and belief.

16 DATED this 23rd day of December, 2020.

17 AARON D. FORD
18 Attorney General

19 By: /s/ Christopher M. Guy
20 CHRISTOPHER M. GUY (Bar. No. 15239)
21 Deputy Attorney General

22 *Attorneys for Defendants*
23
24
25
26
27
28