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 8 *Aramark Services, Inc.)*

9  
 10 **UNITED STATES DISTRICT COURT**  
 11 **DISTRICT OF NEVADA**

12 RAUL HERRERA,  
 13  
 Plaintiff,

14 vs.

15 ARAMARK SERVICES, INC., a foreign  
 16 corporation; DOES I through V; and ROE  
 17 BUSINESS ENTITIES I through V; inclusive,  
 18 Defendants.

CASE NO. 2:19-cv-01594-GMN-DJA

**STIPULATION AND ORDER TO  
 EXTEND DISCOVERY DEADLINES  
 (FOURTH REQUEST)**

19 Pursuant to LR 26-3 and the scheduling order (**Doc. 15**) in this matter, Plaintiff RAUL  
 20 HERRERA, by and through his attorneys of record, the law firm GREENMAN GOLDBERG  
 21 RABY & MARTINEZ, and Defendant ARAMARK CORRECTIONAL SERVICES, LLC,  
 22 incorrectly named in the complaint as ARAMARK SERVICES, INC., (collectively “the Parties”)  
 23 by and through its attorneys, LEWIS BRISBOIS BISGAARD & SMITH LLP (collectively “the  
 24 Parties”) hereby respectfully submit their Stipulation and Order to Extend Time for Discovery  
 25 (Fourth Request) pursuant Rules 6(b) and 26(f) of the Federal Rules of Civil Procedure and LR  
 26 IA 6-1 and LR 26-3.

27 This is the Parties’ Fourth Request for an Extension of Time, and the same is not brought  
 28 for purposes of delay, but rather for the purposes of allowing Plaintiff to receive surgery on an

1 injured body part and for the parties to diligently and adequately prepare their respective cases  
2 during ongoing settlement discussions or trial. Plaintiff a has been experiencing increasing pain in  
3 his left shoulder, a body part he alleges was injured as a result of the subject incident. After  
4 receiving an evaluation by one of his treating physicians, surgery was recommended. Defendant  
5 has scheduled an Independent Medical Examination of Plaintiff on January 12, 2021. Plaintiff is  
6 scheduled to receive surgery on January 13, 2021. Defendant conducted the deposition of Plaintiff  
7 on January 4, 2021. Defendant is also currently scheduling the deposition of at least one of  
8 Plaintiff's treating physicians. Defendant is also scheduling the deposition of another deputy who  
9 was present during the subject incident and anticipates conducting the depositions of multiple  
10 (then) Clark County Detention Center inmates who were present as well. Due to the current and  
11 ongoing COVID-19 pandemic, scheduling these depositions has been difficult, and in the case of  
12 the inmates these individuals have not been identified. However, the parties are working diligently  
13 to complete necessary discovery to assist settlement negotiations and prepare this case for trial.  
14 **Thus, an extension of the current discovery deadlines is warranted.**

15 This stipulation is brought in compliance with LR 26-3 as it is filed 20 days before the  
16 expiration of Plaintiff's Initial Expert Disclosure deadline. Due to certain complexities in this case,  
17 and in particular, the ongoing COVID-19 pandemic and resulting governmental and Court  
18 precautionary restrictions, the parties jointly request a 60-day extension of the deadline for  
19 plaintiff's initial expert disclosure, defendant's initial expert disclosures, rebuttal expert  
20 disclosures, and deadline to file motion(s) to add parties or amend pleadings as detailed herein.

22 **REASONS WHY THE DISCOVERY REMAINING WAS NOT COMPLETED WITHIN**  
23 **THE DEADLINES CONTAINED IN THE DISCOVERY SCHEDULING ORDER**

24 The extension is sought for the following reasons:

25 The parties acknowledge that they must be diligent in continuing discovery when they are  
26 better able to and have moved discovery forward, however, although certain restrictions have been  
27 lifted, the COVID-19 environment has slowed down the normal time it takes to conduct discovery  
28

1 as people are working from home and related issues that negatively impact the situation. In  
2 addition, Nevada Governor Sisolak recently extended the “pause” of businesses for an additional  
3 thirty (30) days to account for the recent upsurge in COVID-19 infections and related deaths.  
4 Nevertheless, good cause exists to extend the discovery deadlines as the Parties would like to  
5 engage in meaningful and necessary discovery. Due to the ongoing COVID-19 pandemic and  
6 resulting governmental restrictions, there are certain limitations regarding deponents and their  
7 availability for deposition. Also, certain discovery activities are impeded by the social distancing,  
8 travel restrictions and other requirements currently being implemented by federal, state and local  
9 governments. (*see* U.S. Dist. Ct. NV Temporary General (amended) Orders 2020-03, 2020-04 and  
10 2020-05).  
11

12 Nevada Governor Sisolak declared a state of emergency due to COVID-19. The Nevada  
13 State Courts have subsequently issued numerous Administrative Orders indicating that the  
14 COVID-19 emergency “as constituting ‘good cause’ and ‘excusable neglect’ warranting the  
15 extension of time on non-essential civil case types.” (*See* Eighth Judicial District Court  
16 Administrative Order 20-09, Administrative Order 20-13 and Administrative Order 20-17). The  
17 Nevada Supreme Court has also recommended suspending all jury trials and suggested that the  
18 current COVID-19 emergency constitutes both “good cause” and also “excusable neglect”  
19 warranting extensions in non-essential civil cases, such as the present case. (*See* Nev. Sup. Ct.  
20 AO-0013, at p.2 ¶2 and p.6 ¶8). Although Eighth Judicial District Court jury trials had recently  
21 been allowed to occur (AO 20-22), they were, again, suspended to January 11, 2021 to account for  
22 the recent upsurge in COVID-19 infections (AO 20-23 and AO 20-24). Administrative Order 20-24  
23 does not allow for in-person depositions unless stipulated to by the parties or a showing of  
24 extraordinary circumstances, social distancing restrictions were also mandated for these  
25 depositions. Thus, moving the discovery deadlines back as requested herein is a reasonable request  
26 as COVID-19 is continuing to slow down and/or impact almost every aspect of life and it has  
27 delayed completion of discovery on the current schedule despite the recent relaxing of certain  
28

1 restrictions and practices by both the Courts and state government.

2           Furthermore, as previously discussed, Plaintiff disclosed ongoing medical treatment,  
3 including, the recommendation for surgery, which is scheduled to occur on January 13, 2021, on  
4 his left shoulder which he alleges was injured as a result of the subject incident. Thus, Plaintiff is  
5 still treating, which will include post-surgical care. This surgery has changed the requirements of  
6 the case as it now involves a more serious condition that will require not only evaluation (via  
7 Defendant's Independent Medical Examination) but additional discovery by the parties and their  
8 respective experts. Substantial additional time is needed by both parties to further develop their  
9 cases as well as attempt to resolve the claims.  
10

11           To date, the parties have exchanged documents disclosures and supplemented mandatory  
12 disclosures as needed. Defendant has also propounded discovery, and Plaintiff has responded to  
13 written discovery. Defendant granted Plaintiff multiple extensions to respond to written discovery.  
14 Plaintiff has also propounded written discovery to Defendant and Plaintiff granted multiple  
15 extensions to Defendant to respond to written discovery. Defendant propounded additional  
16 discovery which Plaintiff has responded to. In addition, Defendant has deposed Plaintiff. The  
17 aforementioned COVID-19 pandemic slowed down the entire process in responding to discovery.  
18 Defendant timely responded to Plaintiff's written discovery but the COVID-19 pandemic caused  
19 delays in responding to Plaintiff's written discovery. Currently, depositions of the FRCP 30(b)(6)  
20 witnesses of Defendant are scheduled for January 26, 2021 and February 19, 2021. Defendant is  
21 currently scheduling the depositions of Plaintiff's treating physicians and witnesses to the subject  
22 incident. However, COVID-19 precautions are hampering progress.  
23  
24

25           **IT IS HEREBY STIPULATED AND AGREED** to by the Parties that the discovery  
26 deadlines in this matter be continued for a period of 60 days to allow the parties additional time  
27 for discovery to be completed, to retain and disclose experts, for Defendant to conduct an  
28

1 Independent Medical Examination of Plaintiff, for Plaintiff to have left shoulder surgery, for  
2 Plaintiff to depose the FRCP 30(b)(6) witnesses for Defendant, for Defendant to depose Plaintiff's  
3 treating physicians and fact witnesses and allow the parties additional time to continue ongoing  
4 settlement discussions. This additional time will also account for the ongoing COVID-19  
5 preventative restrictions and any potential future preventative actions taken by federal, state and  
6 local governments should they be implemented.  
7

8 **STATEMENT SPECIFYING THE DISCOVERY THAT HAS BEEN COMPLETED.**

- 9 1. The parties participated in the Fed.R.Civ.P 26(f) conference;
- 10 2. Parties have made their disclosures and supplements pursuant to Fed.R. Civ. P.  
11 26.1(a)(1);
- 12 3. Defendant propounded written discovery to Plaintiff.
- 13 4. Plaintiff responded to Defendant's written discovery.
- 14 5. Plaintiff propounded written discovery to Defendant.
- 15 6. Defendant responded to Defendant's written discovery.
- 16 7. Defendant deposed Plaintiff on January 4, 2021.

17  
18 **SPECIFIC DESCRIPTION OF DISCOVERY THAT REMAINS TO BE DONE**

- 19 1. Discovery response and productions from entities that are not a party to this lawsuit;
- 20 2. Designation of expert witnesses;
- 21 3. Designation of rebuttal expert witnesses;
- 22 4. An Independent Medical Examination of Plaintiff;
- 23 5. Fact and witness depositions will be taken including the following:
- 24 A. Plaintiff's treating physicians;
- 25 B. Defendant's FRCP 30(b)(6) witnesses;
- 26 C. Fact witnesses; and
- 27 D. Expert witnesses
- 28 6. Additional follow up written discovery.

1 The Parties are diligently moving forward with discovery. The surgery on Plaintiff  
 2 regarding the further deterioration of his left shoulder has increased the necessity of additional  
 3 discovery. The Parties hereby request an extension of discovery deadlines and now respectfully  
 4 request this Honorable Court grant this joint request to move the deadline for discovery back.

5 The current deadline for Plaintiff’s Initial Disclosure of Experts is Tuesday, March 9,  
 6 2021. Accordingly, this request is being brought 55 days prior to that date. Here, good cause exists  
 7 because the parties have been diligent in conducting discovery. However, additional time is  
 8 needed for the parties to complete discovery and to account for the current COVID-19  
 9 environment and ongoing protective measures.

10 **PROPOSED SCHEDULE FOR COMPLETING REMAINING DISCOVERY**

11 As a result of the above, it is requested that the discovery deadlines be continued 60 days  
 12 from their present deadlines as follows:

13 **SCHEDULE FOR COMPLETING REMAINING DISCOVERY**

	<b><u>Current Date</u></b>	<b><u>Proposed Date</u></b>
14 ▪ Amend Pleadings/Add Parties	03/09/2021	5/10/2021
15 ▪ Plaintiff’s Initial Expert Disclosure	03/09/2021	5/10/2021
16 ▪ Defendant’s Initial Expert Disclosure	04/07/2021	6/07/2022
17 ▪ Rebuttal Expert Disclosure	05/11/2021	7/12/2021
18 ▪ Discovery Cut-off	07/06/2021	9/06/2021
19 ▪ Dispositive Motions	08/06/2021	10/05/2021
20 ▪ Joint Pretrial Order	11/05/2021	11/5/2021

21 **Extensions or Modifications of the Discovery Plan and Scheduling Order:**

22 Any stipulation or motion must be made no later than 21 days before the subject deadline.  
 23  
 24 Requests to extend discovery deadlines must comply fully with LR 26-3.  
 25

26 **CONCLUSION**

27 Based on the foregoing the Parties respectfully request that this Honorable Court approve  
 28 this Fourth Stipulation to Extend the Time for Discovery.

1 **RESPECTFULLY SUBMITTED**

2 DATED this 13<sup>th</sup> day of January, 2021.

DATED this 13<sup>th</sup> day of January, 2021.

3 **GREENMAN, GOLDBERG, RABY &**  
4 **MARTINEZ**

**LEWIS BRISBOIS BISGAARD & SMITH**  
**LLP**

5 */s/ William T. Martin*

*/s/ James E. Murphy*

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**ORDER**

12

Based upon the Stipulation of the Parties hereto, and with good cause appearing therefore,

13

IT IS HEREBY ORDERED, that the Stipulation to Extend herein above is hereby Granted.

14

**The parties are directed to review the new dates in this order as they were amended to comport with the sixty day extension request.**

15

DATED this 19th day of January, 2021.

16

17

UNITED STATES MAGISTRATE JUDGE

18

Respectfully Submitted By:

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LEWIS BRISBOIS BISGAARD & SMITH LLP

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*/s/ James E. Murphy*

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