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 Attorneys for Defendant  
 7 BTO INVESTMENTS, INC.

8  
 9 UNITED STATES DISTRICT COURT  
 10 DISTRICT OF NEVADA  
 11

12 HOLLY MARIE WOOD, an individual,  
 13 Plaintiff,  
 14 vs.  
 15 CARL'S JR., operated and owned by BTO  
 INVESTMENTS, a Delaware corporation;  
 16 S.L. INVESTMENTS, a Nevada  
 corporation; CKE RESTAURANTS, INC., a  
 17 Delaware corporation; CARL'S JR.  
 RESTAURANTS, LLC, a foreign limited  
 18 liability company; CARL KARCHER  
 ENTERPRISES, INC., a foreign  
 19 corporation; CKE RESTAURANTS  
 HOLDINGS, INC., a foreign corporation;  
 20 RUCEY MOLINA CRUZ, an individual;  
 DOES 1 through 10, inclusive; ROE  
 21 CORPORATIONS/ENTITIES 1 through 10,  
 inclusive;  
 22 Defendants.  
 23

CASE NO. 2-20-cv-02329-APG-BNW  
 DEFENDANTS' JOINT MOTION TO  
 EXTEND DISCOVERY DEADLINES

24  
 25 COME NOW, Defendants, BTO INVESTMENTS, INC., S.L. INVESTMENTS, CKE  
 26 RESTAURANTS, INC., CARL'S JR. RESTAURANTS, LLC, CARL KARCHER  
 27 ENTERPRISES, INC., and CKE RESTAURANTS HOLDINGS, INC. (hereinafter  
 28



1 collectively, “Defendants”), by and through their respective counsel of record, and  
2 pursuant to FRCP 26 and LR 26-3, move this Court for an Order extending discovery  
3 deadlines for good cause shown.

4 This Motion is made and based upon LR IA 6-1, LR 7-1, and LR 26-3, the  
5 memorandum of points and authorities, the declaration of Jesselyn V. De Luna, and any  
6 oral argument the Court deems appropriate.

7 Respectfully submitted,

8 DATED this 30th day of August, 2021.

10 LEWIS BRISBOIS BISGAARD &  
11 SMITH LLP

ALVERSON TAYLOR & SANDERS

12 */s/ Josh Cole Aicklen*

*/s/ Karie N. Wilson*

13 Josh Cole Aicklen, Esq.  
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RESTAURANTS, INC., AND CARL  
KARCHER ENTERPRISES, INC*

20 GORDON REES SCULLY  
21 MANSUKHANI LLP

21 */s/ Rachel L. Wise*

22 Robert S. Larsen, Esq.  
23 Nevada Bar No. 7785  
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26 300 South Fourth Street, Suite 1550  
27 Las Vegas, Nevada 89101  
28 *Attorneys for Defendant  
S.L. INVESTMENTS*

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DECLARATION OF JESSELYN V. DE LUNA, ESQ.

I, JESSELYN V. DE LUNA, declare and state as follows:

1. I am an associate in the law firm of Lewis Brisbois Bisgaard & Smith, LLP, am duly licensed to practice law in the State of Nevada, and am an attorney for Defendant BTO Investments, Inc. in the above-captioned matter.

2. I have personal knowledge of the facts set forth hereunder and am competent to testify to the same.

3. In late July, our office proposed a mediation in this case, to which all parties agreed. A true and correct copy of this email chain is attached hereto as **Exhibit A**.

4. The mediation was eventually scheduled for Monday, September 27, 2021 with Judge Trevor Atkin (Ret.) at Advanced Resolution Management.

5. In light of the pending mediation, it was discussed that major discovery would be paused to allow the parties time to prepare for the mediation without incurring potentially unnecessary discovery costs. To this end, it was agreed by all parties that the scheduled deposition of Plaintiff Wood, which was set to take place on Monday, July 26, 2021, was cancelled. See, Exhibit A.

6. Initial expert disclosures are currently due on September 20, 2021, exactly one week before the scheduled mediation. Given the parties' interest in avoiding unnecessary discovery expenses, a draft Amended Discovery Plan and Scheduling Order was circulated on August 20, 2021. All parties agreed to the extension except for Plaintiff. I called Plaintiff's counsel's office and spoke with Paul Padda, Esq. who advised that an answer would be provided the following Monday. On Monday, August 23<sup>rd</sup>, Plaintiff's counsel declined to stipulate to an extension of deadlines. A true and correct copy of this email chain is attached hereto as **Exhibit B**.

7. Because of Plaintiff's refusal to extend the current deadlines, the mediation was cancelled to allow the parties time to focus on completing discovery as soon as possible in order to go to trial. However, due to certain circumstances discussed herein, defense counsel for BTO Investments, Inc., S.L. Investments, and the CKE Defendants

1 agree that an extension of time is necessary. As such, Defendants are forced to bring  
2 forth the instant Joint Motion.

3 8. The instant Motion is timely as it is brought no later than 21 days before the  
4 expiration of the next deadline, September 20, 2021, in accordance with LR 26-3.

5 9. The instant Motion is brought in good faith and not for the purpose of undue  
6 delay.

7 I declare under penalty of perjury under the laws of the United States of America  
8 that the foregoing is true and correct.

9 Executed on August 30, 2021 in Las Vegas, Nevada.

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*/s/ Jesselyn V. De Luna*

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JESSELYN V. DE LUNA

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 This is a civil rights employment discrimination, sexual assault, and battery action  
4 brought by Plaintiff Holly Marie Wood (“Plaintiff”) against CKE Restaurants, Inc., Carl’s Jr.  
5 Restaurants, LLC, Carl Karcher Enterprises, Inc., and CKE Restaurants Holdings, Inc.  
6 (hereinafter collectively, “CKE Defendants”), BTO Investments, Inc., and S.L.  
7 Investments. Plaintiff alleges Defendants are vicariously liable for her injuries. See  
8 generally, Complaint. Plaintiff filed her Complaint on September 18, 2020.

9 Local Rule 26-1(b)(1) provides that “unless otherwise ordered, discovery periods  
10 longer than one hundred and eighty (180) days from the date the first defendant answers  
11 or appears will require special scheduling review.” On February 23, 2021, the Court  
12 granted the parties’ Proposed Discovery Plan and Scheduling Order, approving the  
13 parties’ request for a 240-day discovery period, as reasonable and necessary, in light of  
14 the impact of the COVID-19 pandemic. (Doc. 30). On June 25, 2021, the Court granted  
15 the parties’ Amended Plan and Scheduling Order, approving the parties’ request that an  
16 additional 90 days be added to the discovery period, for a total of 330 days, based on  
17 certain extenuating circumstances, including the unsuccessful Early Neutral Evaluation  
18 on March 10, 2021 leading to the entry of Defendant S.L. Investments into the suit, the  
19 withdrawal of CKE Defendants’ former attorneys and the appearance of their current  
20 attorneys, the pending service of Defendant Rucey Molina Cruz, written discovery  
21 extensions, the continuation of Plaintiff’s deposition, the anticipated need for the  
22 depositions of additional fact witnesses and Plaintiff’s treating physicians, and inadvertent  
23 errors in the calculation of the original Order. (Doc. 48).

24 Defendants now propose that an **additional 60 days** be added to the 330-day  
25 discovery period, for a total of **390 days**. In late July, counsel for BTO Investments, Inc.  
26 proposed a mediation in this case, to which all parties agreed. A true and correct copy of  
27 this email chain is attached hereto as **Exhibit A**. The mediation was eventually scheduled  
28 for Monday, September 27, 2021 with Judge Trevor Atkin (Ret.) at Advanced Resolution

1 Management. In light of the pending mediation, it was discussed that major discovery  
2 would be paused to allow the parties time to prepare for the mediation without incurring  
3 potentially unnecessary discovery costs. Consequently, the scheduled deposition of  
4 Plaintiff, which was set to take place on Monday, July 26, 2021, was cancelled. See,  
5 **Exhibit A**.

6 Initial expert disclosures are currently due on September 20, 2021, which was  
7 exactly one week before the scheduled mediation. Given the parties' interest in avoiding  
8 unnecessary discovery expenses, a draft Amended Discovery Plan and Scheduling Order  
9 was circulated on August 20, 2021. All parties agreed to the extension except for  
10 Plaintiff. Counsel for BTO Investments, Inc. called Plaintiff's counsel's office and spoke  
11 with Paul Padda, Esq. who advised that an answer would be provided the following  
12 Monday. See, Declaration of Jesselyn V. De Luna. On Monday, August 23<sup>rd</sup>, Plaintiff's  
13 counsel declined to stipulate to an extension of deadlines. A true and correct copy of this  
14 email chain is attached hereto as **Exhibit B**. Because of Plaintiff's refusal to extend the  
15 current deadlines, the mediation was cancelled to allow the parties time to focus on  
16 completing discovery to go to trial as soon as possible. However, given the expectation  
17 that the parties would participate in mediation, Plaintiff's deposition was not re-noticed. In  
18 addition to re-noticing Plaintiff's deposition, the parties will also have to produce their  
19 initial expert disclosures in an insufficient time frame. Furthermore, due to certain  
20 circumstances detailed below, defense counsel for BTO Investments, Inc., S.L.  
21 Investments, and the CKE Defendants agree that an extension of time is necessary. As  
22 such, Defendants bring forth the instant Joint Motion.

## 23 II. COMPLIANCE WITH LR 26-3 TO SHOW GOOD CAUSE FOR EXTENSION

24 Pursuant to the requirements of LR 26-3 regarding extending scheduled deadlines,  
25 Defendants have included herewith:

- 26 A. A statement specifying the discovery completed;
- 27 B. A specific description of the discovery that remains to be completed;
- 28 C. The reasons why the deadline was not satisfied or the remaining discovery

1 was not completed within the time limits set by the discovery plan; and

2 D. A proposed schedule for completing all remaining discovery.

3 **A. Statement Specifying the Discovery Completed**

4 The parties have conducted the following discovery to date:

5 1. Plaintiff served her Initial Disclosures on March 3, 2021

6 2. Defendant BTO Investments, Inc. served its Initial Disclosures on March 5,  
7 2021

8 3. CKE Defendants served their Initial Disclosures on March 3, 2021;

9 4. Defendant BTO Investments, Inc. propounded its First Set of Interrogatories  
10 and First Set of Requests for Production to Plaintiff on March 25, 2021;

11 5. Plaintiff served her First Supplement to Initial Disclosures on April 26, 2021;

12 6. Plaintiff served her Responses to Defendant BTO Investments, Inc.'s First  
13 Set of Interrogatories and First Set of Requests for Production on April 26, 2021;

14 7. Plaintiff propounded her First Set of Interrogatories and First Set of  
15 Requests for Production to Defendant BTO Investments, Inc. on April 27, 2021;

16 8. CKE Defendants served their First Supplement to Initial Disclosures on April  
17 30, 2021;

18 9. CKE Defendants propounded their First Set of Interrogatories and First Set  
19 of Requests for Production to Plaintiff on June 10, 2021;

20 10. Defendant S.L. Investments served Initial Disclosures on June 19, 2021;

21 11. Defendant BTO Investments, Inc. served its First Supplement to Initial  
22 Disclosures on June 25, 2021;

23 12. Defendant BTO Investments, Inc. served its Responses to Plaintiff's First  
24 Set of Interrogatories and First Set of Requests for Production;

25 13. Plaintiff served her Responses to the CKE Defendants' First Set of  
26 Interrogatories and First Set of Requests for Production on July 12, 2021;

27 14. Plaintiff propounded her Second Set of Interrogatories to Defendant BTO  
28 Investments, Inc. on July 28, 2021;

1 15. Plaintiff propounded her First Set of Requests for Production to Defendant  
2 S.L. Investments on July 28, 2021; and

3 16. Defendant S.L. Investments propounded its First Set of Requests for  
4 Admissions to Defendant BTO Investments, Inc. on August 6, 2021.

5 **B. Specific Description of the Discovery that Remains to Be Completed**

- 6 1. Additional Written Discovery;  
7 2. Initial Expert Disclosures;  
8 3. Rebuttal Expert Disclosures;  
9 4. Deposition of Plaintiff;  
10 5. Independent Medical Examination of Plaintiff;  
11 6. Vocational Interview of Plaintiff;  
12 7. Depositions of Respective FRCP 30(b)(6) Witnesses;  
13 8. Depositions of Percipient Witnesses;  
14 9. Depositions of Treating Physicians;  
15 10. Depositions of Plaintiff's Expert Witnesses;  
16 11. Depositions of Defendants' Expert Witnesses; and  
17 12. Any Additional Discovery Deemed Necessary.

18 **C. Reasons Why the Deadline Was Not Satisfied or the Remaining Discovery  
19 Was Not Completed Within the Time Limits Set by the Discovery Plan**

20 Defendants respectfully request that an **additional 60 days** be added to the 330-  
21 day discovery period, for a total of **390 days**. The parties have been diligently working to  
22 complete discovery in accordance with the current deadlines. However, certain factors  
23 have necessitated an extension of the current deadlines.

24 First, the parties agreed to mediate the case, setting the mediation for September  
25 27, 2021. This was done with the understanding that major discovery would be paused to  
26 allow the parties time to prepare for the mediation without incurring potentially  
27 unnecessary discovery costs. Consequently, Plaintiff's scheduled deposition was  
28 cancelled. Plaintiff now refuses to stipulate to extend discovery deadlines, which would



1 force the parties to depose Plaintiff and gather experts within an insufficient time frame.

2 Second, Defendant BTO Investment Inc. has a new handling attorney. Defendant  
3 BTO Investments, Inc. is represented by the law firm Lewis Brisbois Bisgaard & Smith,  
4 LLP. The original handling attorney, Bruce C. Young, Esq., left the firm. The case was  
5 internally reassigned to Josh Cole Aicklen, Esq. as the primary handling attorney.

6 Third, Plaintiff herself has a pending extension. She has not yet been able to  
7 effectuate service of the Summons and Complaint on Defendant Rucey Molina Cruz.  
8 Plaintiff therefore sought and was granted additional time to effectuate service. The  
9 Court's Order dated May 5, 2021, extended service upon Defendant Rucey Molina Cruz  
10 "up to and including 180 days from [the] Order," or until November 1, 2021. (Doc. 44). As  
11 of the date of this filing, Plaintiff has not advised as to the status of service and no  
12 confirmation has been provided to indicate that Mr. Cruz has been served.

13 Fourth, the parties also anticipate the need for the depositions of additional fact  
14 witnesses, including former employees of the restaurant where Plaintiff was previously  
15 employed. Some of these witnesses may be difficult to locate as several were also  
16 teenagers or young adults who stopped working for Defendant BTO in 2018, nearly three  
17 years ago. In addition, Plaintiff is seeking emotional distress damages and damages for  
18 alleged future medical care and the parties therefor anticipate the need for depositions of  
19 Plaintiff's treating physicians including, but not limited to, physicians at UMC Trauma, Dr.  
20 Norton Roitman, Dr. Ruth Ramirez, and Dr. Ron Zedek. Coordinating these depositions  
21 and accommodating the work and vacation schedules for the witnesses and the attorneys  
22 involved is expected to necessitate additional discovery time.

23 For all these reasons, the parties respectfully request that the applicable discovery  
24 deadlines be extended an additional 60 days. Upon a showing of good cause, this Court  
25 is authorized to modify the discovery schedule. See, FRCP 6(b)(1)(A); LR 26-4. "The  
26 district court may modify the pretrial schedule if it cannot reasonably be met despite the  
27 diligence of the party seeking the extension." Johnson v. Mammoth Recreations, Inc.,  
28 975 F.2d 604, 609 (9th Cir. 1992). Based upon the date the first Defendant answered or

1 otherwise appeared (December 23, 2020) (Doc. 1), the undersigned parties hereby  
 2 propose the following discovery schedule pursuant to the LR 26-1 (April 17, 2020):

3 **D. Proposed Schedule for Completing All Remaining Discovery**

4 Defendants submit the following proposed discovery plan, which represents a sixty  
 5 (60) day extension of the remaining discovery deadlines:

Current Discovery Plan & Scheduling Order		<i>Proposed</i> Amended Discovery Plan & Scheduling Order
Event	Current Deadline	Proposed Deadline
Discovery Cut-Off	November 18, 2021 (Thursday)	January 17, 2022 (Monday)  [390 Days from date first defendant answers or appears - LR 26-1 (b)(1)]
Amending Pleadings Adding Parties	August 20, 2021 (Friday)	October 19, 2021 (Tuesday)  [90 Days Before Close of Discovery - LR 26-1(b)(2)]
Initial Expert Disclosures	September 20, 2021 (Monday)	November 18, 2021 (Thursday)  [60 Days Before Close of Discovery - LR 26-1(b)(3)]
Rebuttal Expert Disclosures	October 20, 2021 (Wednesday)	December 20, 2021 (Monday)  [30 days after the Initial Disclosure of Experts - LR 26-1(b)(3) is a Saturday, 12/18/21]
Dispositive Motions	December 20, 2021 (Monday)	February 16, 2022 (Wednesday)  [30 Days After Close of Discovery - LR 26-1(b)(4)]



1 III. CONCLUSION

2 Based on the foregoing, Defendants, BTO Investments, Inc., S.L. Investments,  
3 CKE Restaurants, Inc., Carl's Jr. Restaurants, LLC, Carl Karcher Enterprises, Inc., and  
4 CKE Restaurants Holdings, Inc., respectfully request that this Court extend the discovery  
5 period by sixty (60) days from the current deadline and enter a new Scheduling Order  
6 with the dates proposed above.

7 Respectfully submitted,

8 DATED this 30th day of August, 2021.

10 LEWIS BRISBOIS BISGAARD &  
11 SMITH LLP

ALVERSON TAYLOR & SANDERS

12 */s/ Josh Cole Aicklen*

*/s/ Karie N. Wilson*

13 Josh Cole Aicklen, Esq.  
14 Nevada Bar No. 7254  
15 Jesselyn V. De Luna, Esq.  
16 Nevada Bar No. 15031  
17 6385 South Rainbow Boulevard, Suite 600  
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RESTAURANTS, INC., AND CARL  
KARCHER ENTERPRISES, INC*

20 GORDON REES SCULLY  
21 MANSUKHANI LLP

22 */s/ Rachel L. Wise*

Robert S. Larsen, Esq.  
23 Nevada Bar No. 7785  
24 Rachel L. Wise, Esq.  
25 Nevada Bar No. 12303  
26 300 South Fourth Street, Suite 1550  
27 Las Vegas, Nevada 89101  
28 *Attorneys for Defendant  
S.L. INVESTMENTS*

**Order**

IT IS ORDERED that ECF No. 52 is DENIED without prejudice. It does not appear that the parties met and conferred in accordance with LR IA 1-3(f).

IT IS SO ORDERED

DATED: 1:09 pm, August 31, 2021



BRENDA WEKSLER  
UNITED STATES MAGISTRATE JUDGE

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**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify that I am an employee of LEWIS BRISBOIS BISGAARD & SMITH LLP, and that on this 30th day of August, 2021, I did cause a true and correct copy of the foregoing **DEFENDANTS’ JOINT MOTION TO EXTEND DISCOVERY DEADLINES** to be filed with the Court and served to the following:

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Tony L. Abbatangelo, Esq.  
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*Attorneys for Plaintiff*

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*Attorneys for Defendants Carl’s Jr.  
Restaurants LLC, CKE Restaurants  
Holdings, Inc., CKE Restaurants, Inc.,  
and Carl Karcher Enterprises, Inc.*

By /s/ Lori Tollerud  
An Employee of  
LEWIS BRISBOIS BISGAARD & SMITH LLP

**From:** [Rachel Wise](#)  
**To:** [De Luna Jesselyn](#); [Robert Larsen](#); [Karie Wilson](#)  
**Cc:** [Aicklen Josh Cole](#); [Harris Adrina](#); [Tollerud Lorraine](#)  
**Subject:** [EXT] RE: Wood v. BTO Investments - Defendants' Joint Motion to Extend Deadlines  
**Date:** Friday, August 27, 2021 4:32:47 PM  
**Attachments:** [image001.png](#)

**Caution:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

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---

**From:** De Luna, Jesselyn <Jesselyn.DeLuna@lewisbrisbois.com>  
**Sent:** Friday, August 27, 2021 2:09 PM  
**To:** Robert Larsen <rlarsen@grsm.com>; Rachel Wise <rwise@grsm.com>; Karie Wilson <KWilson@AlversonTaylor.com>  
**Cc:** Aicklen, Josh Cole <Josh.Aicklen@lewisbrisbois.com>; Harris, Adrina <Adrina.Harris@lewisbrisbois.com>; Tollerud, Lorraine <Lorraine.Tollerud@lewisbrisbois.com>  
**Subject:** Wood v. BTO Investments - Defendants' Joint Motion to Extend Deadlines  
**Importance:** High

Good Afternoon,

Please see the draft Joint Motion to Extend Discovery Deadlines in the *Wood* case for your review and commentary. I also fixed the new proposed deadlines as they were a couple days off in the original e-mail proposal sent. Please advise as to any changes, or if we have your authority to affix your e-signature. Thank you!

Best,  
Jesselyn

	<p><b>Jesselyn De Luna</b> <b>Attorney</b> <a href="mailto:Jesselyn.DeLuna@lewisbrisbois.com">Jesselyn.DeLuna@lewisbrisbois.com</a> T: 702.693.4350 F: 702.366.9563</p>
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intended recipient.  
If you are not the  
intended recipient,  
any review or use of

**From:** [Karie Wilson](#)  
**To:** "Rachel Wise"; De Luna, Jesselyn; Robert Larsen  
**Cc:** [Aicklen, Josh Cole](#); [Harris, Adrina](#); [Tollerud, Lorraine](#)  
**Subject:** [EXT] RE: Wood v. BTO Investments - Defendants' Joint Motion to Extend Deadlines  
**Date:** Monday, August 30, 2021 9:20:28 AM  
**Attachments:** [image001.png](#)

**Caution:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you, Jesselyn. You may also use my electronic signature.

Karie Wilson, Esq.  
Alverson Taylor & Sanders  
702.384.7000 | [alversonstaylor.com](mailto:alversonstaylor.com)

---

**From:** Rachel Wise <[rwise@grsm.com](mailto:rwise@grsm.com)>  
**Sent:** Friday, August 27, 2021 4:33 PM  
**To:** De Luna, Jesselyn <[Jesselyn.DeLuna@lewisbrisbois.com](mailto:Jesselyn.DeLuna@lewisbrisbois.com)>; Robert Larsen <[rlarsen@grsm.com](mailto:rlarsen@grsm.com)>; Karie Wilson <[KWilson@AlversonTaylor.com](mailto:KWilson@AlversonTaylor.com)>  
**Cc:** Aicklen, Josh Cole <[Josh.Aicklen@lewisbrisbois.com](mailto:Josh.Aicklen@lewisbrisbois.com)>; Harris, Adrina <[Adrina.Harris@lewisbrisbois.com](mailto:Adrina.Harris@lewisbrisbois.com)>; Tollerud, Lorraine <[Lorraine.Tollerud@lewisbrisbois.com](mailto:Lorraine.Tollerud@lewisbrisbois.com)>  
**Subject:** RE: Wood v. BTO Investments - Defendants' Joint Motion to Extend Deadlines

This looks good. You may use my electronic signature.

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**Sent:** Friday, August 27, 2021 2:09 PM  
**To:** Robert Larsen <[rlarsen@grsm.com](mailto:rlarsen@grsm.com)>; Rachel Wise <[rwise@grsm.com](mailto:rwise@grsm.com)>; Karie Wilson <[KWilson@AlversonTaylor.com](mailto:KWilson@AlversonTaylor.com)>  
**Cc:** Aicklen, Josh Cole <[Josh.Aicklen@lewisbrisbois.com](mailto:Josh.Aicklen@lewisbrisbois.com)>; Harris, Adrina <[Adrina.Harris@lewisbrisbois.com](mailto:Adrina.Harris@lewisbrisbois.com)>; Tollerud, Lorraine <[Lorraine.Tollerud@lewisbrisbois.com](mailto:Lorraine.Tollerud@lewisbrisbois.com)>  
**Subject:** Wood v. BTO Investments - Defendants' Joint Motion to Extend Deadlines  
**Importance:** High

Good Afternoon,

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Best,  
Jesselyn

---

**Jesselyn De Luna**  
Attorney  
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