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8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10 MICHAEL L. SMITH,
 11 Petitioner,
 12 vs.
 13 RENEE BAKER, et al.,
 14 Respondents.
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Case No. 3:13-cv-00246-RCJ-WGC

**ORDER GRANTING MOTION FOR
 EXTENSION OF TIME TO FILE
 ANSWER TO AMENDED PETITION FOR
 WRIT OF HABEAS CORPUS
 (ECF No. 44)**

(FIFTH REQUEST)

16 Respondents move this Court for a three week extension of time, from the current due date of
 17 Wednesday November 4, 2020, up to and including Wednesday, November 25, 2020 in which to file
 18 their answer to Michael Smith's Second Amended Petition for Writ of Habeas Corpus. ECF No. 44. This
 19 motion is made pursuant to Fed. R. Civ. P. 6(b) and Rule 6-1 of the Local Rules of Practice and is based
 20 upon the attached affidavit of counsel.

21 This is the fifth enlargement of time sought by Respondents and is brought in good faith and not
 22 for the purpose of delay.

23 DATED November 4, 2020.

24 AARON D. FORD
 Attorney General

25 By: /s/ Allison Herr
 26 ALLISON HERR (Bar No. 5383)
 Senior Deputy Attorney General
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DECLARATION OF ALLISON HERR

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2 STATE OF NEVADA)
3) ss:
4 COUNTY OF CLARK)

5 I, Allison Herr, being first duly sworn under oath, depose and state as follows:

6 1. I am an attorney licensed to practice law in all courts within the State of Nevada and am
7 employed as a Senior Deputy Attorney General in the Office of the Nevada Attorney General. I have
8 been assigned to represent Respondents in the case of *Smith v. Baker*, 3:13-cv-00246-RCJ-WGC, and as
9 such, have personal knowledge of the matters contained herein.

10 2. An answer to the Second Amended Petition for Writ of Habeas Corpus (ECF No. 44) is
11 currently due on Wednesday, November 4, 2020. I have been unable to timely complete the answer in
12 this matter and need additional time to respond. I am seeking a three-week extension up to and including
13 Wednesday, November 25, 2020.

14 3. My first extension was necessitated due to the fact I was on medical leave at the time this
15 Court issued the initial briefing schedule. A second extension was necessitated by COVID related issues
16 included a number of emergency matters and restricted access to material, and a third and fourth extension
17 were caused by a combination of personal family issues, preparation for an evidentiary hearing, a service
18 error in a Ninth Circuit matter, and a number of computer network issues.

19 4. Unfortunately, a fifth extension is now required. While I have been diligently working on
20 this matter, I underestimated the amount of time that would be necessary to answer all of the claims. On
21 its face the petition appears to include five claims, but when all of the subparts are included there are
22 actually twenty-two claims. Unfortunately, I misread the petition and missed eight of the claims resulting
23 in this missed deadline. Further exacerbating matters I have an answer brief due to the Nevada Supreme
24 Court this week, and I will be out of state for a second surgery and medical treatment from November 9
25 through November 17, thus rather than being able to ask for a few days extension I am seeking 3 weeks
26 to allow me to remedy these missed claims upon my return.

27 5. I have discussed this matter with opposing counsel, and she does not oppose my request.

28 6. This is the fifth request for an extension to file the answer.

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