ADAM PAUL LAXALT
Attorney General
ERIN L. ALBRIGHT, BAR NO. 9953
Deputy Attorney General
State of Nevada
Bureau of Litigation
Public Safety Division
100 N. Carson Street
Carson City, Nevada 89701-4717
Tel: (775) 684-1257
E-mail: ealbright@ag.nv.gov

Attorneys for Defendants, State of Nevada ex rel, Nevada Department of Corrections, Renee Baker, Gloria Carpenter, Cheryl Mangum, and Michael Oxborrow

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ENOMA IGBINOVIA,

Plaintiff,

vs.

STATE OF NEVADA, on relation of NEVADA DEPARTMENT OF CORRECTIONS, JAMES "GREG" COX, DAVE MOLNAR, HARRY CHURCHWARD, ELDON K. MCDANIELS, DEBORAH BROOKS, RENEE BAKER, CLAUDE WILLIS, MICHAEL OXBORROW, ROBERT HUSTON, GREG MARTIN, MICHAEL B. KOEHN, GLORIA CARPENTER, CHERYL MAGNUM

Defendants.

Case No. 3:16-cv-00497-MMD-VPC

ORDER

MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS (Second Request)

Defendants, State of Nevada ex rel., Nevada Department of Corrections, and Renee Baker, Gloria Carpenter, Cheryl Mangum, and Michael Oxborrow, by and through counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Erin L. Albright, Deputy Attorney General, hereby file their motion for enlargement of time to respond to Plaintiff's discovery served on October 12, 2017. This motion is based on the following Memorandum of Points and Authorities and all papers and pleadings on file herein.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. RELEVANT FACTS

On October 12, 2017, Plaintiff served the following discovery: First Set of Interrogatories to Defendants, First Set of Admissions to Defendant Oxborrow, First Set of Admissions to Defendant Magnum, First Set of Admission to Gloria Carpenter, and Request for Production of Documents.

On December 4, 2017, Defendants filed a Motion for Enlargement of Time to File Responses to Discovery Served on October 16, 2017.

Defendants responded to Plaintiff's First Set of Interrogatories to Defendants, First Set of Admissions to Defendant Oxborrow, First Set of Admissions to Defendant Magnum and First Set of Admission to Gloria Carpenter on December 20, 2017 and December 21, 2017.

To date, Defendants have not provided their response to the Request for Production of Documents to the undersigned as they are still trying to obtain the phone logs requested by Plaintiff. The logs have been requested and Defendants should have them by January 19, 2017.

II. ARGUMENT

Fed. R. Civ. P. 6(b)(1) governs enlargements of time and provides as follows:

> When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

The proper procedure, when additional time for any purpose is needed, is to present a request for extension of time before the time fixed has expired. *Canup v. Mississippi Val. Barge Line Co.*, 31 F.R.D. 282 (W.D.Pa. 1962). Extensions of time may always be asked for, and usually are granted on a showing of good cause if timely made under subdivision (b)(1) of the Rule. *Creedon v. Taubman*, 8 F.R.D. 268 (N.D. Ohio 1947).

The time to respond to Plaintiff's discovery requests has not expired. Defendants seek an enlargement of time to respond to Plaintiff's discovery because Defendants have not received the telephone logs requested by Plaintiff. Defendants have requested the telephone logs and should have them by January 19, 2017. Therefore, Defendants request the time to file their response be enlarged

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until January 26, 2017. This extension is not made for the purposes of delay or to prejudice Plaintiff. Because the case is still in the early stages, Plaintiff will not be prejudiced by this extension of time.

III. CONCLUSION

Based on the foregoing, Defendants respectfully requests their motion for enlargement of time is granted.

DATED this 5th day of January 2018.

ADAM PAUL LAXALT
Attorney General

By: _____
ERIN L. ALBRIGHT
Deputy Attorney General
Bureau of Litigation
Public Safety Division

Attorneys for Defendants

IT IS SO ORDERED.

U.S. MAGISTRATE JUDGE

DATED: January 9, 2018

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 5th day of January, 2018, I caused to be deposited for mailing a true and correct copy of the foregoing, **MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS (SECOND REQUEST)**, to the following:

Enoma Igbinovia #56141
Ely State Prison
P.O. Box 1989
Ely, Nevada 89301

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An employee of the
Office of the Attorney General