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 7 *James Dzurenda, Dawn Jones, Michael Koehn*
and Greg Martin
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9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 MARTY FITZGERALD,

Case No. 3:17-cv-00278-MMD-CLB

12
 13 vs.

**MOTION FOR EXTENSION OF TIME TO
 FILE DISPOSITIVE MOTIONS
 (Second Request)**

14 LPN GREG MARTIN, et al.,
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16 Defendants, Romeo Aranas, Renee Baker, Gloria Carpenter, James Dzurenda, Dawn Jones,
 17 Michael Koehn and Greg Martin, by and through counsel, Aaron D. Ford, Attorney General of the
 18 State of Nevada, and Douglas R. Rands, Senior Deputy Attorney General, hereby extension of time
 19 to file dispositive motions. (Second Request) This Motion is made and based upon Federal Rules of
 20 Civil Procedure 6(b)(1)(A), the attached Points and Authorities, the papers and pleadings on file
 21 herein, and such other and further information as this Court may deem appropriate.

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **I. FACTUAL ANALYSIS**

24 This is a *pro se* prisoner civil rights action brought by Plaintiff, inmate Marty Fitzgerald,
 25 #73049 (Plaintiff), under 42 U.S.C. § 1983 and the Eighth Amendment to the U.S. Constitution
 26 alleging medical deliberate indifference claims arising from hepatitis C (HCV) and other medical
 27 treatment. *See* ECF No. 11 at 6.

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1 Plaintiff is an inmate in the custody of the Nevada Department of Corrections (NDOC. He
2 has made a second request to continue this matter for 5 or 6 months. (ECF No. 88) While it is not
3 clear, it appears Plaintiff is requesting additional time for discovery and to hire an attorney. He
4 states that he is looking for an attorney out of state. The Defendants do not oppose the request,
5 however, on June 1, 2021, this Court issued a Scheduling Order, (ECF No. 79) ordering that
6 dispositive motions must be filed no later than Wednesday, December 29, 2021. If the Court is
7 considering Plaintiff's Motion for additional time, it seems prudent to request this Court extend the
8 dispositive motion deadline. Judicial resources would be better spent by having a briefing period
9 after the additional discovery period, if ordered by this Court. Additionally, due to issues and
10 hearings that Counsel completed in December, and the fact that many persons, including the
11 Defendants are not available during the holiday season, the Defendants request additional time to
12 file the dispositive motion in this matter.

13 **II. LEGAL ANALYSIS**

14 Federal Rule of Civil Procedure 6(b)(1) governs extensions of time and provides as follows:

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

19 Defendants' request is timely and will not hinder or prejudice Plaintiff's case but will allow
20 for a thorough opportunity to brief a dispositive motion. The requested extension of time should
21 permit the Defendants time to adequately research, draft, and submit a well briefed dispositive
22 motion in this case. Defendants assert that the requisite good cause is present to warrant the
23 requested extension of time. In light of this situation, it is respectfully asserted that a short
24 extension is warranted. This is particularly true if the Court is favorably disposed to Plaintiff's
25 request for additional time. Additionally, as stated above, Counsel has been involved in trials and
26 hearings on matters, including the Zane Floyd death penalty evidentiary hearings during this month.
27 Therefore, a 30 day extension is requested, either from today or from whatever discovery extension
28 this Court may consider.

1 **III. CONCLUSION**

2 Defendants asserts that the requisite good cause and extenuating circumstances are present
3 to warrant the requested extension of time. Therefore, the Defendants requests an extension, until
4 following whatever extension the Court deems appropriate, to file their dispositive motion.
5 Minimally, the Defendants request an extension of 30 days, or to **Friday, January 29, 2022**, to file
6 their dispositive motion.

7 DATED this 29th day of December, 2021.

8 AARON D. FORD
9 Attorney General


10 By: /s/ Douglas R. Rands
11 DOUGLAS R. RANDS, Bar No. 3572
12 Senior Deputy Attorney General

Attorneys for Defendants

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14 Dispositive motions shall be filed on or before
15 January 29, 2022. If the Court grants Plaintiff's request
16 to extend discovery, the dispositive motion deadline
will be likewise extended further.

17 IT IS SO ORDERED.

18 Dated: December 29, 2021.

19 
20 _____
21 UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 29th day of December, 2021, I caused to be served a copy of the foregoing, **MOTION FOR EXTENSION OF TIME TO FILE DISPOSITIVE MOTIONS (Second Request)**, by U.S.

District Court CM/ECF Electronic Filing to:

Marty S. Fitzgerald, #73049
Northern Nevada Correctional Center
P. O. Box 7000
Carson City, NV 89702

/s/ Roberta W. Bibee
An employee of the Office
of the Attorney General

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