

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

Case No. 4:10-cv-142-D

<p>MARK DANIEL LYTTLE,</p> <p style="text-align: center;">Plaintiff</p> <p>v.</p> <p>UNITED STATES OF AMERICA, et al.,</p> <p style="text-align: center;">Defendants.)</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>MOTION FOR EXTENSION OF TIME TO ANSWER OR OTHERWISE RESPOND TO COMPLAINT FOR FEDERAL DEFENDANTS</p> <p>Fed. R. Civ. P. 6(b) Local Civil Rule 6.1</p>
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**FEDERAL DEFENDANTS’ UNOPPOSED MOTION FOR
EXTENSION OF TIME TO ANSWER OR OTHERWISE RESPOND TO COMPLAINT**

Pending before this Court is Federal defendants’ “Motion to Stay Pretrial Proceedings Pending a Decision by the Judicial Panel on Multidistrict Litigation” (the “motion to stay”). *See* Doc. No. 27. Therefore, pursuant to Federal Rule of Civil Procedure 6(b)(1)(A) and Local Civil Rule 6.1, the United States, Dashanta Faucette, Dean Caputo, and Robert Kendall (the “Federal defendants”) respectfully request that the Court extends the time for them to answer or otherwise respond to plaintiff’s complaint. Specifically, Federal defendants request an extension of time until either thirty days following the date of the lifting of Federal defendants’ motion to stay, or alternatively, thirty days following the date of a denial of the motion to stay. Counsel for the Federal defendants has conferred with counsel for plaintiff, Mark Daniel Lyttle, and is authorized to represent that plaintiff consents to the requested extension of time.

Lyttle filed this action on October 13, 2010, and then filed a “Corrected” complaint on October 15, 2010. *See* Doc. Nos. 1, 8. Because plaintiff served defendant Faucette on December 20, 2010, Faucette is currently required to answer or otherwise respond to plaintiff’s complaint on

or before February 18, 2011. *See* Fed. R. Civ. P. 12(a)(3). This is Faucette's first such extension of time. Because plaintiff served defendant Kendall on December 22, 2010, Kendall is currently required to answer or otherwise respond to plaintiff's complaint on or before February 22, 2011. *See id.* This is also Kendall's first such extension of time. Pursuant to this Court's order granting the United States' second unopposed motion for an extension of time, the United States is currently required to answer or otherwise respond to plaintiff's complaint on or before February 22, 2011. *See* Doc. No. 36. And pursuant to this Court's order granting defendant Caputo's unopposed motion for extension of time, Caputo is currently required to answer or otherwise respond to plaintiff's complaint on or before February 22, 2011. *See* Doc. No. 32.

In addition to the instant action, Lyttle has filed a related action in the Northern District of Georgia. *See Lyttle v. United States*, No. 10-3302 (N.D. Ga.), Doc. No. 1. Given the factual and legal similarities between the two cases, all Federal defendants named in both actions filed a motion with the United States Judicial Panel on Multidistrict Litigation (the "MDL Panel") on December 23, 2010, seeking centralization of those cases before this Court. *See In Re Mark Daniel Lyttle Litig.*, MDL No. 2227, Doc. No. 1.¹ Briefing on the pending motion was completed on February 8, 2011. *See id.*, Doc. No. 16.

To promote the goals of multidistrict litigation, on January 11, 2011, all Federal defendants named in the instant action filed the motion to stay, specifically requesting that this Court grant a temporary stay of pretrial proceedings until the MDL Panel rules on whether to centralize the related cases.² *See* Doc. No. 27. All parties have consented to the pending motion to stay. *See*

¹ Federal defendants also filed a copy of the MDL motion with this Court on December 23, 2010. *See* Doc. No. 26.

² Federal defendants named in the Georgia action similarly filed a motion to stay pending a decision of the MDL Panel, and on January 21, 2011, the Northern District of Georgia granted their motion to stay. *See Lyttle v. United States*, No. 1:10-3302 (N.D. Ga.), Doc. Nos. 34, 37.

Doc. No. 23.

For the reasons set forth above and in their motion to stay, and for good cause shown, it is respectfully requested that the Court extends the deadline for the Federal defendants to answer or otherwise respond to plaintiff's complaint until either thirty days following the date of the lifting of Federal defendants' motion to stay, or alternatively, thirty days following the date of a denial of the motion to stay.

Respectfully submitted this 11th day of February 2011,

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CERTIFICATE OF SERVICE

I certify under penalty of perjury that on February 11, 2011, I electronically filed the Federal Defendants' "Unopposed Motion For Extension Of Time To Answer Or Otherwise Respond To Complaint" using the Court's CM/ECF system, which will send notification of such filing to the following counsel of record:

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