

**United States District Court**  
**EASTERN DISTRICT OF TEXAS**  
**SHERMAN DIVISION**

TREY AND MALLORY GRUHN a/n/f J.G.	§	
	§	
v.	§	Civil Action No. 4:20-cv-00650
	§	Judge Mazzant
DENISON INDEPENDENT SCHOOL DISTRICT	§	
	§	

**MEMORANDUM OPINION AND ORDER**

Pending before the Court is Plaintiffs’ Motion for Extension of Time to File an Amended Complaint and Motion for Leave of Court to File an Amended Complaint (Dkt. #44). Having reviewed the Motion, the Court finds it should be **GRANTED**.

Also pending before the Court is Defendant’s Motion to Dismiss Plaintiffs’ Second Amended Complaint (Dkt. #27). As Plaintiffs filed an amended complaint, the Court finds this Motion should be **DENIED as moot**.

**BACKGROUND**

Plaintiffs Trey and Mallory Gruhn sued Denison Independent School District (“Denison ISD”) as next friends of their son, J.G. (Dkt. #1). On January 13, 2021, Denison ISD filed a Motion to Dismiss (Dkt. #27). The parties briefed the issue in March 2021 (*See* Dkt. #33, 35).

On January 25, 2021, the Court issued a scheduling order setting the deadline to file an amended complaint by April 7, 2021 (Dkt. #25). On April 7, 2021, Plaintiffs’ counsel emailed Denison ISD’s counsel regarding Plaintiffs’ intention to file an amended complaint (*See* Dkt. #44 at p. 2). On April 12, 2021, Denison ISD’s counsel expressed opposition. On April 13, 2021, Plaintiffs filed the Motion for Extension of Time to File Amended Complaint and for Leave of

Court to File Amended Complaint (Dkt. #44). On April 19, 2021, Denison ISD responded (Dkt. #47).

### LEGAL STANDARD

Federal Rule of Civil Procedure 6(b)(1)(B) (“Rule 6(b)(1)(B)”) provides the standard that controls the granting of an extension to file a responsive pleading after the deadline to answer has already expired. Rule 6(b)(1)(B) states “the court may, for good cause, extend the time [to answer] on motion made after the time has expired if the party failed to act because of excusable neglect.” FED. R. CIV. P. 6(b)(1)(B).

Rule 6(b)(1)(B)’s “requirements are quite flexible, and the district judge enjoys broad discretion to grant or deny an extension.” *Mattress Giant Corp. v. Motor Advert. & Design Inc.*, 3:07-cv-1728-D, 2008 WL 898772, at \*2 (N.D. Tex. Mar. 31, 2008) (citing 4B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1165, at 532–29 (3d ed. 2002)). “Excusable neglect is intended and has proven to be quite elastic in its application. In essence it is an equitable concept that must take account of all relevant circumstances of the party’s failure to act within the required time.” *Id.* (citations omitted). Excusable neglect “encompasses late filings . . . due to mistake, inadvertence or carelessness and not to bad faith” *Id.* (citations and quotations omitted). In deciding whether to grant relief under Rule 6(b)(1)(B), courts also consider the length of delay and prejudice to other parties. *Id.*

### ANALYSIS

Plaintiffs ask the Court to extend the deadline for an amended complaint by just a few days and permit their late pleading. Plaintiffs’ deadline to file an amended complaint was April 7, 2021. That day, Plaintiffs’ counsel emailed Denison ISD to confer on the amended complaint. Once

Denison ISD expressed opposition, Plaintiffs filed the current Motion the following day. This demonstrates diligence with meeting the scheduling order deadlines.

Denison ISD argues the Court should deny the request because Denison ISD's pending motion to dismiss is fully briefed and Plaintiffs have had several opportunities to amend their complaint. This is true. Still, the Court has broad discretion to grant or deny an extension under Rule 6(b)(1)(B). Plaintiffs just missed the amended complaint deadline and maintain that the amendment is necessary. As Denison ISD fully briefed its motion to dismiss, Denison ISD can minimally adjust its briefing for the amended complaint. The Court permits Plaintiffs to amend the complaint this last time. As Plaintiffs have amended their complaint, Denison ISD's motion to dismiss (Dkt. #27) is now moot.

#### **CONCLUSION**

It is therefore **ORDERED** that Plaintiffs' Motion for Extension of Time to File an Amended Complaint and Motion for Leave of Court to File an Amended Complaint (Dkt. #44) is hereby **GRANTED** and Plaintiffs' Amended Complaint (Dkt. #45) is deemed filed.

It is further **ORDERED** that Defendant's Motion to Dismiss Plaintiffs' Second Amended Complaint (Dkt. #27) is **DENIED as moot**.

**SIGNED this 29th day of April, 2021.**

  
AMOS L. MAZZANT  
UNITED STATES DISTRICT JUDGE