

1 RICHARD C. EYMANN
 Eymann Allison Hunter Jones, P.S.
 2 2208 West Second Avenue
 Spokane, WA 99201-5417
 3 (509) 747-0101

4 STEPHEN L. NÖRDSTROM
 Nordstrom & Nees, P.S.
 5 323 South Pines Road
 Spokane, WA 99206
 6 (509) 924-9800

7 Attorneys for Plaintiff

8 UNITED STATES DISTRICT COURT FOR THE
 9 EASTERN DISTRICT OF WASHINGTON

10 THOMAS A. WAITE,

No. CV-05-399-EFS

11 Plaintiff,

12 vs.

**PLAINTIFF'S MOTION AND
 AFFIDAVIT FOR EXTENSION
 OF TIME TO FILE PLAINTIFF'S
 REPLY TO DEFENDANTS'
 RESPONSES TO PLAINTIFF'S
 MOTION FOR PARTIAL
 SUMMARY JUDGMENT RE:
 AFFIRMATIVE DEFENSES**

13 THE CHURCH OF JESUS CHRIST OF
 LATTER DAY SAINTS d/b/a
 CORPORATION OF THE PRESIDING
 14 BISHOP OF THE CHURCH OF JESUS
 CHRIST OF LATTER DAY SAINTS, a
 15 Utah corporation, d/b/a
 CORPORATION OF THE PRESIDENT
 16 OF THE CHURCH OF JESUS CHRIST
 OF LATTER DAY SAINTS, a Utah
 17 corporation; DONALD C. FOSSUM;
 18 and STEVEN D. BRODHEAD,

19 Defendants.

20 Plaintiff, by and through his undersigned attorneys, hereby moves that the Court
 21 enter an order extending the time in which plaintiff must file and serve on defendants
 22 Plaintiff's Reply to Defendants' Responses to Plaintiff's Motion for Partial Summary
 23 Judgment Re: Affirmative Defenses. Plaintiff respectfully requests a seven (7) day
 24 extension to Wednesday, February 28, 2007.

26 PLAINTIFF'S MOTION AND AFFIDAVIT FOR
 EXTENSION OF TIME TO FILE PLAINTIFF'S
 27 REPLY TO DEFENDANTS' RESPONSES TO
 PLAINTIFF'S MOTION FOR PARTIAL SUMMARY
 28 JUDGMENT RE: AFFIRMATIVE DEFENSES - 1
 (motion for extension of time to file reply re plaintiff psj motion.wpd)

EYMANN ALLISON HUNTER JONES P.S.

2208 WEST SECOND AVENUE • SPOKANE, WA 99201-5417
 TELEPHONE: (509) 747-0101 • FAX: (509) 458-5977

1 This Motion is made pursuant to the Federal Rules of Civil Procedure and is
2 supported by the annexed Affidavit of Richard C. Eymann.

3 DATED this 20th day of February, 2007.

4
5 EYMANN ALLISON HUNTER JONES, P.S.

6 BY s/ Richard C. Eymann
7 RICHARD C. EYMANN, WSBA #7470
8 Co-counsel for Plaintiff

9 STATE OF WASHINGTON)
10 County of Spokane) ss.

11 Richard C. Eymann, being first duly sworn under oath, deposes and states:

12 1. I am one of the attorneys for plaintiff, I am competent to testify in this
13 matter, and I make this Affidavit of my own personal knowledge in support of
14 plaintiff's Motion for Extension of Time.

15 2. On February 12, 2007, defense counsel caused to be served on plaintiff's
16 counsel defendants' responses to Plaintiff's Motion for Partial Summary Judgment Re:
17 Affirmative Defenses. Pursuant to Local Rule 7.1(c) and the Court's Amended
18 Scheduling Order, the reply memorandum shall be filed and served five (5) court days
19 following service of the responsive memoranda. As such, plaintiff's reply
20 memorandum is due today, February 20, 2007. Last week, your affiant was out of
21 town four (4) of the five (5) working days preparing for and attending depositions in
22 this case and another case. Plaintiff's co-counsel, Stephen L. Nordstrom, is currently
23 in Salt Lake City attending three (3) discovery depositions in this case today.
24 Plaintiff's counsel conferred today via telephone regarding the anticipated reply but

1 have not been able to complete the briefing. As such, your affiant hereby files this
2 request for an extension of time.

3 3. Plaintiff contends that defendants are not unduly prejudiced by the
4 granting of this extension on the reply briefing as the hearing date for this motion is
5 currently set for March 22, 2007. No response from either defendant is necessitated.
6 Further, plaintiff is informed that defense counsel Brian Rekofke has a conflict with
7 the March 22nd hearing date and has requested that it be moved.

8 4. Plaintiff respectfully requests that the Court grant his Motion for this
9 Extension of Time so that his reply memorandum may be timely filed on Wednesday,
10 February 28, 2007.

11 5. A proposed Order Granting Plaintiff's Motion for Extension of Time to
12 File Plaintiff's Reply to Defendants' Responses to Plaintiff's Motion for Partial
13 Summary Judgment is attached hereto as Exhibit "A."

14
15 s/Richard C. Eymann
16 RICHARD C. EYMANN

17 SUBSCRIBED AND SWORN to before me this 20th day of February, 2007.

18
19 s/Diane R. Latta
20 NOTARY PUBLIC in and for the State of
21 Washington, residing at Spokane.
22 My commission expires: 7-10-07

CERTIFICATE OF SERVICE

I, RICHARD C. EYMANN, hereby certify that on the 20th day of February, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following participants:

Brian T. Rekofke
Witherspoon Kelley Davenport & Toole
1100 U.S. Bank Building
422 W. Riverside Avenue
Spokane, WA 99201

Andrew C. Smythe
Paine Hamblen Coffin Brooke & Miller
717 W. Sprague Avenue, Suite 1200
Spokane, WA 99201

s/Richard C. Eymann
RICHARD C. EYMANN

PLAINTIFF'S MOTION AND AFFIDAVIT FOR
EXTENSION OF TIME TO FILE PLAINTIFF'S
REPLY TO DEFENDANTS' RESPONSES TO
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY
JUDGMENT RE: AFFIRMATIVE DEFENSES - 4
(motion for extension of time to file reply re plaintiff psj motion.wpd)

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Exhibit "A"

1 RICHARD C. EYMANN
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7 Attorneys for Plaintiff

8 UNITED STATES DISTRICT COURT FOR THE
9 EASTERN DISTRICT OF WASHINGTON

10 THOMAS A. WAITE,

No. CV-05-399-EFS

11 Plaintiff,

12 vs.

**ORDER GRANTING
PLAINTIFF'S MOTION FOR
EXTENSION OF TIME TO FILE
PLAINTIFF'S REPLY TO
DEFENDANTS' RESPONSES TO
PLAINTIFF'S PARTIAL
SUMMARY JUDGMENT RE:
AFFIRMATIVE DEFENSES**

13 THE CHURCH OF JESUS CHRIST OF
LATTER DAY SAINTS d/b/a
14 CORPORATION OF THE PRESIDING
BISHOP OF THE CHURCH OF JESUS
15 CHRIST OF LATTER DAY SAINTS, a
Utah corporation, d/b/a
16 CORPORATION OF THE PRESIDENT
OF THE CHURCH OF JESUS CHRIST
17 OF LATTER DAY SAINTS, a Utah
corporation; DONALD C. FOSSUM;
18 and STEVEN D. BRODHEAD,

19 Defendants.

20 THIS MATTER, having come on for expedited hearing on plaintiff's Motion
21 for Extension of Time; and the Court finding good cause for the granting of said
22 Motion, now, therefore, it is

23 ORDERED that Plaintiff's Reply to Defendants' Responses to Plaintiff's Motion
24 for Partial Summary Judgment Re: Affirmative Defenses shall be deemed as timely
25 filed on Wednesday, February 28, 2007.

26 ORDER GRANTING PLAINTIFF'S MOTION FOR
EXTENSION OF TIME TO FILE PLAINTIFF'S REPLY
27 TO DEFENDANTS' RESPONSES TO PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT
28 RE: AFFIRMATIVE DEFENSES - 1

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1 DONE IN OPEN COURT this _____ day of _____, 2007.

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HONORABLE EDWARD F. SHEA
U.S. District Court Judge

Presented by:
EYMANN ALLISON HUNTER JONES, P.S.

BY: s/Richard C. Eymann
RICHARD C. EYMANN, WSBA #7470
Co-counsel for Plaintiff

ORDER GRANTING PLAINTIFF'S MOTION FOR
EXTENSION OF TIME TO FILE PLAINTIFF'S REPLY
TO DEFENDANTS' RESPONSES TO PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT
RE: AFFIRMATIVE DEFENSES - 2
(order on motion for extension of time re psj motion.wpd)

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TELEPHONE: (509) 747-0101 • FAX: (509) 458-5977

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