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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION**

KELSEY CASCADIA ROSE JULIANA, et al.,
Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,
Defendants.

Case No. 6:15-cv-01517-TC

**DEFENDANTS' REPLY IN SUPPORT
OF MOTION FOR EXTENSION OF
TIME TO RESPOND TO
PLAINTIFFS' MOTION FOR LEAVE
TO FILE AN AMENDED
COMPLAINT (ECF No. 462)**

**EXPEDITED CONSIDERATION
REQUESTED**

Defendants have moved for an extension of two weeks to respond to Plaintiffs' motion for leave to file an amended complaint. ECF No. 463. As explained in that motion, there is good cause for the extension because the undersigned counsel will need to coordinate the United States' response with over a dozen federal agencies and entities. As Defendants have explained, this task is complicated by the undersigned counsel's competing professional obligations and by

the ongoing transition of high-level personnel and leadership across the Executive Branch following the recent change in Administration.

In response, Plaintiffs contend that Defendants' motion should be denied because it does not satisfy the four enumerated requirements of Local Rule 16-3(a). Opp'n to Defs.' Mot. for Ext. ("Pls.' Resp."), ECF No. 464. As a threshold matter, however, that Rule applies only when a party moves to change or extend a "court-imposed deadline"; it is inapplicable here because there is no governing case management schedule or any other relevant court order.

Defendants' motion is instead governed by the Federal Rules of Civil Procedure, which allow the Court to extend time to respond to Plaintiffs' motion "for good cause." Fed. R. Civ. P. 6(b). And Defendants have more than satisfied the good cause standard, notwithstanding Plaintiffs' arguments to the contrary. For example, Plaintiffs contend that Defendants' asserted need to consult with its clients "is a red herring because Defendants have announced their decision to oppose Plaintiffs' Motion to Amend." Pls.' Resp. at 2-4. But this argument mischaracterizes the parties' conferrals on Plaintiffs' motion. Defendants represented during that March 8 conference of counsel that they had not yet had any meaningful opportunity to review the proposed amended complaint, and that they would be unable to obtain input from the various defendant entities before Plaintiffs' proposed filing date of March 9. It was on that basis that Defendants told Plaintiffs to assume they would oppose the motion to amend.

There is also no merit to Plaintiffs' claim that client feedback on the merits of their motion for leave to amend is unnecessary. Department of Justice attorneys have an obligation to advise and consult with their client agencies and to solicit their input prior to filing a document on their behalf, particularly in a case like this one, where Plaintiffs seek to dramatically alter or curtail those agencies' operations.

Also unpersuasive are Plaintiffs' attempts to minimize Defendants' competing professional obligations. Defendants have explained that the undersigned counsel, who will be leading the effort to coordinate with the Defendant entities in responding to the motion for leave to amend, has numerous preexisting professional obligations over the next few weeks including a significant briefing deadline and an oral argument on a dispositive motion. In addition, Defendants explained that a second attorney who had participated in the district court proceedings through 2018, and who was asked to assist with the conferral of counsel, likewise had a number of preexisting professional commitments, including participating in a hearing on March 11, 2021¹. In response, Plaintiffs have chosen to speculate that the United States has the same heightened level of staffing on this case that it had in late 2018, during the run up to trial and amid a flurry of appellate activity. Plaintiffs are incorrect, and their unfounded speculation provides no grounds for denying the requested extension.

In sum, Defendants' have shown that there is good cause to extend by two weeks the time to respond to Plaintiffs' motion for leave to amend, from March 23 to April 6, 2021.

Dated: March 18, 2021

JEAN E. WILLIAMS
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/s/ Sean C. Duffy

¹ Plaintiffs also complain that Defendants "fail[ed] to provide any information about how they have used the ten days from March 5 (when Defendants first learned that Plaintiffs would be moving to amend) to March 15 (when Defendants filed their Motion for Extension)." Pls.' Resp. 4. As noted, the purported need to demonstrate "effective prior use of time" does not apply here, because it is grounded in LR 16-3(a)(2) rather than Fed. R. Civ. P. 6(b). It nonetheless bears noting that the undersigned counsel's aforementioned professional obligations necessarily distracted from their ability to respond to Plaintiffs' motion to amend between March 5 and March 15.

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