

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN EAKIN,

Plaintiff,

v.

AMERICAN BATTLE MONUMENTS
COMMISSION, et al.,

Defendants.

No. SA-12-CV-01002-FB

DEFENDANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME

COME NOW the AMERICAN BATTLE MONUMENTS COMMISSION, *et. al.* (“Defendants”) and move the Court for an extension of time to respond to Plaintiff’s Motion to Vacate Judgment and Resume Discovery as follows:

This long-running litigation involves various claims arising out of the identification and return of the remains of a fallen United States service member, KIA while a POW in the Pacific Theater of World War II. The Court entered judgment and closed the case over nine (9) years ago on March 25, 2015. [ECF # 121].

Plaintiff filed the instant motion on August 28, 2024, seeking injunctive relief in the form of an order to return further remains (some of which have admittedly already been returned), and alternatively to re-open the case. [ECF # 127].

On October 8, 2024, the Court ordered Defendants to respond to Plaintiff’s motion on or before October 25, 2024. [ECF # 130]. The Court’s order was sent to the wrong email address¹ and not received by undersigned counsel’s office until October 17, 2014 when, by sheer luck, it was revealed in a routine docket check of various active cases.

As a result, this left Defendants with only six (6) business days to respond in a case in

¹ The District Clerk was directed to email the order to mary.krueger@usdoj.gov. [ECF # 130, ¶ 3]. The correct email is mary.krueger@usdoj.gov. There is also no record that the order was ever received by U.S. mail.

which the previous attorney(s) are no longer with the office, the previous agency contact(s) are no longer available and a case file that has long since been closed and sent to archives (and possibly even destroyed by now) that will need to be reconstructed.

Defendants need more time to investigate the facts and developments over the intervening nine (9) years to file a meaningful response. Defendants request an extension until at least November 29, 2024, and that Plaintiff's deadline to reply be appropriately extended as well.

Undersigned counsel personally conferred with Plaintiff on October 17, 2024 and this motion is unopposed.

WHEREFORE Defendants request that the Court extend its deadline to respond to Plaintiff's Motion to Vacate Judgment and Resume Discovery until at least November 29, 2024, and grant such other and further relief to which it may be entitled.

Dated: October 18, 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on October 18, 2024 I electronically filed this document with the Clerk of Court using the CM/ECF system. The CM/ECF system will send notification to the following CM/ECF participant(s):

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