

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN A. PATTERSON, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 5:17-CV-00467
)	
DEFENSE POW/MIA ACCOUNTING)	
AGENCY, et al.,)	
)	
Defendants.)	

JOINT MOTION TO EXTEND SCHEDULE

Pursuant to Rule 6(b) and Rule 16(b)(4) of the Federal Rules of Civil Procedure, the Parties jointly request leave of Court for extensions of time to brief two planned motions—Plaintiffs’ Motion to Compel Production of Remains, or, in the Alternative, for Physical Examination and Defendants’ Motion for Judgment on the Pleadings—and to extend the discovery schedule and other deadlines set for this case.

Grants of extensions of time under Rule 6(b) “fall[] to the district court’s discretion.” *Uxomba v. Bexar County*, No. 14-372, 2014 WL 3919573, at *1 (W.D. Tex. Aug. 8, 2014) (quoting *McCarty v. Thaler*, 376 F. App’x 442, 443 (5th Cir. 2010)). There is good cause to grant the Parties’ joint request here. The Parties plan to file two substantial motions within the next week that will require additional time for the opposing party to adequately respond. The Court’s disposition of these motions will illuminate key aspects of this case and is likely to affect the subsequent discovery conducted by the parties, the Parties’ use of experts, and the issues that remain for summary judgment or trial. Moreover, undersigned Defendants’ counsel will be out of the office on personal leave until about May 11, 2018, to support his wife’s recovery from the

birth of their fourth child (born April 9, 2018). Given the complexities of this litigation, it would be difficult for one of undersigned counsel's colleagues to prepare responses during his absence.

Accordingly, the Parties propose the following schedule for briefing the motions:

- Plaintiffs' opposition to Defendants' Motion for Judgment on the Pleadings shall be due on or before May 18, 2018;
- Defendants' opposition to Plaintiffs' Motion to Compel Production of Remains, or, in the Alternative, for Physical Examination shall be due on or before May 18, 2018;
- Defendants' reply in support of their Motion for Judgment on the Pleadings shall be due on or before June 8, 2018;
- Plaintiffs' reply in support of their Motion to Compel Production of Remains, or, in the Alternative, for Physical Examination shall be due on or before June 1, 2018;

In order to accommodate this schedule and to conduct discovery in light of the Court's disposition of these motions, the parties propose the following limited modifications of the Scheduling Order:

- The deadline for completion of all discovery shall be extended until October 12, 2018 (from Sept. 6, 2018);
- The deadline for Plaintiffs to file their designation of testifying experts and serve materials required by Rule 26(a)(2)(B) shall be extended until July 31, 2018 (from April 30, 2018);
- The deadline for filing Defendants to file their designation of testifying experts and serve materials required by Rule 26(a)(2)(B) shall be extended until August 31, 2018 (from May 30, 2018);
- The deadline for filing supplemental reports shall be extended until September 14, 2018 (from June 29, 2018);
- The deadline for motions objecting to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be extended until November 2, 2018 (from 11 days after the expert's report or deposition);

These modifications will not impact the Court's December 7, 2018 motions deadline, or other aspects of the schedule. Postponing expert discovery will serve judicial economy and the interests of the parties by ensuring that the experts are reviewing more comprehensive

information than would occur from early designation and early reports. Accordingly, there is good cause to grant these jointly-proposed modifications to the Scheduling Order. *See* Fed. R. Civ. P. 16(b)(4); *Galaviz v. Post-Newsweek Stations*, No. 08-0305, 2009 WL 10669784, at *1-2 (W.D. Tex. Apr. 27, 2009) (applying good cause standard to extension of expert deadlines).

A proposed Order is attached for the Court's review and entry.

Dated: April 13, 2018

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of April, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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