

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.)	

**DEFENDANTS’ MOTION FOR LEAVE TO RESPOND TO PLAINTIFF’S ADVISORY
TO THE COURT CONCERNING THE PRODUCTION AND EXAMINATION OF
REMAINS**

Defendants, the Defense POW/MIA Accounting Agency (DPAA), the U.S. Department of Defense (DoD), the American Battle Monuments Commission, and the heads of those agencies sued in their official capacity (collectively “Defendants”), hereby move for leave to file a response to Plaintiffs’ Advisory to the Court Concerning the Production and Examination of Remains on or before August 15, 2018.¹

Plaintiffs’ Advisory, filed after the close of business on July 12, 2018, *see* ECF No. 40, purports to be filed in response to the Court’s invitation for Plaintiffs to “propose something to [the Court] and submit what the costs are, and [answer] all the other questions I had and how that would be handled.” June 27, 2018 Hr’g Tr. 59:4-6. Defendants request leave to respond to Plaintiffs’ Advisory and further request that the response be due on August 15, 2018.

¹ Undersigned counsel conferred in good faith with Plaintiffs’ counsel, who stated that Plaintiffs do not oppose seeking leave to respond to the Advisory but do oppose any request that the court delay ruling on the pending motions until the response is filed.

There is good cause to grant Defendants' request. A response from Defendants would assist the Court in its assessment of Plaintiff's proposal. However, it would be extraordinarily difficult for Defendants to respond before August 15, 2018. Over the next two weeks, undersigned counsel is busy preparing for a trial scheduled to begin in Washington, D.C., on July 31, 2018. Moreover, several key agency personnel essential to crafting a response are currently out of the office on business or personal travel or are scheduled to be out during the next two weeks. Leave to respond to Plaintiffs' Advisory on August 15, 2018 would provide Defendants and undersigned counsel the opportunity to appropriately respond to Plaintiffs' proposal.

Therefore, Defendants respectfully request leave to file a response to Plaintiffs' Advisory on or before August 15, 2018. A proposed order is also attached.

Dated: July 17, 2018

Respectfully submitted,

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/s/ Galen N. Thorp
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of July, 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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