

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION**

**DYLAN BRANDT ET AL.**

**PLAINTIFFS**

**vs.**

**NO. 4:21-CV-00450-JM**

**LESLIE RUTLEDGE ET AL.**

**DEFENDANTS**

**MOTION FOR EXTENSION OF TIME**

Representative Mary Bentley, Senator Alan Clark, Representative Robin Lundstrum, Representative Marcus Richmond, and Representative Jim Wooten (collectively, the “Legislators”) respectfully move the Court for an extension of time to act in response to the Court’s February 28, 2022 order. *See* ECF No. 98, at 1.

1. On January 20, 2022, Plaintiffs moved the Court for an order compelling the Legislators (non-parties to this litigation) to produce certain documentation and electronically stored information (“ESI”) sought in a series of individual subpoenas. *See* ECF No. 84, at 2. The parties briefed the issue, and on February 28, 2022, the Court entered an order granting in part, and denying in part, Plaintiffs’ motion. ECF No. 98, at 1.

2. In the order, the Court directed the Legislators to file a privilege log within ten days of February 28, 2022. *Id.* This deadline falls on March 10, 2022.

3. On March 7, 2022, the Legislators retained Mitchell, Williams, Selig, Gates & Woodyard, PLLC to assist in the preparation, and ultimate production, of the documentation and ESI sought in the subpoenas.

4. Undersigned counsel contacted Plaintiffs’ counsel on the date of retention concerning a potential stipulated extension of the deadline to file the privilege log. The parties conferred by email and telephone on March 8, 2022. During these discussions, counsel discussed

a potential joint request for a one-week extension of the impending deadline while open issues concerning ESI search terms and a production schedule were finalized. Undersigned counsel sent a proposed joint motion to Plaintiffs' counsel on the same day.

5. The next day, March 9, 2022, Plaintiffs' counsel informed undersigned counsel that Plaintiffs would not agree to any extension of time and would oppose any request for relief from the Court's February 28, 2022 order.

6. A brief extension of the deadline fixed by the Court's order is necessary in light of the scope of discovery commanded by the subpoenas. The Legislators have collected voluminous documents and ESI potentially responsive to the subpoenas. At the present time, the ESI searches performed to date (using the current status of the keywords still under negotiation) yielded more than 11.7 gigabytes (11,700 megabytes) of data. For the Legislators to produce the documents and ESI with a privilege log, agreed search terms—and additional review time—are necessary. The parties have jointly conferred about the search terms (as well as other ESI issues) needed to establish the parameters of the review set, which will result in the production of responsive, non-privileged material and ultimately enable the Legislators to produce a full and complete privilege log. Although the Legislators have raised the open search term and related ESI issues with Plaintiffs' counsel and requested responses finalizing these outstanding issues, the Legislators have not yet received Plaintiffs' responses on these predicate issues.

7. Accordingly, the Legislators respectfully ask that the Court briefly continue the deadline set forth in the February 28, 2022 order to produce a privilege log. Specifically, the Legislators request an extension until March 31, 2022.

8. A brief, three-week extension will not prejudice Plaintiffs. Pursuant to the Court's operative scheduling order, discovery remains open until May 26, 2022 (more than two months

from now). ECF No. 99, at 1. Trial is not scheduled to begin until October 17, 2022 (more than seven months from now). *Id.* In light of these deadlines, the Legislators respectfully believe that ample time remains to resolve all issues related to the subpoenas and third-party discovery in advance of the discovery deadline currently in place.

9. Pursuant to Local Rule 7.2(d)(1), no brief is required in support of this motion.

Respectfully submitted,

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