

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MUMIA ABU-JAMAL,	:	
	:	
Plaintiff	:	Civil Action No. 16-cv-2000
	:	
v.	:	Judge Robert D. Mariani
	:	
JOHN WETZEL, <i>et al.</i> ,	:	
	:	
Defendants	:	Filed Via Electronic Case File Jury Trial Demanded

**DEPARTMENT DEFENDANTS’ MOTION FOR
ENLARGEMENT OF TIME**

AND NOW come Defendants Wetzel, Noel, Silva, BHCS Assistant Medical Director, and BHCS Infection Control Coordinator (“Department Defendants”) and, pursuant to Fed. R. Civ. P. 6(b)(1)(A) move this Court for an enlargement of time to file their Answer to the Complaint pending disposition of the pending motions before this Court and the Third Circuit Appeal at 17-1125. The following is set forth in support of this motion:

1. On January 3, 2017, the Court issued a Memorandum and Order: (1) enjoining the Defendants from enforcing the Department’s Hepatitis C Protocol as it pertains to Plaintiff; (2) directing the Defendants to arrange for Plaintiff to be examined by a supervising physician experienced in the treatment of Hepatitis C within 14 days; and (3) directing the Defendants to treat Plaintiff with DAA

medications within 7 days thereafter unless the Supervising Physician determines those medications to be medically contraindicated (doc. 24).

2. This Court also denied the motion to dismiss filed by the Department Defendants (doc. 25).
3. On January 12, 2017, the Department Defendants filed a motion to amend the findings of fact under Fed. R. Civ. P. 52 or, in the alternative, for reconsideration under Fed. R. Civ. P. 60 (doc. 29).
4. The Department Defendants concurrently filed a motion to stay the January 3, 2017 preliminary injunction pending disposition of their motion to amend or in the alternative for reconsideration (doc. 30).
5. Additionally, due to the time constraints associated with complying with the Court's January 3, 2017 preliminary injunction, the Defendants filed a Notice of Appeal to the Third Circuit Court of Appeals (doc. 31).
6. The Third Circuit Appeal at 17-1125 is stayed pending disposition of the post-decision motions before this Court.
7. Because this Court denied the Department Defendants' motion to dismiss on January 3, 2017, the Answer to the Complaint is due on January 17, 2017.

8. Federal Rule of Civil Procedure 6(b)(1) provides:

When an act may or must be done within a specified time, the court may, for good cause, extend the time:

- (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or
- (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

9. Given that this Court's January 3, 2017 Order granted the ultimate relief sought in this case, and therefore, in light of the aforesaid post-decision motions and the pending appeal before the Third Circuit Court of Appeals, the Department Defendants respectfully request an enlargement of time of the deadline for filing the Answer to the Complaint, with a due date to be determined by the Court following the disposition of these matters.
10. This motion is not submitted for purposes of needless delay or to prejudice the Plaintiff or this Honorable Court.
11. Neither Plaintiff nor any other party is likely to be harmed or prejudiced should the Court grant the request.
12. Counsel for the Medical Defendants concurs in this Motion.
13. The Undersigned Counsel contacted Counsel for Plaintiff regarding concurrence/non-concurrence, and as of the time of filing this motion, has not received a response.

WHEREFORE, the Department Defendants respectfully request that the Court grant an enlargement of time with respect to the Department Defendants' obligation to file the Answer to the Complaint, pending disposition of the motions before this Court and the appeal before the Third Circuit, with a due date for same to be determined by the Court following such disposition.

Respectfully submitted,

Office of General Counsel

Dated: January 17, 2017

By: /s/ Maria G. Macus
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been served on the parties counsel in this matter via ECF.

By: /s/ Maria G. Macus
Maria G. Macus
Office of Chief Counsel
PA Department of Corrections

Dated: January 17, 2017