

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 18-cv-00217-REB-KLM

WILLIAM MONTGOMERY,

Plaintiff,

v.

MATTHEW CHERNAK,
MIKE HOWARD, and
MATTHEW BROUGH,

Defendants.

**DEFENDANTS' MOTION FOR EXTENSION OF TIME TO
ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT**

Defendants Matthew Chernak, Mike Howard and Matthew Brough, by and through their counsel, Thomas J. Lyons, Esq. and Christina S. Gunn, Esq., of Hall & Evans, L.L.C., hereby respectfully submit this Motion for Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint, as follows:

1. Pursuant to D.C.Colo.LCiv.R. 7.1(b)(1), prior to filing the instant Motion, the undersigned counsel attempted to confer with counsel for the Plaintiff, Raymond Bryant, Esq., by sending an email on Monday, March 12, 2018, and by leaving a telephone voice message and sending an email on Tuesday, March 13, 2018. The undersigned has not yet received a response from Plaintiff's counsel, and given the deadlines identified below (*Infra*, ¶ 2), could not delay the filing of this motion.

2. Defendants Matthew Chernak and Mike Howard were served with the Plaintiff's Complaint on or about February 21, 2018. As a result, pursuant to the applicable Federal Rules of Civil Procedure, their response to the Plaintiff's Complaint is due on or before March 14, 2018.

3. Defendant Brough has not been served with a copy of Plaintiff's Complaint. In correspondence dated March 12, 2018, the undersigned offered to waive service on behalf of Defendant Brough and requested Plaintiff provide such a waiver for signature. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who timely waives service of process has 60 days after the waiver request was sent to respond to the Complaint.

4. The undersigned counsel needs additional time to complete an investigation into the Plaintiff's allegations in the Complaint, to determine an appropriate response to the Plaintiff's Complaint, and then to implement that response in consultation with her clients. Additionally, given the different responsive date for Defendant Brough from Defendants Chernak and Howard, Defendants request a consolidated date for their response to Plaintiff's Complaint so that, wherever possible, any overlapping issues may be addressed in a joint filing. These concerns of economy of resources for the Court and the parties in a joint filing, the fact one of the three defendants has not been served or issued a waiver of service, and the necessity of additional time for defense counsel constitute good cause for the requested extension.

5. Additionally, because Defendant Chernak would be entitled to sixty days after receipt of a waiver and he has not yet been served, no party will be prejudiced by this extension of time.

6. Accordingly, Defendants respectfully request a three-week extension of time for the response by Defendants Chernak and Howard until and including April 4, 2018, to answer or otherwise respond to the Plaintiff's Complaint on behalf of Defendants Chernak, Howard and Brough.

7. Pursuant to D.C.Colo.LCiv.R. 6.1(c), the undersigned counsel has served her clients with a copy of this Motion as reflected in the Certificate of Service below.

WHEREFORE, for all of the foregoing reasons, Defendants Matthew Chernak, Mike Howard and Matthew Brough respectfully request this Court extend the deadline for them to answer or otherwise respond to the Plaintiff's Complaint until and including April 4, 2018, and for all other and further relief as this Court deems just and appropriate.

Dated this 13th day of March, 2018.

Respectfully submitted,

s/ Christina S. Gunn
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**ATTORNEY FOR DEFENDANTS CHERNAK,
HOWARD, AND BROUGH**

CERTIFICATE OF SERVICE (CM/ECF)

I HEREBY CERTIFY that on the 13th day of March, 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 e-mail addresses:

Raymond K. Bryant
raymond@rightslitigation.com

and served a true and correct copy of the foregoing on the following non-CM/ECF participant via electronic mail:

Matthew Chernak
Mike Howard
Matthew Brough

s/ Nicole Marion, Legal Assistant to
Christina S. Gunn, Esq. of
Hall & Evans, L.L.C.