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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

**JAMES M. CLEAVENGER,**

Plaintiff,

vs.

**UNIVERSITY OF OREGON (an Agency and  
Instrumentality of the State of Oregon), et al.,**

Defendants.

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Case No. 6:13-cv-01908-DOC

**DEFENDANTS' UNOPPOSED  
MOTION TO EXTEND DISCOVERY  
AND PRETRIAL DEADLINES**

**L.R. 7.1 CERTIFICATION**

The parties have conferred, and Plaintiff does not oppose this motion.

**I. MOTION**

Defendants move the court for an order extending the following discovery and pretrial deadlines as set forth below:

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- December 3, 2014: 1) File all motions to amend pleadings under Fed. R Civ.P. 15;  
2) File all discovery motions; and  
3) Complete all discovery.
- January 9, 2015: File all dispositive motions.
- February 9, 2015: File Joint ADR Report and Pretrial Order, unless dispositive motions have been filed, in which case Joint ADR Report and Pretrial Order will be due 30 days after dispositive motions have been ruled upon.

## **II. MEMORANDUM IN SUPPORT OF MOTION FOR TEMPORARY STAY**

Plaintiff filed his Complaint on October 25, 2013. [Court Doc. 1].

On October 30, the court issued a Discovery and Pretrial Scheduling Order. [Doc. 7].

Under that order, certain pretrial and discovery deadlines were set at 120 days from the date of the Order, which was February 27, 2014, and certain pretrial deadlines were set at 150 days from the date of the Order, which was March 31, 2014.

Plaintiff did not serve his Complaint on Defendants.

Plaintiff filed his First Amended Complaint on November 12, 2013. [Doc. 9].

Plaintiff served Defendants with summonses and the First Amended Complaint between March 7 and March 22, 2014. Declaration of Jens Schmidt in Support of Defendants' Unopposed Motion to Extend Discovery and Pretrial Deadlines, ¶ 2.

On March 18, Defendants filed their Unopposed Motion to Stay All Pending Deadlines for a Period of Thirty Days. [Doc. 11]. The basis of the motion was that Plaintiff and Defendant University of Oregon had been involved in an arbitration that involved some of the same issues that are involved in this lawsuit, that the arbitrator had issued his decision on February 24, 2014, and that the parties were exploring a global settlement of the arbitration award and this lawsuit.

The court granted the motion on March 19. [Doc. 13]. The case was stayed for 30 days and the pending deadlines were vacated and were to be reset, if necessary, upon termination of the stay. The court ordered the parties to file a Joint Status Report no later than April 18.

The parties filed a Joint Status Report on April 13. [Doc. 14]. The parties reported that their settlement negotiations had been unsuccessful and requested that the stay be lifted and that a new discovery and pretrial scheduling order be issued.

On April 22, the court issued a scheduling order [Doc. 15] which set the following deadlines:

May 2: Deadline for Defendants to file answer

September 2: Deadline for completion of discovery

October 2: Deadline for dispositive motions

November 3: Deadline for Joint ADR Report and Pretrial Order, unless dispositive motions are filed, in which case the deadline for the Joint ADR Report and Pretrial Order will be 30 days after a ruling on the dispositive motions.

Defendants timely filed their Answer on May 2. [Doc. 16]

The parties have begun the discovery process.

Defendants served Plaintiff with Defendants' First Request for Production and Defendants' First Set of Interrogatories on May 14. Schmidt Dec., ¶3.

Plaintiff served Defendants with Plaintiff's Responses to Defendants' First Request for Production, and Plaintiff's Supplemental Response to Defendants' First Request for Production, on June 16. However, his responses at that time were incomplete, and he provided very few responsive documents. Defendants agreed to give Plaintiff more time to complete his responses and provide responsive documents. On July 28, 2014, Plaintiff served Defendants with Plaintiff's Second Response to Defendants' First Request for Production of Documents, in which he provided more complete responses and some documents in response to some of Defendants'

requests. However, he objected and declined to produce documents in response to seven of Defendants' requests. Schmidt Dec., ¶ 4.

Plaintiff's responses to Defendants' First Set of Interrogatories were due June 16, 2014. Defendants agreed to provide him with more time to respond. He served Plaintiff's Responses to Defendants' First Set of Interrogatories on July 28, 2014. However, he objected and declined to answer 20 of Defendants' 25 interrogatories. Schmidt Dec., ¶ 5.

The parties are in the process of attempting to resolve the objections Plaintiff has now raised in response to Defendants' discovery requests. Schmidt Dec., ¶ 6.

Plaintiff has also served discovery requests. He served Plaintiff's First Request for Production of Documents to Defendants and Plaintiff's First Set of Interrogatories to Defendants on June 10. Those discovery requests cover what is estimated to be thousands of pages of documents and many audio and video files. Because of FERPA and other laws, many of the documents and video files may need to be redacted. Defendants intend to respond to those discovery requests no later than August 4. Schmidt Dec., ¶ 7.

Plaintiff served Defendants with his Second Request for Production of Documents on July 28, 2014. Plaintiff already has some of the documents he requested, and on July 29 he reviewed other documents that fall within the scope of his request at the offices of Defendants' attorneys. Schmidt Dec., ¶ 8.

Fed.R.Civ.P. 6(b)(1) provides that the court may extend deadlines for good cause. Good cause exists to extend the deadlines for amending pleadings, filing discovery motions, completing discovery, filing dispositive motions and filing the Joint ADR Report and the pretrial order. As explained above, although this case was filed in October 2013, the parties did not begin to actively litigate this case until their settlement negotiations were unsuccessful, the stay of this case was lifted, and Defendants filed their answer on May 2. Since then, the parties have commenced the discovery process, but they will be unable to complete the discovery process,

assess whether amendments to the pleadings are necessary, and file dispositive motions within the current deadlines. Schmidt Dec., ¶ 11.

Defendants intend to take at least Plaintiff's deposition, and the need to take other depositions may arise from the deposition testimony of Plaintiff and others. Schmidt Dec., ¶7. Plaintiff has given Defendants a list of potential deposition witnesses, but he has not stated how many of them he wants to depose. Schmidt Dec., ¶ 10.

The parties need an extension of the current discovery deadline to take depositions. The parties need time to review resolve Plaintiff's recent objections to Defendants' discovery requests, and to review documents and interrogatory responses in order to prepare for depositions. Schmidt Dec., ¶11. Moreover, the vacation schedule of one of the attorneys for Defendants is such that an extension of the discovery deadline is necessary. Schmidt Dec., ¶ 10.

### III. CONCLUSION

For the foregoing reasons, the court should grant Defendants' motion.

DATED this 29th day of July, 2014.

HARRANG LONG GARY RUDNICK P.C.

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## CERTIFICATE OF SERVICE

I certify that on July 29, 2014, I served or caused to be served a true and complete copy of the foregoing **DEFENDANTS' UNOPPOSED MOTION TO EXTEND DISCOVERY AND PRETRIAL DEADLINES** on the party or parties listed below as follows:

- Via CM / ECF Filing
- Via First Class Mail, Postage Prepaid
- Via Email
- Via Personal Delivery

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HARRANG LONG GARY RUDNICK P.C.

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**CERTIFICATE OF SERVICE**