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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CLIFTON A. JACKSON et al.,	:	
	:	
Plaintiff,	:	CASE NO. 2:17-cv-163
	:	
v.	:	
	:	
OHIO STATE HIGHWAY	:	CHIEF JUDGE SARGUS
PATROL, et al.	:	
	:	MAGISTRATE JUDGE JOLSON
Defendants.	:	

MOTION FOR EXTENSION OF TIME

Federal Defendants former DEA Task Force Officer Geno Taliano and former Special Agent Caitlin Szczepinski move for a 60-day extension of time, until April 24, 2017, to respond to *pro se* Plaintiffs' Complaint. The reasons for this motion are more particularly contained in the attached Memorandum in Support.¹

Respectfully submitted,

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United States Attorney

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¹ Because the primary Plaintiff Clifton A. Jackson—the only Plaintiff who signed the Complaint, *see* ECF No. 1-1 at p. 13—is a prisoner proceeding *pro se*, the consent requirements of S.D. Ohio Civ. R. 7.3 are not applicable here.

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MEMORANDUM IN SUPPORT

On February 24, 2017, the United States of America removed the action from the Franklin County Common Pleas Court to this Court. *See* Notice of Removal, ECF No. 1. On that same day, the United States substituted itself for TFO Taliano and SA Szczepinski as to Plaintiffs' state law tort claims. *See* Notice of Substitution, ECF No. 2. The United States subsequently moved to dismiss those claims under Federal Rule of Civil Procedure 12(b)(1). *See* Mot. to Dismiss, ECF No. 3.

Under Federal Rule of Civil Procedure 81(c)(2)(C), the Federal Defendants' responses are due March 2, 2017. That is inadequate time for the U.S. Attorney's Office to fully investigate, research, and prepare appropriate responses to the claims against TFO Taliano and SA Szczepinski in their individual capacities under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). Furthermore, individual representation of TFO Taliano and SA Szczepinski must be approved by the Department of Justice. *See* 28 C.F.R. § 50.15. In accordance with the regulation, the requests for representation have been made to the DEA and were forwarded to DOJ on February 22, 2017. Until representation is approved, the U.S. Attorney's Office cannot represent TFO Taliano and SA Szczepinski on the individual capacity claims. Thus, this extension of time is required to allow DOJ time to review and evaluate the claims at issue and approve representation by the U.S. Attorney's Office.

A 60-day extension of time is further warranted because the United States and the individual defendants would have received 60 days from proper service on the United States Attorney if Plaintiffs had filed this action in federal court instead of state court.

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Fed. Rule Civ. P. 12(a)(2)-(3). The DEA received the state court complaint by certified mail under state rules of service on February 6, 2017, but the United States Attorney was not served in accordance with federal rules.

The Federal Defendants therefore respectfully submit that a 60-day extension of time, until April 24, 2017, is warranted given the pending approval of individual representation, counsel's need to fully investigate, research, and prepare appropriate responses, and the normal timelines set forth in the federal rules.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on February 24, 2017, I filed the foregoing Motion for Extension of Time using the Court's CM/ECF system and I certify that on the same day a copy of the foregoing was sent via regular U.S. Mail to:

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501 Thompson Road
Conneaut, OH 44030

Alexander Jemison
[REDACTED]
Buffalo, NY [REDACTED]

Amber Powlak
[REDACTED]
Buffalo, NY [REDACTED]

Mason Jackson
[REDACTED]
Buffalo, NY [REDACTED]

Moneh Fuller
[REDACTED]
Buffalo, NY [REDACTED]

Roman Motley
[REDACTED]
Buffalo, NY [REDACTED]

Elijah Fuller
[REDACTED]
Buffalo, NY [REDACTED]

Lorrionna Jackson
[REDACTED]
Buffalo, NY [REDACTED]

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April Burns

[REDACTED]

Detroit, MI [REDACTED]

Angel Burns Myles

[REDACTED]

Detroit, MI [REDACTED]

Brenda Jackson

[REDACTED]

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Jamel Pittman

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Ohio's State Highway Patrol

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