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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO**

ADREE EDMO (a/k/a MASON EDMO),

Plaintiff,

v.

IDAHO DEPARTMENT OF CORRECTION;  
HENRY ATENCIO, in his official capacity;  
JEFF ZMUDA, in his official capacity;  
HOWARD KEITH YORDY, in his official  
and individual capacities; CORIZON, INC.;  
SCOTT ELIASON; MURRAY YOUNG;  
RICHARD CRAIG; RONA SIEGERT;  
CATHERINE WHINNERY; and DOES 1-15;

Defendants.

Case No.: 1:17-cv-00151-BLW

**PLAINTIFF'S OPPOSITION TO  
DEFENDANTS' MOTION FOR EXTENSION  
OF TIME TO RESPOND TO PLAINTIFF'S  
MOTION FOR PRELIMINARY  
INJUNCTION AND REQUEST FOR STATUS  
CONFERENCE**

Complaint Filed: April 6, 2017  
Discovery Cut-Off: None Set  
Motion Cut-Off: None Set  
Trial Date: None Set

## INTRODUCTION AND PROCEDURAL BACKGROUND

On June 1, 2018, Ms. Edmo filed a motion for preliminary injunction asking this Court to order Defendants to immediately provide necessary medical treatment that two medical experts in treating gender dysphoria determined she urgently needs to prevent serious and potentially life-threatening harms. Dkt. 62. On June 5, IDOC Defendants filed a Motion for Extension of Time to Respond, claiming they cannot adequately respond to Ms. Edmo's motion within the twenty-one days prescribed by the Local Rules of this Court and requesting a "minimum of six months" to conduct discovery and file a response. Dkt. 63. The following day, Corizon Defendants filed their Joinder in IDOC Defendants' Motion for Extension of Time to respond. Dkt. 64.

This Court should reject Defendants' request in the face of overwhelming evidence that Defendants' ongoing denial of necessary medical treatment is causing Ms. Edmo is to suffer irreparable harm. Delay of this Court's decision on the preliminary injunction would greatly prejudice Ms. Edmo, for whom each day without medically necessary treatment poses a life-threatening risk. Defendants have not established good cause for any extension of time, much less the six months they request.

## LEGAL STANDARD

A court may grant a party's request for extension of time only upon a showing of good cause. Fed. R. Civ. P. 6(b)(1)(A); *see also* Loc. Civ. R. 6.1. The Ninth Circuit's good cause requirement, while construed broadly, nonetheless places the burden on the moving party to establish that the "requested relief was reasonable, justified, and would not result in prejudice to any party." *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1260 (9th Cir. 2010). An extension of time should not be granted where there is evidence it would prejudice the opposing party. *Id.* at 1259. A district court may also deny a request for extension of time "in order to secure the just, speedy, and inexpensive determination of an action." *Parker v. FedEx Nat'l LTL, Inc.*, 2011 U.S. Dist. LEXIS 156562, at \*21-24 (C.D. Cal. Apr. 11, 2011) (denying motion for extension of time in light of prejudice to the opposing party, the length of delay in the case, and the impact on judicial proceedings).

## ARGUMENT

Defendants' request for a six-month extension to respond to Plaintiff's Motion for Preliminary Injunction is unreasonable and will severely prejudice Ms. Edmo. In support of their motion, Defendants suggest without any legal support that this case must be fully litigated through discovery in order for the Court to grant Ms. Edmo's requested injunctive relief. That argument disregards the purpose of a preliminary injunction, which ensures the availability of immediate relief to a party who demonstrates a likelihood of success on the merits and will suffer irreparable harm in the absence of such relief. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2009); *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F. 3d 873, 879 (9th Cir. 2009). Ms. Edmo has made that showing here and is entitled to preliminary relief.

Defendants' assertions that they are unable to respond to Ms. Edmo's motion because discovery has not yet taken place have no merit. Defendants have complete control over Ms. Edmo's custody and medical records and thus have access to all the relevant information necessary to respond to Ms. Edmo's motion. Defendants also attempt to use their own refusal to provide Ms. Edmo with her full medical records until May 30, 2018, despite earlier requests from Ms. Edmo's counsel, as a basis for their extension request. Defendants cite no authority for that novel claim, nor does any exist. Defendants have had access to Ms. Edmo's medical records at all relevant times. They should not be rewarded for their own delay.

### **I. A Six-Month Extension Will Severely Prejudice Plaintiff**

Defendants' argument that a six-month extension of time for their response will not prejudice Ms. Edmo is contradicted by the record. The only evidence Defendants cite for this assertion is Defendants' cherry-picking of one line out of context from Dr. Gorton's declaration, which reported Ms. Edmo's own self-ratings of anxiety, depression, and gender dysphoria at the time of her meeting with Dr. Gorton. Defendants ignore the wealth of evidence—including the opinions rendered by Dr. Gorton based on his evaluation of Ms. Edmo—that Ms. Edmo is suffering serious physical, psychological, and emotional harm and is at serious risk of death by suicide or attempts to perform self-surgery without necessary medical treatment. *See* Dkt. 62 at 16-18.

Defendants also ignore the uncontroverted evidence that Ms. Edmo has already attempted suicide and twice engaged in self-surgery because Defendants' repeated denial of necessary medical treatment caused her to feel such desperation that she felt she had no other option than to attempt suicide or risk her life by attempting self-castration. Dkt. 62-2, ¶¶ 29-35. Both Dr. Gorton and Dr. Ettner opined that "without sex-reassignment surgery, Ms. Edmo's symptoms of gender dysphoria will continue to worsen and the risk that she may resort to life-threatening self-castration, or another suicide attempt, is significant and 'dire.'" Dkt. 62 at 17.

In support of her request for a preliminary injunction, Ms. Edmo presented the assessments of two qualified experts who opine that Defendants' denial of medically necessary care subjects her to real and grievous harm on a daily basis. Defendants' suggestion that she will suffer no prejudice from a six-month extension because she is in their custody and therefore "has access to mental health and medical treatment," Defts' Mot. at 7, ignores the fundamental contention in this case—that Defendants are deliberately refusing to provide Ms. Edmo medical treatment consistent with the well-established standard of care for her serious medical condition, and thus causing her needless suffering and putting her at risk of life-threatening harm.

Defendants' request to file a response in six months would substantially delay a decision on the merits of Ms. Edmo's motion. Given the facts of this case, timely resolution of the preliminary injunction is critical to ensuring that Ms. Edmo does not suffer additional unnecessary harm. *See Parker*, 2011 U.S. Dist. LEXIS 156562, at \*21-24 (denying request for extension where resulting delay would be lengthy and prejudicial).

## **II. Defendants' Request For A Six-Month Extension Is Unreasonable**

Defendants' request for a minimum six-month extension must be denied for the additional reason that such a lengthy delay is not reasonable. *See Ahanchian*, 624 F.3d at 1260. The only basis Defendants provide for their specific request for a "six month" extension is Dr. Gorton's opinion that it is medically necessary for Ms. Edmo to be referred to a surgeon for genital sex-reassignment surgery "as soon as possible, but at a minimum within the next 6 months." Defts.' Mot. at 8; Dkt. 62-1, Ex. 2, ¶ 88. Dr. Gorton's statement stresses the need for such care to be

provided as soon as possible, explaining: “This is particularly important since Ms. Edmo remains at substantial risk for self-surgery or suicide if she is denied this medically necessary care.” Dkt. 62-1, Ex. 2, ¶ 88. Defendants’ proposed timeline would do just the opposite, delaying the provision of medically necessary care well past the outer six-month limit referenced by Dr. Gorton because it ignores the time for Plaintiff’s reply, review of the pleadings and a hearing by the Court, a decision by the Court, and the time necessary to arrange provision of the needed care.

### **III. None of Defendants’ Proffered Reasons Justifies A Six-Month Extension**

Defendants offer a laundry list of purported reasons for their request for an extension, none of which justifies a six-month extension under the Ninth Circuit’s good cause standard. They claim: 1) the issues in this case are a matter of first impression in Idaho, making them “important and complicated”; 2) the Court has not yet ruled on Defendants’ dispositive motion; 3) the parties have not engaged in discovery; 4) Defendants need “significant time” to review the declarations of Ms. Edmo and Drs. Ettner and Gorton; 5) Defendants need “additional time” to provide evidence to any defense experts and to interview Ms. Edmo’s treatment providers; 6) Ms. Edmo’s experts should review Ms. Edmo’s entire medical records, which Defendants refused to provide to Plaintiff until May 30; 7) Defendants want to present the Court with a “complete and full response” regarding Ms. Edmo’s pre- and post-incarceration history and her behavior and treatment during her time as an inmate; 8) Ms. Edmo will not be prejudiced by an extension of time while she remains in the custody of IDOC; and 9) twenty-one days does not provide Defendants with adequate notice and an opportunity to be heard on “the many issues raised by Ms. Edmo” in the motion for preliminary injunction.

First, the issues presented in Plaintiff’s Second Amended Complaint and Plaintiff’s Motion for Preliminary Injunction are not issues of first impression in the Ninth Circuit, or even in Idaho. *See Rosati v. Igbinoso*, 791 F.3d 1037 (9th Cir. 2015) (transgender inmate’s complaint alleging severe gender dysphoria for which sex-reassignment surgery was medically necessary stated a cause of action under the Eighth Amendment); *Stevens v. Beard*, 2018 U.S. Dist. LEXIS 74519 (E.D. Cal. May 2, 2018) (denying motion to dismiss transgender inmate’s complaint alleging

denial of sex-reassignment surgery in violation of the Eighth Amendment); *Norsworthy v. Beard*, 87 F. Supp. 3d 1164 (N.D. Cal. 2015) (granting transgender inmate's preliminary injunction to obtain medically-necessary sex-reassignment surgery under the Eighth Amendment); *Gammitt v. Idaho State Bd. of Corr.*, 2007 U.S. Dist. LEXIS 55564 (D. Idaho July 27, 2007) (granting preliminary injunction and ordering IDOC and medical defendants to provide transgender inmate proper medical and mental health treatment).

Ms. Edmo's Eighth Amendment claim for denial of necessary and adequate medical treatment is of a type regularly asserted by incarcerated persons and considered by federal courts, and for which the legal standards are clearly established. Dkt. 62 at 9-13. Similarly, Ms. Edmo's sex discrimination claims under the Fourteenth Amendment and Affordable Care Act rely on Ninth Circuit precedent recognizing discrimination against transgender persons as a form of prohibited sex discrimination. *Id.* at 13-16. As federal courts have recognized, there are internationally-accepted standards governing treatment for transgender patients diagnosed with gender dysphoria. *See* Defs.' Mot. at 3-4 (discussing the World Professional Association for Transgender Health's Standards of Care); *Norsworthy*, 87 F. Supp. 3d at 1186-89 (evaluating plaintiff's eligibility for sex-reassignment surgery under the World Professional Association for Transgender Health's Standards of Care). Courts regularly consider this type of evidence in analyzing whether to grant a preliminary injunction relating to urgent medical needs, and Defendants are regularly required to brief it in the allotted time under the Federal Rules in light of the risk of grave and irreparable harm to incarcerated plaintiffs who cannot obtain necessary medical treatment for themselves. *See, e.g., Hicklin v. Precynthe*, 2018 U.S. Dist. LEXIS 21516, at \*4-5, 8-10 (E.D. Mo. Feb. 9, 2018); *Norsworthy*, 87 F. Supp. 3d at 1181, 1186-89.

Second, the fact that this Court has not yet ruled on Defendants' First Motion for Dispositive Relief bears no relation to Defendants' ability to adequately respond to the issues raised by Plaintiff's Motion for Preliminary Injunction.

Third, Defendants' arguments related to their request for time to conduct discovery ignore the relative access of the parties to relevant information in this case, and do not explain why a

delay of six months is warranted. *See* Defs.’ Mot. at 6-7. In contrast to Ms. Edmo, Defendants have, and have always had, access to the majority of discoverable evidence in this case. *Cf. Hunt v. Fields*, 2011 U.S. Dist. LEXIS 76418, at \*6 (E.D. Cal. July 11, 2011) (“A continuing issue in prisoner civil rights discovery involves the extent to which a named defendant has custody and control over documents and other information for purposes of discovery.”) Given Defendants’ singular access to Ms. Edmo’s custody and medical records and the fact that the treatment providers they claim they need to “interview” are Defendants or the employees of Defendants, Defendants’ claim that they need six months to conduct discovery are specious. Indeed, this complete control over Ms. Edmo’s records made it possible for Defendants to refuse to provide full medical records to Ms. Edmo for months—which Defendants nonsensically now attempt to use as a justification for why they should be granted additional time for their response.

Defendants—the Idaho Department of Corrections and Corizon, a multibillion dollar national corporation—have also not provided any reason why they require six months to obtain defense experts. Defendants are large entities that regularly engage in litigation and, should they desire to retain defense experts, are able to do so. Similarly, Defendants offer no support for their bare assertion that twenty-one days does not afford them adequate time to review the three declarations filed in support of Plaintiff’s Motion for Preliminary Injunction and respond to the motion. Further, Defendants cite no case where a party was granted six months to respond to a motion for preliminary injunction. In fact, it appears that parties opposing preliminary injunction in cases involving similar issues were able to comply with the motion briefing schedule. *E.g.*, *Hicklin*, 2018 U.S. Dist. LEXIS 21516, at \*4-5; *Norsworthy*, 87 F. Supp. 3d at 1181.

Defendants’ request for a six-month extension of time is an attempted end-run around the possibility and purpose of preliminary injunctive relief. Because Ms. Edmo is incarcerated, she is prevented from obtaining any medical treatment on her own. Her only avenue for obtaining necessary treatment, given Defendants’ refusal to provide it, is through this Court.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 6th day of June, 2018, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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/s/ - Lori Rifkin  
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