

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

JANET JENKINS, et al,  
Plaintiffs,

v.

LISA MILLER, Defendant, et al,

Docket No. 2:12-cv-184

**REQUEST FOR EXTENSION OF TIME  
FOR FILING AND SERVING RULE 12 MOTIONS AND/OR  
RESPONSIVE PLEADINGS, AND  
INITIAL DISCLOSURES UNDER F.R.Civ.P. 26(a)(1)(C)  
(F.R.Civ.P 6(b))**

Defendant Lisa Miller, by and through her attorney and “local counsel”, Duncan F. Kilmartin, a member of the bar of this court, under a limited appearance, pursuant to F.R.Civ.P. 6(b), for good cause shown and prior to the expiration of the time for which the extension is requested, **requests an extension of time**, for filing Rule 12 Motions and/or Responsive Pleadings, and Initial Disclosures under F.R.Civ.P. 26(a)(1)(C), **of 90 days after the date** Attorney Anthony Biller **is admitted**, *pro hac vice*, as Lisa Miller’s attorney of record, to practice in the USDCVT.

**NOTE:** At the time of Attorney Biller’s admission, Attorney Kilmartin will assume the role of “local counsel” under Local Rule 83.1(b).

**NOTE:** Due to the requirement that the Motion for Admission *pro hac vice*, Attorney Billar’s Declaration, his Certificate of Good Standing in the bar of North Carolina, and the fee for admission cannot be done electronically, and must be done by actual delivery to the Court, it will be mid-to-late in the week of March 29, 2021 before the Court receives the “Admission package”.

“Good Cause” shown, results from the following:

1. The civil action was filed August 14, 2012, almost 9 years ago.
2. Defendant Lisa Miller was served with an amended complaint on March 9, 2021, while incarcerated on federal felony charges, in Niagara Falls, New York.
3. There are currently 660 separate entries in the above referenced docket, which itself runs 52 pages on the undersigned’s printer.
4. Attorney Biller was requested to be Lisa’s counsel in this matter before service was made on March 9, 2021, circa January 25<sup>th</sup>, 2021, and attorney Kilmartin was contacted on Friday, March 12<sup>th</sup> to possibly serve as local counsel. Attorney Biller did not look at the docket entries until after Defendant was served. On Monday, March 15, attorneys Biller and Kilmartin first communicated, and on Thursday, March 18<sup>th</sup>, after exercising his “due diligence”, Attorney Kilmartin agreed to sponsor Attorney Billar’s admission, *pro hac vice*, to USDCVT, and serve as local counsel for Defendant Lisa Miller and Attorney Billar.
5. Attorney Biller is physically located in North Carolina. Lisa Miller, Defendant is located in Niagara Falls, N.Y. Attorney Kilmartin is located in both Florida and Vermont.
6. **Until Attorney Biller is admitted to practice in USDCVT**, review of the substantive motions and orders involving multiple parties alleged to be connected to Lisa Miller, necessary research, and communications with client, as well as communication and coordination with other counsel of record in this matter, and other counsel representing Lisa Miller in other matters (e.g.: a criminal matter in the USDC in the Western District of New York), and determining availability of documents for purposes of Initial Disclosures under F.R.Civ.P. 26(a)(1)(C), **cannot begin in earnest.**
7. A quick review of the docket entries, and two “lengthy” orders of Judge Sessions, demonstrates a very complex case involving multiple theories of recovery, multiple defendants, and alleged “actionable” relationships among the multiple defendants.
8. Attorney Biller prepared a Statement of Additional Reasons for the extension, attached and incorporated herein by reference. **SEE: APENDIX A, STATEMENT OF ATTORNEY ANTHONY BILLER, “Reasons why I, Anthony Biller, require additional time within which to respond to the second amended complaint, first served on Ms. Miller March 9, 2021”.<sup>1</sup>**

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<sup>1</sup> In regard to my duties to the Court under Local Rule 81.3, I have reviewed APPENDIX A, and fully concur in all of the statements made.

9. “Due diligence” for the activities of both Attorney Biller, **and** “local counsel” Kilmartin<sup>2</sup>, outlined in paragraph 6, *supra*, **required** under F.R.Civ.P. 11 standards, before filing and serving Rule 12 Motions and/or Responsive Pleadings, will take in the opinion of both Biller and Kilmartin, upwards of 90 days from Biller’s admission.

10. Under a separate Motion for relief, due to the fact of the extensive filings and orders over a lengthy period of time, Defendant Miller will be requesting that the Court order the Clerk to permit one “free” download of the documents involved in each document entry for both her counsel, Anthony Biller, and her local counsel, Duncan Kilmartin, which was available to each counsel of record when these documents were originally filed. Absent such relief, downloading the documents behind each docket entry will be unduly time consuming and expensive.

Wherefore, Defendant Lisa Miller requests the Court to grant an extension of time for filing and serving Rule 12 Motions and/or Responsive Pleadings, and Initial Disclosures under F.R.Civ.P. 26(a)(1)(C), **until on, or before, 90 days after Anthony Biller is admitted *pro hac vice* to practice before USDCVT**

**Dated: March 25, 2021.**



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<sup>2</sup> Under Local Rule 83.1(b)(4)(B), “local counsel” Kilmartin **is required to sign all Motions and Pleadings, under the standards of F.R.Civ.P. 11, which means at least in the initial phase of Rule 12 Motions and/or Responsive Pleadings, local counsel is required to engage in the same diligence as counsel admitted *pro hac vice*. The same applies to Initial Disclosures under F.R.Civ.P. 26(a)(1)(C).** While at some point subsequent to the initial phase, local counsel, under Local Rule 83.1(b)(4)(C), may seek exemption from the requirements of 83.1(b)(4)(B), such a request would be premature until after the initial phase of responding to the Amended Complaint, in view of Rule 11 requirements.

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APPENDIX A  
TO  
DEFENDANT LISA MILLER'S REQUEST FOR EXTENSION OF TIME

**Reasons why I, Anthony Biller, require additional time within which to respond to the second amended complaint served on Ms. Miller.**

Ms. Miller is presently in federal criminal custody. Ms. Miller retained me a few days in advance of her anticipating being taken into federal custody. I am informed that Ms. Miller has been indicted in the United States District Court for the Western District of New York for her alleged involvement in the kidnapping of her daughter, Isabella Miller. I have not yet seen a copy of the indictment nor evaluated the extent to which the issues in the criminal case overlap with the issues in this civil case, though I anticipate there will be substantial overlap.

It is my understanding that Ms. Miller was taken into custody upon her arrival in the United States and moved into a federal holding facility in Miami, Florida, where she was held in quarantine for approximately two weeks. I believe I was able to talk to her twice, on two short and unscheduled teleconferences Ms. Miller initiated. I recall being put on notice that our calls were being recorded.

Shortly thereafter I contracted Covid-19 and had no communications with Ms. Miller for approximately two weeks. Thereafter, Ms. Miller was and is now being held in the Niagara County Jail, in Lockport, New York.

Currently, my communications with Ms. Miller are limited and difficult to coordinate. I have not yet met in person with her. My telephonic and mail communications regarding the substance of my representation in this suit have been limited given my concerns regarding whether our telephonic and mail communications have been private.

The fact that I reside in Raleigh, North Carolina, also makes scheduling in-person meetings more difficult given the distance.

Opposing counsel Diego Soto communicated Plaintiff's opposition to an extension of time to respond as follows, "Ms. Miller certainly has known about this case for years

while a fugitive but decided only recently to turn herself in. Moreover, the Court has already denied multiple motions to dismiss in the attached orders."

Regarding Mr. Soto's reasoning, while Ms. Miller may have known about pending criminal and civil charges against her, I have no reason to believe she knew the specifics of this lawsuit let alone the substantial history and arguments that have occurred.

Perhaps more importantly for present purposes, I had no knowledge of this case prior to being retained by Ms. Miller. Once retained, I was not sure whether Plaintiffs would attempt to bring her into this case given the substantial amount of time that has passed since this case was initiated and given Ms. Miller's pending criminal charges. Accordingly, I did not begin researching the docket until she was served.

Contrary to Mr. Soto's implication, the fact there have been "multiple motions to dismiss" mitigates toward more time needed to evaluate this case. I have reviewed two of this court's prior Rule 12(b)(6) rulings, ECF nos. 115 & 277. Those two decisions alone comprise 187 pages. Further, a printout of the docket of this matter runs over 50 pages and approximately 650 docket entries.

We are presently attempting to schedule an in-person meeting between me and Ms. Miller to occur on April 6, 2021, at the jail. The purpose of this meeting will be to discuss the allegations of the second amended complaint, review what has happened in this lawsuit, and determine her defense of the same. A backdrop to this analysis will be evaluating my client's Fifth Amendment concerns and discussing the same with her criminal defense attorney.

I need additional time within which to review the history of this case, its many motions and orders, and determine and advise my client on her potential defenses and how to proceed with this civil litigation. I will then require the time to prepare the corresponding response(s) to Plaintiff's second amended complaint.

An extension of 90 days, after my admission *pro hac vice* to the USDCVT should give me sufficient time.

Dated: March 25, 2021

/s/ Anthony Biller, Attorney for Lisa Miller,  
Defendant

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Dated: March 25, 2021

/s/ Anthony Biller, Attorney for Lisa Miller,  
Defendant