

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION**

<p>CHELSEY NELSON PHOTOGRAPHY LLC and CHELSEY NELSON,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, et al.,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No. 3:19-cv-851-JRW</p>
---	--

**DEFENDANTS’ RESPONSE TO
PLAINTIFFS’ MOTION FOR EXTENSION OF TIME
TO COMPLETE FACT DISCOVERY**

Defendants Louisville/Jefferson County Metro Government, Louisville Metro Human Relations Commission – Enforcement, Louisville Metro Human Relations Commission – Advocacy, Verná Goatley, in her official capacity as Executive Director of the Louisville Metro Human Relations Commission, Marie Dever, Kevin Delahanty, Charles Lanier, Sr., Leslie Faust, William Sutter, Ibrahim Syed, and Leonard Thomas, in their official capacities as members of the Louisville Metro Human Relations Commission-Enforcement (collectively, “Defendants”), by counsel, respond as follows to the Motion for Extension of Time to Complete Fact Discovery [Doc. No. 70] filed by Plaintiffs Chelsey Nelson Photography and Chelsey Nelson (collectively, “Plaintiffs”):

When Defendants initially agreed to the current scheduling order [Doc. No. 57], Defendants anticipated (in part based on Plaintiffs’ representations) that discovery in this case would be relatively limited. Defendants certainly did not anticipate that Plaintiffs would propound

116 requests for production and 138 requests for admission (in four separate sets of requests), or seek to discover the entire contents of Defendants' case files constituting over 10 years of enforcement history. Defendants never would have agreed to what is a relatively compressed schedule if they had understood that to be the scope of discovery Plaintiffs would seek.

Nevertheless, Defendants have worked in good faith to respond to Plaintiffs' voluminous requests and to address disputed issues. Certain issues were not able to be resolved by agreement between the parties and have been fully briefed for the Court's resolution via Plaintiffs' Motion to Compel [Doc. No. 63] and Defendants' Motion for Protective Order [Doc. No. 64]. Although Defendants dispute Plaintiffs' need for the contested discovery, Defendants have no objection to an extension of the deadline to complete fact discovery.

However, Defendants believe that if the deadline to complete fact discovery is extended, all other deadlines in the operative scheduling order should receive a commensurate extension. Defendants believe that it is important to preserve the intended sequence of the original scheduling order, which was to complete fact discovery before expert reports are disclosed. This allows the parties to account for the results of fact discovery in any expert disclosures. Plaintiffs have failed to articulate any prejudice to Plaintiffs that would be caused by extending the overall schedule. There is no ongoing harm to the Plaintiffs, as Plaintiffs received preliminary relief from application of the challenged ordinance when the Court issued a preliminary injunction [Doc. No. 47]. There are no other factors, such as a risk of fading memories, that would argue in favor of prioritizing urgent case resolution over a reasonable and orderly schedule.

For the foregoing reasons, Defendants request that any extension granted with respect to the fact discovery deadline should apply to all other deadlines in the scheduling order.

Respectfully submitted,

/s/ Casey L. Hinkle

David S. Kaplan
Casey L. Hinkle
KAPLAN JOHNSON ABATE & BIRD LLP
710 W. Main Street, 4th Floor
Louisville, KY 40202
(502)-416-1630
dkaplan@kaplanjohnsonlaw.com
chinkle@kaplanjohnsonlaw.com

MIKE O'CONNELL
JEFFERSON COUNTY ATTORNEY

John F. Carroll
Jason D. Fowler
Assistant Jefferson County Attorneys
531 Court Place, Ste. 900
Louisville, Kentucky 40202
(502) 574-6321
john.carroll2@louisvilleky.gov
jason.fowler@louisvilleky.gov

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2021, the foregoing was filed via the Court's electronic filing system, which will automatically send notice of such filing to all counsel of record.

/s/ Casey L. Hinkle

Counsel for Defendants