

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

**CHRISTOPHER FAIN; ZACHARY
MARTELL; BRIAN MCNEMAR; SHAWN
ANDERSON a/k/a SHAUNTAE ANDERSON;
and LEANNE JAMES**, individually and on
behalf of all others similarly situated,

Plaintiffs,

**Civil Action No. 3:20-cv-00740
Hon. Robert C. Chambers, Judge**

v.

WILLIAM CROUCH, in his official capacity as
Cabinet Secretary of the West Virginia
Department of Health and Human Resources;
CYNTHIA BEANE, in her official capacity as
Commissioner for the West Virginia Bureau for
Medical Services; **WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN
RESOURCES, BUREAU FOR MEDICAL
SERVICES; TED CHEATHAM**, in his official
Capacity as Director of the West Virginia Public
Employees Insurance Agency; and **THE
HEALTH PLAN OF WEST VIRGINIA, INC.**

Defendants.

**DEFENDANTS WILLIAM CROUCH, CYNTHIA BEANE, AND WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES, BUREAU FOR MEDICAL
SERVICES' MOTION TO EXTEND TIME TO SERVE WRITTEN DISCOVERY ON
RECENTLY ADDED PLAINTIFF SHAUNTAE ANDERSON**

Now come Defendants William Crouch, Cynthia Beane, and the West Virginia Department of Health and Human Resources, Bureau for Medical Services (“WVDHHR”), by counsel, pursuant to Federal Rules of Civil Procedure 16(b)(4) and Local Rule 16.1(f)(1), and move the Court for an extension of time to serve written discovery on recently added Plaintiff Shauntae Anderson.

In support of their motion, the moving Defendants state:

1. The Scheduling Order in this matter was entered on August 6, 2021, at a time when the only named Plaintiffs were Christopher Fain, Zachary Martell, and Brian McNemar. [ECF No. 75]. The Scheduling Order contained a deadline of October 18, 2021, for serving written discovery.

2. On September 23, 2021, Plaintiffs filed a Motion and an Amended Motion for Leave to File First Amended Complaint, seeking to add additional Plaintiffs Shauntae Anderson and Leanne James. [ECF Nos. 106, 109]. The amended motion was granted on October 28, 2021. [ECF No. 139]. Therefore, Shauntae Anderson was not added as a party Plaintiff until the filing of the Amended Complaint on October 28, 2021, after the deadline for serving written discovery had expired.

3. Pursuant to Rule 15 of the Federal Rules of Civil Procedure, responsive pleadings to the First Amended Complaint are to be filed within fourteen days. This motion for relief is being timely filed contemporaneously with these Defendants' responsive pleading.

4. Because Shauntae Anderson was made a party after the deadline for serving written discovery, these Defendants were unable to serve discovery on Ms. Anderson within the existing deadline. These Defendants seek an extension of time to serve written discovery on Plaintiff Shauntae Anderson, to permit them to serve written discovery on this newly added Plaintiff now that she has been added as a party. If this motion is granted, these Defendants will serve written discovery on Ms. Anderson within seven (7) business days of entry of the order granting the extension of time.

5. The relief requested in this motion will not prejudice any party. Plaintiffs and Defendants The Health Plan and Cheatham previously requested similar relief, requesting "that the October 18, 2021 deadline to serve discovery requests be stayed as to claims against Defendant

Cheatham until seven days after the Court rules on the motion to amend the complaint.” [ECF No. 119]. This relief was granted. [ECF No. 121]. As a result, newly added Plaintiff James recently served three sets of written discovery requests on Defendant Cheatham on November 4, 2021. [ECF No. 145]. Additionally, the deadline for completing fact discovery was recently extended from December 1, 2021, to March 1, 2022. [ECF No. 133]. Therefore, a brief extension of the time for serving written discovery would not impact other existing case deadlines.

6. On the other hand, these Defendants would be prejudiced by their inability to serve written discovery on Plaintiff Anderson, who was not a party at the time the deadline expired. These Defendants should be permitted to inquire into Ms. Anderson’s claims asserted in the First Amended Complaint.

7. The brief extension of time will not cause delay and is reasonable in light of the addition of new parties. Plaintiffs and Defendant Ted Cheatham have indicated that they do not oppose this motion.¹

Accordingly, William Crouch, Cynthia Beane, and the West Virginia Department of Health and Human Resources, Bureau for Medical Services respectfully request an extension of time for serving written discovery requests on newly added Plaintiff Shauntae Anderson, and if the motion is granted, they will serve such discovery within seven (7) business days of entry of the order granting relief.

**WILLIAM CROUCH, CYNTHIA BEANE, and
WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,
BUREAU FOR MEDICAL SERVICES,
By Counsel**

¹ The Health Plan of West Virginia, Inc. has not indicated any position on this motion. Deadlines with respect to the claims of Plaintiffs Zachary Martell and Brian McNemar against The Health Plan have been stayed until the Court rules on the anticipated motion for preliminary approval of a class settlement. [ECF No. 121].

/s/Kimberly M. Bandy
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Defendants.

CERTIFICATE OF SERVICE

Now come Defendants William Crouch, Cynthia Beane and West Virginia Department of Health and Human Resources, by counsel, and do hereby certify that on the 12th day of November, 2021, the foregoing **“DEFENDANTS WILLIAM CROUCH, CYNTHIA BEANE, AND WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES, BUREAU FOR MEDICAL SERVICES’ MOTION TO EXTEND TIME TO SERVE WRITTEN DISCOVERY ON RECENTLY ADDED PLAINTIFF SHAUNTAE ANDERSON”** was

electronically filed with the Clerk of the Court using the CM/ECF system, which will send a Notice of Electronic Filing to, and constitutes service upon:

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