



OPPS

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANDREA COLLIER, as trustee of the JACT
TRUST

Plaintiff,

vs.

PENNIE MOSSETT-PUHEK, individually;
ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, a Nevada Non-Profit
Corporation; CARMEN EASSA, an individual;
K.G.D.O. HOLDING COMPANY, LLC d/b/a
TERRA WEST MANAGEMENT SERVICES, a
Nevada limited liability company; DOES I
through X and ROE BUSINESS ENTITIES I
through X, inclusive,

CASE NO. A-22-852032-C

DEPT. NO. VIII

**DEFENDANTS ANTHEM HIGHLANDS
COMMUNITY ASSOCIATION'S,
K.G.D.O. HOLDING COMPANY, LLC
d/b/a TERRA WEST MANAGEMENT
SERVICES CARMEN EASSA'S and
PENNIE MOSSETT-PUHEK'S JOINT
OPPOSITION TO PLAINTIFF'S MOTION
TO EXTEND DISCOVERY**

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1 Defendants, ANTHEM HIGHLANDS COMMUNITY ASSOCIATION (“Anthem”),
2 CARMEN EASSA (“Eassa”), K.G.D.O. HOLDING COMPANY, LLC d/b/a TERRA WEST
3 MANAGEMENT SERVICES (“Terra West”), and PENNIE MOSSETT-PUHEK (“Mossett-
4 Puhek”) by and through their respective attorneys of record, Edward D. Boyack of the law firm
5 Boyack Orme & Murdy, and Derek R. Noack of the law firm Freeman Mathis and Gary, LLP,
6 hereby submit this Joint Opposition to Plaintiff’s Motion to Extend Discovery (Fifth Request) and
7 to Continue Trial Setting (Second Request) (hereinafter, the “Motion”).
8

9 This Joint Opposition is made and based upon the Memorandum of Points and Authorities
10 attached hereto, the pleadings and papers on file herein, and any oral argument the Court wishes
11 to entertain at the hearing on the Motion.

12 By: /s/ Edward D. Boyack
13 Edward D. Boyack, Esq.
14 Nevada Bar No. 005229
15 7432 W. Sahara Avenue, Suite 101
16 Las Vegas, Nevada 89117

17 and

18 /s/ Derek R. Noack
19 Derek R. Noack, Esq.
20 Nevada Bar No. 015074
21 770 East Warm Springs Road, Suite 360
22 Las Vegas, Nevada 89119
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MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

Plaintiff's last-minute Motion to Extend Discovery and to Continue Trial fails to establish sufficient grounds for good cause for Plaintiff's alleged failure to adequately complete discovery. Plaintiff's Motion fails to accurately depict the state of discovery, makes inaccurate statements about written discovery requests issued by Defendants, and does not include any specific information regarding an ongoing "meet and confer" process citing to any claimed deficiencies in Defendants' responses. Indeed, Plaintiff's desperate Motion to Extend includes no exhibits at all.

Plaintiff's Motion provides no reasonable explanation as to why Plaintiff feels she is unable to complete discovery during the often-extended discovery deadlines. Plaintiff is also the architect of her own alleged discovery issues. Defendants agreed on four prior occasions to work with Plaintiff in continuing the discovery deadlines forward. Defendants further coordinated their written discovery efforts by previously issuing four sets of discovery requests solely by Mossett-Puhek to Plaintiff, each of which has been responded to. Defendants have also each timely responded to Plaintiff's litany of last-minute propounded discovery requests. Further, all depositions (including experts) have been completed or scheduled within the present discovery timeframe. There is no good cause for a further extension of discovery or trial in this matter.

Defendants are not aware as to the specific "deficiencies" within Defendants' written responses to discovery that Plaintiff is claiming to exist. Defendants have previously and very reasonably agreed to supplement their responses and extend discovery timeframes to accommodate Plaintiff's requests. Ample time has been provided to the Plaintiff to attain the information she has requested in this case. Defendants worked diligently and reasonably with Plaintiff and are entitled to move toward a resolution of this case. Defendants will suffer prejudice if discovery is extended even further than it already has.

Plaintiff has not set forth sufficient grounds for good cause to further extend discovery and trial. Plaintiff's Motion should be denied.

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II. Procedural Background

Plaintiff filed her Complaint on May 3, 2022. Defendants' Anthem Highlands Community Association ("Anthem") and Pennie Mossett-Puhek ("Mossett-Puhek") filed their Answer on May 31, 2022. Nearly a year later, on May 18, 2023, Defendant Mossett-Puhek filed a Motion to Dismiss, or in the alternative, Motion for Summary Judgment. On August 4, 2023, Plaintiff filed her Opposition and Countermotion for Leave to Amend the Complaint. Defendant's Anthem Highlands and Mossett-Puhek separately filed their oppositions to Plaintiff's Countermotion for Leave to Amend on August 10, 2023.¹ On August 15, 2023, Plaintiff filed a second Motion for Leave to Amend. Shortly thereafter, on August 17, 2023, at Defendant Mossett-Puhek's hearing on her Motion to Dismiss, or alternatively, Motion for Summary Judgment, Plaintiff once again, incessantly lead her Motion for Leave to Amend before this Court. Pursuant to this Court's direction, on August 25, 2023, Plaintiff filed a supplemental pleading in support of her Motion to Amend. This supplement included a proposed amended Complaint that named two new defendants, Eassa and Terra West, alleges an array of facts that Plaintiff already knew of at the time she filed her Complaint, and attempted to alter current claims for relief while also adding three new additional claims.

On September 15, 2023, Defendants' Mossett-Puhek and Anthem filed their respective Oppositions Plaintiff's Motion for Leave. The motions were heard before the Court on October 5, 2023, and on November 1, 2023, the Court officially entered an Order granting Plaintiff's Motion for leave as "good cause existed" and Plaintiff timely filed her Motion for Leave with the Court.² Plaintiff's Amended Complaint was filed on October 12, 2023. The Amended Complaint lists several causes of actions against Eassa and Terra West including violations of several Nevada Statutes, Breach of Fiduciary Duty, Conspiracy, Negligence, Declaratory Relief, and Slander.³

¹ Defendant Mossett-Puhek filed her Opposition concurrently with her Reply in support of her Motion to Dismiss, or alternatively, Motion for Summary Judgment.

² See Order at 4:11-13

³ See Amended Complaint at 22:2-28 and 22-31.

1 On November 14, 2023, Anthem, Eassa and Terra West filed their Answer to Plaintiff's Amended
2 Complaint. Shortly thereafter, on November 21, 2024, Mossett-Puhek filed her Answer as well.

3 Since Eassa and Terra West were added as Defendants in late 2023 there have been *four*
4 stipulations to extend discovery over the course of five months prior to Plaintiff's current motion
5 to extend discovery and trial dates. Each stipulation lists "written discovery" as discovery needed
6 to be completed.

7 The most recent stipulation entered on May 21, 2024, set discovery to close on July 2,
8 2024. On May 8, 2024, fifty-five days before the close of discovery, Plaintiff propounded her very
9 first set of discovery requests (Interrogatories and Requests for Production of Documents) onto
10 Eassa and Terra West.

11 Additionally, on May 8, 2024, Plaintiff propounded on Anthem her second set of discovery
12 requests (Interrogatories 22 – 26; Requests for Production of Documents 63-81). The very next
13 day, on May 9, 2024, Plaintiff propounded additional discovery requests onto Anthem
14 (Interrogatory 37 and Request for Production of Documents 82-83). On this day, Plaintiff also
15 propounded a Third Set of Interrogatories and Third Set of Requests for Production of Documents
16 onto Mossett-Puhek. Plaintiff "corrected" her Third Set of Requests for Production of Documents
17 to Mossett-Puhek on May 13, 2024.

18 Anthem, Eassa and Terra West served their respective responses on June 7, 2024. Mossett-
19 Puhek served her responses on June 10, 2024. Anthem subsequently served supplemental
20 responses on June 10 and June 13, 2024. Anthem served its responses to Plaintiff's Third Request
21 for Interrogatories on June 21, 2024, and Requests for Production of Documents on June 24, 2024.

22 Defendants have accommodated Plaintiff's last-minute discovery requests and have
23 provided their respective responses. Plaintiff provides no argument as to why Defendants'
24 responses are deficient or why good cause exists to extend discovery and trial even further than it
25 already has.
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III. Legal Standard

Under local court rule, a scheduling order may be modified only for good cause and with the consent of the court. *Nev. R. Prac. Eight Jud. Dist. Ct. 2.35*. The party seeking the modification bears the burden of showing that despite their diligence, the scheduling deadline cannot be met. *Id.*

IV. Legal Argument

a. Plaintiff Has Had Ample Time for Discovery

Plaintiff has had more than sufficient time to conduct discovery. From the onset of this case in 2022, Plaintiff was aware of the timelines set forth in the original scheduling order. Although new parties were added to the case, Plaintiff already had knowledge of the surrounding factual allegations that were subsequently made at the cutoff date to amend her complaint in 2023 with respect to Defendants Eassa and Terra West. Once Defendants Eassa and Terra West were added to the case in 2023 and a new scheduling order was issued in January 2024, Plaintiff had a duty to engage in prompt discovery. This additional time provided after the amended complaint was specifically intended to allow for discovery pertaining to the newly added defendants.

Plaintiff's Motion claims "extensive written discovery has occurred" in this case. *See* Plaintiff's Motion at 5:7. However, Plaintiff fails to acknowledge that it was not until nearly six months after Eassa and Terra West were added in as parties did Plaintiff even initiate written discovery by propounding interrogatories and requests for production on either party. In the interim, Plaintiff requested, and the parties stipulated to four discovery extensions. Plaintiff's claim she has engaged in extensive discovery overstates the limited discovery she actually engaged in.

Now, Plaintiff claims another extension is necessary to complete general and expert discovery because "discovery deficiencies" exist. *See* Plaintiff's Motion to Extend at 5:5-25. Plaintiff does not acknowledge or argue what general "deficiencies" may exist or include any information as to why any motion to compel is needed to be filed. Plaintiff fails to recognize she has had plenty of time to engage in discovery and has failed to utilize the extend period(s) effectively.

1 ***b. Plaintiff Engaged in Purposeful and Strategic Delay***

2 It is apparent through the history of the case that Plaintiff has engaged in dilatory tactics
3 and strategic delays in discovery. Despite the deadlines set forth and the extended discovery period
4 Plaintiff failed to initiate her stated written discovery efforts until the final weeks before the close
5 of the often extended discovery period. There were no substantial attempts to propound discovery
6 onto Eassa or Terra West earlier in the process. Now, Plaintiff wishes to argue she cannot continue
7 in discovery with experts and prepare for dispositive motions as the final deadlines are
8 approaching. Yet Plaintiff has already issued her expert reports and provided availability for her
9 expert witnesses to be deposed. Since Eassa and Terra West were added as defendants, Plaintiff
10 did not show any urgency in pursuing discovery specific to these parties other than requesting
11 additional time (multiple times). While discovery has occurred (depositions and further
12 disclosures), it must questioned *why* Plaintiff waited until the near end of discovery to engage in
13 any written discovery with Eassa and Terra West, when “significant discovery deficiencies” exist
14 with the “responses recently and previously received” by Plaintiff. *Id.* at 5:9-11. Any attempts by
15 the Plaintiff to obtain discovery were either not made or made at the last minute, thus indicating a
16 lack of diligence.

17 ***c. Prejudicial Impact on Defendants***

18 Allowing an extension would unduly prejudice all Defendants who have adhered to the
19 Court’s deadlines, worked diligently within the agreed upon dates, and have a right to a timely
20 resolution of this matter, which is now entering its third year of litigation. Anthem, Mossett-Puhek,
21 Eassa, and Terra West have each prepared their defense(s) and made time in their schedules based
22 on the current discovery schedule and any extension would disrupt this preparation. Defendants
23 have also previously agreed with Plaintiff to stipulate numerous extensions to allow for the
24 discovery in this case to be reasonably completed based upon the trial order. Plaintiff should be
25 held to the schedule as well.

26 A further extension of many months as Plaintiff has proposed will also likely serve to
27 increase litigation costs unnecessarily, which prejudices the Defendants in this case who are eager
28

1 to seek the determination of the claims against them. This includes two individual defendants,
2 Mossett-Puhek and Eassa, who have already endured years of litigation. Each Defendant has a
3 right to a timely resolution to avoid further stress, anxiety, and the uncertainty of having to
4 participate in a lawsuit that impacts their personal and professional lives.

5 The defense has communicated and prepared witnesses for the trial of this matter and may
6 suffer prejudice should these witnesses become unavailable due to unforeseen issues should a
7 further delay of many months for the trial be allowed to go forward. Defendants would suffer
8 prejudice if certain witnesses relocate or suffer from potential health issues preventing them from
9 adequately participating in trial. A significant delay in months will only add to the possibility of
10 this occurring.

11 Defendants also will suffer prejudice in the prolonging of the determination of this matter
12 due to possible reputational harm that naturally comes with the appearance of a matter that remains
13 unresolved. There is an interest amongst the Anthem Highlands community based on the timing
14 of the present lawsuit and a further delay would result in the cloud of the ongoing litigation
15 continuing to loom over the community.

16 Defendants simply wish to avoid further prejudice by adhering to the timeframe the Court
17 has already set, and the parties agreed to abide by.

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19 ***d. Lack of Good Cause***

20 Plaintiff's Motion fails to demonstrate good cause for an extension. It was Plaintiff's
21 decision to wait until the very last minute within the often-extended discovery timeframe to
22 propound more than 10 sets of discovery onto the various Defendants. Despite this fact, all
23 Defendants have responded to the various written discovery requests and expert depositions have
24 been scheduled. Defendants coordinated their written discovery efforts as against Plaintiff so as
25 to efficiently complete the discovery efforts.

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The reasons provided by Plaintiff altogether fail to show why the deadlines cannot be reasonably met with due diligence. There are no unavoidable circumstances Plaintiff has argued exist so as to extend discovery and trial even further. The time has come for the deadlines to stand and for this case to move forward.

IV. Conclusion

For the reasons stated herein, Plaintiff's Motion to Extend Discovery and Continue Trial should be denied.

DATED this 25th day of June, 2024.

BOYACK ORME & MURDY

By: /s/Edward D. Boyack

EDWARD D. BOYACK, ESQ.

Nevada Bar No. 005229

7432 W. Sahara Ave, Ste 101

Las Vegas, Nevada 89117

Attorney for Defendant Anthem Highlands

Community Association, Eassa, and Terra West

and

FREEMAN MATHIS & GARY, LLP

By: /s/ Derek R. Noack

MICHAEL M. EDWARDS, ESQ.

Nevada Bar No. 006281

DEREK R. NOACK, ESQ.

Nevada Bar No. 015074

770 East Warm Springs Road, Suite 360

Las Vegas, Nevada 89119

Attorney for Defendant Pennie Mossett-Puhek

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of June, 2024, service of the foregoing,
**DEFENDANTS ANTHEM HIGHLANDS COMMUNITY ASSOCIATION’S, K.G.D.O.
HOLDING COMPANY, LLC d/b/a TERRA WEST MANAGEMENT SERVICES
CARMEN EASSA’S and PENNIE MOSSETT-PUHEK’S JOINT OPPOSITION TO
PLAINTIFF’S MOTION TO EXTEND DISCOVERY**, was made this date via E-Service
through the Court’s E-Filing/E-Service System to all parties registered therein.

/s/ Norma Ramirez
EMPLOYEE OF BOYACK ORME & MURDY

Edward D. Boyack, Esq.
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F: 702.562.3570
Attorneys for Defendant

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

ANDREA COLLIER, as trustee of the JACT
TRUST

Plaintiff,

vs.

PENNIE MOSSETT-PUHEK, individually;
ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, a Nevada Non-Profit
Corporation; CARMEN EASSA, an
individual; K.G.D.O. HOLDING
COMPANY, LLC d/b/a TERRA WEST
MANAGEMENT SERVICES, a Nevada
limited liability company; DOES I through X
and ROE BUSINESS ENTITIES I through X,
inclusive.

CASE NO. A-23-882899-C

DEPT. NO. XVI

**DECLARATION
OF
EDWARD D. BOYACK
IN SUPPORT OF
DEFENDANTS ANTHEM HIGHLANDS
COMMUNITY ASSOCIATION'S,
K.G.D.O. HOLDING COMPANY, LLC
d/b/a TERRA WEST MANAGEMENT
SERVICES CARMEN EASSA'S and
PENNIE MOSSETT-PUHEK'S JOINT
OPPOSITION TO PLAINTIFF'S
MOTION TO EXTEND DISCOVERY**

I, Edward D. Boyack, being duly sworn and under all penalties of perjury do hereby depose
and say:

1. I am a partner with the law firm of Boyack, Orme and Murdy ("BOM").
2. I am one of the attorneys representing Defendants ANTHEM HIGHLANDS
COMMUNITY ASSOCIATION ("Anthem"); CARMEN EASSA ("Eassa"); K.G.D.O.
HOLDING COMPANY, LLC d/b/a TERRA WEST MANAGEMENT SERVICES ("Terra
West") in the above captioned case.

1 3. I am over the age of 18 years, and I am competent to testify to the matters set forth
2 herein. If called upon to do so, I would be competent to testify as to the truth of the matters asserted
3 herein.
4

5 4. I make this declaration in support of Defendants' Opposition based upon my own
6 personal knowledge, save and except as to those matters stated to be based upon information and
7 belief, and as to those matters, I believe to be true.

8 5. Plaintiff filed her Complaint on May 3, 2022. Defendants' Anthem and Mossett-Puhek
9 filed their Answer on May 31, 2022.
10

11 6. On May 18, 2023, Defendant Mossett-Puhek filed a Motion to Dismiss, or in the
12 alternative, Motion for Summary Judgment. On August 4, 2023, Plaintiff filed her Opposition and
13 Countermotion for Leave to Amend the Complaint. Defendant's Anthem Highlands and Mossett-
14 Puhek separately filed their oppositions to Plaintiff's Countermotion for Leave to Amend on
15 August 10, 2023.
16

17 7. On August 15, 2023, Plaintiff filed a second Motion for Leave to Amend. Shortly
18 thereafter, on August 17, 2023, at Defendant Mossett-Puhek's hearing on her Motion to Dismiss,
19 or alternatively, Motion for Summary Judgment, Plaintiff once again, incessantly lead her Motion
20 for Leave to Amend before this Court.
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22 8. Pursuant to this Court's direction, on August 25, 2023, Plaintiff filed a supplemental
23 pleading in support of her Motion to Amend. This supplement included a proposed amended
24 Complaint that named two new defendants, Eassa and Terra West, alleged an array of facts that
25 Plaintiff already knew of at the time she filed her Complaint, and attempted to alter current claims
26 for relief while also adding three new additional claims.
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1 9. On September 15, 2023, Defendants' Mossett-Puhek and Anthem filed their respective
2 Oppositions Plaintiff's Motion for Leave. The motions were heard before the Court on October 5,
3 2023, and on November 1, 2023, the Court officially entered an Order granting Plaintiff's Motion
4 for leave as "good cause existed" and Plaintiff timely filed her Motion for Leave with the Court.
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6 10. Plaintiff's Amended Complaint was filed on October 12, 2023.

7 11. On November 14, 2023, Anthem, Eassa and Terra West filed their Answer to Plaintiff's
8 Amended Complaint. Shortly thereafter, on November 21, 2024, Mossett-Puhek filed her Answer
9 as well.
10

11 12. Since Eassa and Terra West were added as Defendants in late 2023 there have been
12 four stipulations to extend discovery over the course of five months prior to Plaintiff's current
13 motion to extend discovery and trial dates.

14 13. The most recent stipulation entered on May 21, 2024, set discovery to close on July 2,
15 2024.
16

17 14. On May 8, 2024, less than two months before the close of discovery, Plaintiff
18 propounded her *very* first set of discovery requests (Interrogatories and Requests for Production
19 of Documents) onto Eassa and Terra West.

20 15. Additionally, on May 8, 2024, Plaintiff propounded on Anthem it's second set of
21 discovery requests (Interrogatories 22 – 26; Requests for Production of Documents 63-81). The
22 very next day, on May 9, 2024, Plaintiff propounded additional discovery requests onto Anthem
23 (Interrogatory 37 and Request for Production of Documents 82-83). On this day, Plaintiff also
24 propounded a Third Set of Interrogatories and Third Set of Requests for Production of Documents
25 onto Mossett-Puhek. Plaintiff "corrected" her Third Set of Requests for Production of Documents
26 to Mossett-Puhek on May 13, 2024.
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1 16. Anthem, Eassa and Terra West served their respective responses on June 7, 2024.
2 Mossett-Puhek served her responses on June 10, 2024. Anthem subsequently served supplemental
3 responses on June 10 and June 13, 2024. Anthem served its responses to Plaintiff's Third Request
4 for Interrogatories on June 21, 2024, and Requests for Production of Documents on June 24, 2024.
5

6 17. Defendants have accommodated Plaintiff's last-minute discovery requests and have
7 provided their respective responses.

8 18. Plaintiff provides no argument as to why Defendants' responses are deficient or why
9 good cause exists to extend discovery and trial even further than it already has.
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11 19. I declare under penalty of perjury that the foregoing is true and correct.

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14 Edward D. Boyack, Esq.
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