

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 1:16-CV-21199-CMA/O'SULLIVAN**

ANDREA ROSSI, et al.

Plaintiffs,

v.

THOMAS DARDEN, et al.

Defendants.

**PLAINTIFFS' MOTION FOR ENLARGEMENT
OF TIME TO FILE EXHIBIT LIST**

Plaintiffs', Andrea Rossi and Leonardo Corporation ("Plaintiffs") by and through undersigned counsel and pursuant to Rule 6(b), Fed.R.Civ.P., hereby move for an additional ten (10) day enlargement of time to file and serve their Trial Exhibit List. As grounds therefore, Plaintiffs state as follows:

1. This cause is set for trial during the Court's two-week trial calendar beginning on June 26, 2017.

2. On April 14, 2017 this Honorable Court entered an Order [ECF No. 260] Granting, in part, Plaintiffs' Amended Motion for Enlargement of Time to Comply with Scheduling Order. [ECF No. 258] and subsequent Order granting Plaintiffs' Unopposed Motion for Extension of Time [ECF No. 273], which provided that all parties were to file and serve their respective trial exhibit lists up through and including May 5, 2017.

3. On Friday, April 28, 2017 at 8:30 am, Plaintiffs submitted their proposed jury instructions to all parties. Defendants, instead of providing redlines to Plaintiffs' draft, provided their own set of jury instructions to all parties on Tuesday, May 2, 2017 at 1:20 pm. The parties

spent most of the next 16 hours exchanging drafts of the jury instructions, serving a final version with the Court at 5:07 am on Wednesday May 3, 2017.

4. Likewise, Defendants never provided Plaintiffs with a redline of Plaintiffs' proposed Statement of Uncontested Facts to include in the Joint Pre-Trial Stipulation, and the parties had worked on the Joint Pre-Trial Stipulation until the late hours of Wednesday morning, filing it with the Court at 4:16 am that day.

5. As a result of Defendants' Cherokee Investment Partners, LLC and IPH International BV's failure to adequately prepare their 30(b)(6) witnesses, those Defendants have been ordered to make their witnesses available to be re-deposed prior to May 5, 2017.

6. Plaintiffs scheduled those depositions to take place on May 4 and 5, 2017. In order to accommodate Defendants' witnesses' schedules, Plaintiffs agreed to push the depositions back to May 5 and May 8, 2017. As this discovery is ongoing, it would be unfair to require Plaintiffs to submit their Exhibit List until after the completion of these depositions.

7. Accordingly, given the time-frame required to file and serve the exhibit list in this case, the Plaintiffs respectfully request that this Court enter an order granting an additional ten (10) days, up through and including May 15, 2017 to file and serve their Exhibit List in this case.

8. Rule 6(b) of the Federal Rules of Civil Procedure provides in part:

When an act may or must be done within a specific time, the court may, for good cause, extend the time: (A) with or without motion or notice of the court acts, of if a request is made, before the original time or its extension expires.

9. The granting of the requested enlargement of time constitutes a proper use of this Court's discretion.

10. The Plaintiffs have requested the enlargement of time prior to the service deadline specified by the Federal Rules of Civil Procedure Rule 26, which provide that pre-trial disclosures must be made at least 30 days prior to trial, unless otherwise ordered by the court. A granting of the requested extension would not violate Rule 26.

11. Counsel for Plaintiffs has conferred with Defendants' counsel who objects to the requested relief. Counsel for Third-Party Defendants advised that they have no objection to the relief requested in the instant Motion.

12. The parties to this action will not be prejudiced in any way by the granting of the foregoing enlargement of time.

WHEREFORE, for the foregoing reasons, Plaintiffs, Andrea Rossi and Leonardo Corporation, respectfully request that this Court enter an order granting Plaintiffs an additional ten (10) day enlargement of time, up through and including May 15, 2017 to file and serve their Exhibit List in preparation for trial.

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CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 7.1(a)(3)

The undersigned counsel hereby certifies that, in compliance with Rule 7.1(a)(3), Federal Rules of Civil Procedure, that undersigned counsel has conferred with counsel for Defendants in a good faith effort to resolve by agreement the issues raised in this Motion. At the time of filing the present Motion, Defendants have objected to the proposed extension with respect to the filing and serving of the Plaintiffs' Trial Exhibit List.

/s/Brian W. Chaiken, Esq.
Brian W. Chaiken

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing was served by in the manner specified below on May 4, 2017 on all counsel or parties of record on the attached Service List.

/s/ John W. Annesser
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