

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

ASA MOSSMAN, *et al.*,

Plaintiffs,

v.

U.S. CENTERS FOR DISEASE CONTROL  
AND PREVENTION, *et al.*,

Defendants.

Case No. 1:21-cv-00028-CJW-MAR

Hon C.J. Williams

**DEFENDANTS' CONSENT SECOND MOTION  
FOR EXTENSION OF TIME TO RESPOND TO COMPLAINT**

Defendants, by and through undersigned counsel, respectfully move for a fifteen-day extension of time—through and including August 6, 2021—in which to answer or otherwise respond to Plaintiffs' complaint in this case.<sup>1</sup> In support of this request, Defendants state as follows.

1. This action challenges a temporary moratorium on certain residential evictions ordered by the Centers for Disease Control and Prevention (CDC) to help fight the COVID-19 pandemic. Plaintiffs commenced this action by filing a complaint on March 18, 2021. *See* ECF No. 1. Defendants' response to the complaint was initially due June 22, 2021. On June 17, 2021, the Court extended Defendants' deadline to respond to the complaint through and including July 22, 2021.

2. The CDC Order that Plaintiffs challenge was originally entered in September 2020, and applied through December 31, 2020. After several intervening extensions, on June 24, 2021, CDC

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<sup>1</sup> Pursuant to Local Civil Rule 7(j), Defendants state that their deadline to respond to the Complaint was previously extended once from June 22, 2021, to July 22, 2021, at their request, and that the parties are currently obligated to file a proposed scheduling order and discovery plan on August 6, 2021.

issued a one-month extension of the moratorium through July 31, 2021. *See* 86 Fed. Reg. 34,010 (June 28, 2021). Unlike the previous extensions, the June extension indicated that it is “intended to be . . . final,” as “absent an unexpected change in the trajectory of the pandemic, CDC does not plan to extend the Order further.” 86 Fed. Reg. 34,010, 34,013 (June 28, 2021).

3. Defendants’ position is that once the Order expires, the parties’ dispute about its lawfulness will no “no longer [be] embedded in any actual controversy about the plaintiffs’ particular legal rights,” *Alvarez v. Smith*, 558 U.S. 87, 93 (2009), and the case will be moot. Plaintiffs have indicated that they do not agree, such that it will be necessary for Defendants to file a contested motion to dismiss as moot following the expiration of the order.

4. Defendants submit that it makes little sense for them to file an answer to a 200-paragraph class action complaint on July 22, only to then file a motion to dismiss the action as moot two weeks later. The extension that Defendants request here would permit them to file their motion to dismiss as moot as a response to the complaint under Rule 12; if that motion were denied, Defendants could then file an answer fourteen days later pursuant to Rule 12(a)(4)(A).

5. Undersigned counsel conferred with counsel for Plaintiffs prior to filing this motion. Counsel for Plaintiffs indicated that Plaintiffs consent to the relief requested.

WHEREFORE, Defendants respectfully request an extension of time, through and including August 6, 2021, to respond to Plaintiffs’ complaint.

Dated: July 13, 2021

Respectfully submitted,

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/s/ Steven A. Myers

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*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify I served this document today by filing it using the Court's CM/ECF system, which will automatically notify all counsel of record.

Dated: July 13, 2021

*/s/ Steven A. Myers*

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Steven A. Myers