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6
7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

8 PlayUp, Inc., a Delaware Corporation,

Case No. 2:21-cv-02129-GMN-NJK

9 Plaintiff,

**PLAINTIFF’S MOTION FOR
EXTENSION OF TIME REGARDING
ORDER GRANTING EMERGENCY
MOTION FOR EX PARTE
TEMPORARY RESTRAINING
ORDER**

10 v.

11 Dr. Laila Mintas, an individual,

(FIRST REQUEST)

12 Defendant.

13
14 Pursuant to Fed. R. Civ. P. 6 and 65 and LR IA 6-1, PlayUp, Inc. (“PlayUp”) hereby
15 moves the Court for an extension of time of the deadlines set forth in the December 3, 2021
16 Order granting Emergency Motion for Ex Parte Temporary Restraining Order (ECF No. 11).
17 The motion is based upon the papers and pleadings on file herein, and such oral argument as
18 the Court deems appropriate.

19 **MEMORANDUM OF POINTS AND AUTHORITIES**

20 On December 3, 2021, the Court entered its Order granting Emergency Motion for Ex
21 Parte Temporary Restraining Order (“Order”) (ECF No. 11) temporarily restraining
22 Defendant, PlayUp’s former CEO, from engaging in any conduct or making any statements
23 that disparage or portray PlayUp in a negative light or otherwise impair the reputation or
24 commercial interest of PlayUp and breaching Section 6(e) of her Employment Agreement.

25 In the Order, the Court set a hearing on PlayUp’s Motion for Preliminary Injunction
26 (ECF No.4) (“Motion”) for December 16, 2021, set a deadline for the response and reply to
27 the Motion on December 13, 2021 and December 15, 2021 respectively, and required that
28 Playup serve Defendant with a copy of the Order by December 6, 2021. (ECF No. 11 at 14.)

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1 PlayUp requests a 14 day extension of time of each of the above deadlines and submits that
 2 good cause exists for the extension. PlayUp has repeatedly attempted to serve Defendant at
 3 her last known address without success and has received information that she has sold her
 4 home and no longer lives at that address. Further, counsel for PlayUp has been in contact
 5 with Defendant through email, but she has refused to provide her location or address. Thus,
 6 additional time to determine Defendant's whereabouts and serve her with the Order is needed,
 7 which necessitates extending the hearing on the Motion for Preliminary Injunction and
 8 associated briefing schedule to accommodate service.

ATTEMPTS TO SERVE DEFENDANT

9
 10 On December 2, 2021, PlayUp began to make various attempts to effectuate service of
 11 process on Defendant with the Federal Court of Australia's December 1, 2021 Order
 12 ("Australian Order") (ECF No. 10) as well as service of process of the Complaint (ECF No.
 13 1) and Emergency Ex Parte Motion for Temporary Restraining Order and Preliminary
 14 Injunction (ECF Nos. 2 and 4) in this matter.¹ Below is a timeline of service attempts:

- 15
 16 1. **12/2/2021 afternoon:** Process server went to last known address of Defendant,
 17 11 Mountain Cove Court, Henderson, NV 89052 (the "Property") and a man
 18 came to the door peeked through the glass and didn't open the door, walked
 19 away.²
- 20 2. **12/2/2021 at 6:42 pm:** Process server went out to Defendant's Property and
 21 after no answer, drop served the documents on Defendant's front steps.
- 22 3. **12/3/2021 at 10:55 am:** Process server went out to Defendant's Property and
 23 spoke to an unknown male at the Property who stated "he is performing a home
 24 inspection and home is vacant and [Mintas] is believed to have moved to the
 25 Bahamas."

26 See 12/6/2021 Affidavit, attached as Ex. 1 and 12/2/2021 Email from L. Horvath, attached as
 27 Ex. 2.

28 ¹ Because the Australian Order (ECF No. 10) requires that Defendant be personally served with the Australian Order, PlayUp determined it was necessary to proceed with service of process in this matter as Defendant would necessarily receive notice of PlayUp's efforts to restrain her unlawful conduct.

² As of the time of filing this motion, the undersigned has not yet received the Affidavit of Due Diligence for this attempt from the process server.

1 After issuance of the Court's Order directing that PlayUp serve the Order by
2 December 6, 2021, PlayUp engaged an investigator to locate and serve Defendant with the
3 Order along with the Complaint and other documents filed in this case. Clark County property
4 records and online searches confirm that the Property is currently owned by Defendant
5 although it is under contract for purchase. *See* Report, attached as Ex. 3. On December 4,
6 2021, the investigator conducted surveillance of the Property from 12:45 pm until 6:15 pm.
7 The Property was "observed to be dark inside with no occupants seen. The residence's two
8 garages were both closed and no vehicles of Mintas were observed on or near the residence."
9 *Id.* On December 5, 2021, the investigator surveilled the Property from 8:45 am until 5:15
10 pm. He further rang the doorbell and knocked on the door of the Property. Looking through
11 the front door he witnessed some items of furniture but no occupants. Surveillance concluded
12 without Defendant being observed. *See id.*

13 On December 3rd and 4th, Australian counsel engaged in email communications with
14 Defendant and notified her of PlayUp's attempts to serve her. She indicated she sold the
15 Property and is not at the address. *See* 12/3/2021 Email from Dr. Mintas, attached as Ex. 4.
16 Australian counsel has repeatedly requested that Defendant provide her residential address for
17 service but those requests have been ignored. *See* 12/4/2021 Emails between Dr. Mintas and
18 F. Amirbeaggi, attached as Ex. 5.

19 On December 6, 2021, U.S. counsel for PlayUp emailed a copy of the Order as well
20 as the filings in this case to Defendant. *See* 12/6/2021 Emails from D. Berhanu, attached as
21 Ex. 6.

22 LEGAL STANDARD

23 Rule 6(b) of the Federal Rules of Civil Procedure governs motions seeking to extend
24 the time by which a party may or must act. The rule states, in relevant part, the following:

25 (b) Extending Time.

26 (1) *In General.* When an act may or must be done within a specified time,
the court may, for good cause, extend the time:

27 (A) with or without motion or notice if the court acts, or if a request
28 is made, before the original time or its extension expires; or

1
2 (B) on motion made after the time has expired if the party failed to
act because of excusable neglect.

3 (2) *Exceptions*. A court must not extend the time to act under Rules 50(b)
4 and (d), 52(b), 59(b), (d), and (e), and 60(b).

5 Fed. R. Civ. P. 6(b). The good cause standard primarily considers the diligence of the party
6 or parties seeking the extension. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609
7 (9th Cir. 1992). *See* LR 26-3 (“A motion or stipulation to extend any date set by the discovery
8 plan, scheduling order, or other order must, in addition to satisfying the requirements of LR
9 IA 6-1, be supported by a showing of good cause for the extension.”)

10 Further, Federal Rule of Civil Procedure 65(b)(2) provides that a temporary restraining
11 order “expires at the time after entry--not to exceed 14 days--that the court sets, unless before
12 that time the court, for good cause, extends it for a like period or the adverse party consents to
13 a longer extension.”

14 ARGUMENT

15 Good cause exists for an extension of time. PlayUp has made repeated efforts to serve
16 Defendant at the Property since December 2, 2021. A process server attempted to serve
17 Defendant with process on December 2, 2021. After a male refused to answer the door, a
18 further attempt was made later that evening. In that attempt, the process server drop-served
19 the documents at Defendant’s doorstep after no answer at the door. Service was further
20 attempted on December 3, 2021 with an unidentified male indicating Defendant has moved to
21 the Bahamas. Defendant subsequently notified Australian counsel that she is no longer at the
22 Property and has since moved, but refuses to provide her new address or whereabouts. As
23 public records show Defendant currently owns the Property, surveillance was conducted of the
24 Property on December 4, 2021 and December 5, 2021 in an attempt to serve Defendant, but
25 she was not observed at the Property.

26 Given Defendant’s refusal to provide her address or location, it appears Defendant is
27 evading service. Therefore, PlayUp requires additional time to locate Defendant and serve her
28 with the Order. PlayUp seeks a 14 day extension of time by which to serve Defendant, up to

1 and including December 20, 2021. As a result of the request for an extension of time to serve
2 Defendant, PlayUp requests a brief continuance of the hearing on the Motion for Preliminary
3 Injunction and associated briefing schedule to allow for service of the Order. PlayUp also
4 requests that the temporary restraining order be extended, up to the date of the hearing on the
5 Motion for Preliminary Injunction, in accordance with Federal Rule of Civil Procedure
6 65(b)(2).

7 This is PlayUp's first request for an extension of the deadlines set forth in the Order
8 and it is not sought for the purpose of delay.

9 **CONCLUSION**

10 For the foregoing reasons, PlayUp respectfully requests that the Court extend the
11 deadlines set forth in the Order by 14 days to allow Playup to locate and serve Defendant, who
12 appears to be evading service.

13 DATED this 6th day of December, 2021.

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