

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor

Plaintiff

v.

A TOUCH OF GLASS ENTERPRISES, INC.  
EMILY GORDON, individually, and  
EMERALD DUQUETTE, individually

Defendants

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\* CIVIL ACTION  
\* NO. 1:07-cv-01289 MV/LFG  
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**PLAINTIFF’S UNOPPOSED MOTION TO EXTEND DATES  
IN SCHEDULING ORDER**

Comes now the Plaintiff, Secretary of Labor, United States Department of Labor, and respectfully requests that the deadlines set forth in the Court’s Scheduling Order be extended by six months, due to the expected trial time of approximately July 2009. In support of her motion, Plaintiff would show the following:

1. On December 21, 2007, Plaintiff filed her original Complaint in this matter.
2. The Plaintiff filed a Consent to Proceed Before A U.S. Magistrate Judge on January 9, 2008.<sup>1</sup>
3. Defendants filed their original Answer on March 10, 2008.
4. On April 17, 2008, the Court issued a Scheduling Order, setting forth discovery, pleading, and prehearing deadlines. The order includes a discovery termination date of September 17, 2008. It also includes a deadline of December 17, 2008, for the parties to file a

<sup>1</sup> On January 9, 2008, Plaintiff also served each of the Defendants with a copy of the Court’s form entitled Consent to Proceed Before A U.S. Magistrate Judge and Refusal to Consent to Proceed Before a U.S. Magistrate Judge, along with the Notice of Right to Have Civil Case Transferred To U.S. Magistrate Judge and Order to File Consent or Nonconsent Form, which requires parties to submit the form within 20 days of service.

consolidated Pretrial Order.

5. On July 23, 2008, the Defendants filed a Refusal to Consent to Proceed Before A U.S. Magistrate Judge.

6. Due to the Defendants' refusal to proceed before a U.S. magistrate judge, this matter was assigned to Chief U.S. District Judge Martha Vazquez.

7. On August 11, 2008, Plaintiff's counsel spoke with a representative in Judge Vazquez' office, who indicated that the trial in this matter will most likely be held in July 2009.

8. Because the trial in this matter most likely will not occur prior to mid-2009, Plaintiff respectfully requests that the dates set forth in the Scheduling Order each be extended by six months.

9. Plaintiff needs additional time to complete discovery, including discovery regarding the Defendants' current compliance or non-compliance with the Fair Labor Standards Act ("FLSA") and discovery regarding Defendants' claims that certain employees are exempt from the overtime pay requirements of the FLSA. Additionally, Defendants' counsel has stated that Defendant A Touch of Glass Enterprises, Inc., needs additional time to complete pending written discovery requests.

10. The requested six-month extension of deadlines would allow the parties to conduct more thorough trial preparation, which should result in the parties presenting a more concise and efficient case at trial.

11. Plaintiff's counsel has discussed this motion with Defendants' counsel, who stated that Defendants support this motion.

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff respectfully requests that the Court extend each of the deadlines set forth in the Scheduling Order by six months. A proposed amended scheduling order, approved by both parties, is being submitted with this motion, pursuant to Local Rule 7.2.

Respectfully Submitted,

GREGORY F. JACOB  
Solicitor of Labor

JANICE L. HOLMES  
Acting Regional Solicitor

MARGARET TERRY CRANFORD  
Counsel for Wage and Hour

LOCAL COUNSEL:

GREGORY J. FOURATT  
United States Attorney

ELIZABETH M. MARTINEZ  
Assistant United States Attorney

BY:  
/s/ Amy Sanders Hairston  
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RSOL No. 07-00602

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this document was served upon all parties, representatives and/or attorneys in the above entitled and numbered cause this 26th day of August, 2008, by the court's electronic delivery service and e-mail, pursuant to an agreement between the parties' representatives, to:

Wayne E. Bingham  
Bingham, Hurst & Apodaca, P.C.  
3908 Carlisle Blvd NE  
Albuquerque, New Mexico 87107-4504

/s/ Amy Sanders Hairston  
AMY SANDERS HAIRSTON  
Attorney

**CERTIFICATE OF CONFERENCE**

I hereby certify that I discussed this motion with Defendants' counsel, Wayne E. Bingham, on August 14, 2008, and Mr. Bingham stated that Defendants support this motion.

/s/ Amy Sanders Hairston  
AMY SANDERS HAIRSTON  
Attorney