

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

JASON LYNCH

PLAINTIFF

vs.

NO. 4:24-cv-00740-LPR-BBM

CLAYTON EDWARDS;
LT. HANNAH ROSS; CONNER GOODWIN;
ZACHARY RODGERS;
and SGT. SWINDLE

DEFENDANTS

BRIEF IN SUPPORT OF MOTION FOR LEAVE TO FILE ANSWER OUT OF TIME

The Defendants respectfully request an extension of time to file their Answer out of time due to excusable neglect. Defense counsel was unaware of the exact dates Defendants were served in this case until after the Court had entered the executed summons. No prejudice or delay will be caused by granting this motion.

Federal Rule of Civil Procedure 6(b) states:

(b) Extending Time.

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

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

Federal Rule of Civil Procedure 6(b) authorizes the Court to extend the time to file a pleading, including an Answer, for "good cause" because of "excusable neglect". For example, the Eighth Circuit Court of Appeals has stated that it rejects the appropriateness of granting default judgment for "a marginal failure to comply with the time requirements." *Oberstar v. F.D.L.C.*, 987 F.2d 494, 504 (8th Cir. 1993) (twenty-two days late); *United States on behalf of Time Equipment Rental & Sales, Inc. v. Harre*, 983 F.2d 128, 129-130 (8th Cir. 1993) (twelve days late). In *Harre*, the Eighth Circuit Court of Appeals specifically distinguished between mere marginal failure to respond on time and default judgment imposed for "willful violations of court rules, contumacious conduct, or intentional delays." *Harre*, 983 F.2d at 130; *Taylor v. City of Ballwin, Mo.*, 859 F.2d 1330, 1332 (8th Cir. 1988) (entry of default judgment requires "clear record of delay or contumacious conduct"); *accord Florida Physician's Ins. Co. v. Ehlers*, 8 F.3d 780, 783 ("a

technical error or a slight mistake' by a party's attorney should not deprive the party of the opportunity to present the merits of his claim," *citing Blois v. Friday*, 612 F.2d 938, 940 (5th Cir. 1980) (per curiam); *Information Sys. & Networks Corp. v. United States*, 994 F.2d 792, 796 (Fed. Cir. 1993)(excusable neglect was meant to encompass negligence in failure to answer).

In the present case, counsel for Defendants was unaware of the exact date Defendants were served in this case until after the Court had entered the executed summons. The facts here do not demonstrate a willful violation of court rules or an intentional delay. Defendants respectfully requests that the Court enter an Order allowing them to file an answer (which is attached hereto) out of time. *See* Exhibit A.

Respectfully submitted,

CLAYTON EDWARDS, in his individual and official capacities; LT. HANNAH ROSS; CONNER GOODWIN; ZACHARY RODGERS; and SGT. SWINDLE, in their individual capacity,
Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2026, I presented the foregoing to the Clerk of the Court for filing and uploading to the CM/ECF system, and I mailed the document by United States Postal Service to the following non CM/ECF participant:

Jason Lynch
Reg #07405-510
El Reno
Federal Correctional Institution
Inmate Mail/Parcels
P.O. Box 1500
El Reno, OK 73036

Kaylen S. Lewis
Kaylen S. Lewis