UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DIANE J. SCHROER, Plaintiff v. JAMES BILLINGTON, Librarian of Congress, Defendant.	)	Civil Action No. 05-1090(JR)

DEFENDANT'S UNOPPOSED MOTION FOR AN EXTENSION OF TIME TO ANSWER PLAINTIFF'S AMENDED COMPLAINT

Pursuant to Fed. R. Civ. P. 6(b)(2), Defendant, James Billington, Librarian of Congress, respectfully moves for an extension of time up to and including January 11, 2008 to answer Plaintiff's Amended Complaint. Pursuant to Local Rule 7(m), Defendant's counsel contacted Plaintiff's counsel and was informed that Plaintiff does not oppose the relief requested herein. In support of this Motion, Defendant states the following.

On August 6, 2007, Defendant filed a motion to dismiss Plaintiff's Amended Complaint, which was granted in part and denied in part by this Court on November 28, 2007. Accordingly, consistent with Fed. R. Civ. P. 6(a) and (e), and 12(a)(4)(A), Defendant's answer was due on Monday, December 17, 2007. However, Defendant's counsel inadvertently forgot to calendar the due date for the filing of the answer after the Court issued its November 28, 2007 Order, and Defendant's undersigned counsel just today, December 20, 2007, became aware of the omission.

Defendant apologizes for the omission but believes that the requested extension of time for filing the answer to January 11, 2008 will not prejudice Plaintiff particularly given her lack of opposition to the requested relief; nor will granting the requested extension impact on any

pending judicial proceeding. Accordingly, for reasons stated herein, and given the absence of any opposition by Plaintiff and even the remotest suggestion that Defendant is acting on any basis other than good faith, Defendant is requesting an extension of time to January 11, 2008 to file his answer to Plaintiff's Amended Complaint. See In re Vitamins Antitrust Class Actions, 327 F.3d 1207, 1209 (D.C. Cir. 2003)(affirming District Court's decision to grant untimely motion on the basis of excusable neglect[1] where District Court found that reason for delay was in movant's "reasonable control" but nevertheless outweighed by other factors for determining excusable neglect - i.e,. danger of prejudice to a party opposing the motion, length of delay and its potential impact on judicial proceedings, and whether the movant acted in good faith.)

A proposed Order consistent with the relief requested in this Motion is attached.

Respectfully Submitted,

/s/ Jeffrey A. Taylor /dvh

_____

JEFFREY A. TAYLOR, D.C. BAR #498610
United States Attorney

/s/ Rudolph Contreras /dvh

_____

RUDOLPH CONTRERAS, D.C. Bar #434122
Assistant United States Attorney

[1]In Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 395 (1993), the Supreme Court set fourth four factors for Courts to consider when determining when neglect is excusable: (1) the danger of prejudice to the party opposing the modification, (2) the length of delay and its potential impact on judicial proceedings, (3) the reason for the delay, including whether it was within the reasonable control of the movant, and (4) whether the movant acted in good faith.

/s/ Beverly M. Russell

_____

BEVERLY M. RUSSELL, D.C. Bar #454257
Assistant United States Attorney
U.S. Attorney's Office for the District of Columbia,
Civil Division
555 4th Street, N.W., Rm. E-4915
Washington, D.C. 20530
Ph: (202) 307-0492
Fax: (202) 514-8780
E-mail: beverly.russell@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing ***Defendant's Unopposed Motion for an Extension of Time to Answer Plaintiff's Amended Complaint*** was made by the Court's Electronic Case Filing System on the 20th day of December, 2007 to:

Arthur B. Spitzer
American Civil Liberties Union
of the National Capital Area
1400 20th Street, N.W., #119
Washington, D.C. 20036
Artspitzer@aol.com

Sharon M. McGowan/
Kenneth Y. Choe
American Civil Liberties Union Foundation
125 Broad Street
New York, New York 10004
Smcgowan@aclu.org

/s/ Beverly M. Russell
_____
BEVERLY M. RUSSELL
Assistant United States Attorney