



1 did not explain to the Court why such an extension was necessary, opting instead to complain of  
 2 Cascade’s counsel’s unavailability over the Fourth of July holiday weekend. Moreover, this  
 3 extension, if granted, would further injure Cascade. The gravamen of this dispute is that by  
 4 mislabeling hand knitting yarns as containing cashmere, when they do not, substantially damages  
 5 Cascade, its business, the public and the hand knitting industry. Cascade has filed a motion for  
 6 preliminary injunction (Dkt. No. 10) and that motion is noted for consideration on July 30.  
 7 Extending the Responding Defendants’ time to answer the FAC, therefore, needlessly harms  
 8 Cascade and tactically advantages Responding Defendants. Accordingly, this Court should deny  
 9 Responding Defendants’ request. Their responses should be due immediately.

## 10 **II. FACTUAL AND PROCEDURAL BACKGROUND**

11 Cascade served the FAC on Responding Defendants on June 12, 2010.<sup>1</sup> *See* Motion to  
 12 extend time to answer (“Motion”), Dkt. No. 7, ¶¶ 1-2. After being served, Responding  
 13 Defendants apparently waited over two weeks to deliver the Complaint and the FAC to counsel.  
 14 Motion ¶ 4. Then, Responding Defendants’ Pennsylvania counsel, Joshua Slavitt, waited until  
 15 the Friday of Fourth of July weekend — when Responding Defendants’ Answer was due in two  
 16 business days — to contact Cascade about an extension of time. *Id.*, ¶ 8. Cascade’s counsel was  
 17 unavailable to respond on Friday, July 2. Declaration of Robert J. Guite (“Guite Decl.”) ¶ 2.  
 18 Thereafter, Cascade’s counsel determined that it was improper to respond, given that Mr. Slavitt  
 19 indicated that “Pepper Hamilton represents the defendants in the above-referenced matter.” *Id.*,  
 20 ¶¶ 3, 4. This was due to the fact that Mr. Slavitt is not admitted to the bar of this Court nor did  
 21 review of Pepper Hamilton’s website or the WSBA’s website reveal any attorneys from that firm  
 22 who are admitted to practice before this Court. *Id.*, ¶ 4. Pennsylvania counsel made no  
 23 representation that Responding Defendants were seeking to retain local counsel. *Id.*

24  
 25 <sup>1</sup> Cascade served defendants Knitting Fever, Inc., Sion Elalouf, and Debbie Bliss on June 12,  
 26 2010. Motion at ¶ 1. Cascade served defendants Diane Elalouf and Jay Opperman on June 22,  
 2010. *Id.* at ¶ 2.

1 Understandably, Cascade's counsel did not want to encourage or acquiesce to the unauthorized  
2 practice of law in Washington. *Id.* Such conduct would be inconsistent with the rules of this  
3 Court.

4 In any event, the facts of this matter belie any argument that Responding Defendants have  
5 any reasonable basis to seek an extension of time to respond to the FAC. For example,  
6 Responding Defendants did not disclose that for years they have been defending a lawsuit in  
7 Pennsylvania wherein the wrongful conduct of which Cascade complains subjects them to suit.  
8 *Id.*, Ex. A. Responding Defendants have answered the complaint in that matter and have engaged  
9 in significant discovery. *Id.* at Ex. B. Given this history, Responding Defendants are much more  
10 familiar with the facts and issues in this lawsuit than the typical defendant subject to suit who  
11 must respond within 21 days. Absent specific facts evidencing a particular need for an extension  
12 of time, no extension is properly granted.

### 13 **III. DISCUSSION**

#### 14 **A. Responding Defendants Fail To Allege -- Let Alone Establish -- Good Cause 15 To Support Their Request For An Extension of Time.**

16 A court may extend a deadline to file an answer when the party seeking the extension  
17 demonstrates a good cause for doing so. *See* Fed. R. Civ. P. 6(b). A motion for an extension of  
18 time is properly denied where the party requesting the extension did not state with particularity  
19 the grounds upon which it is based. *See Fairline Boats plc v. The New Howmar Boats Corp.*, 59  
20 U.S.P.Q.2D (BNA) 1479, \*2-3 (T.T.A.B. 2000). Similarly, other courts consider the requesting  
21 party's diligence when determining whether the party has demonstrated good cause for an  
22 extension of time. *See e.g. N'Genuity Enters. Co. v. Pierre Foods, Inc.*, 2010 U.S. Dist. LEXIS  
23 404 \*2-3 (D. Ariz., Jan. 5, 2010). However, courts will reject such motions where the requesting  
24 party merely states in a conclusory fashion that good cause exists. *See, e.g., Abear v. Teveliet*,  
25 2006 U.S. Dist. LEXIS 93002, \*9-10 (W.D. Wash., Dec. 21, 2006) (rejecting request for  
26 extension of time where plaintiff "claim[ed], without demonstrating that 'good cause' exists.").

1 Here, Responding Defendants fail to satisfy even this low standard. Given their respective  
2 dates of service, Responding Defendants' answers were due on July 6 and July 13.<sup>2</sup> However,  
3 Responding Defendants now ask the Court for a new deadline of August 5, more than doubling  
4 their time to respond to the FAC. Tellingly, Responding Defendants advance only a single  
5 conclusory sentence to support their request: "to fully investigate and properly respond to the  
6 [FAC]." *Id.* at ¶ 12.<sup>3</sup> Responding Defendants support this statement with no underlying facts,  
7 demonstrate no diligence on their part, and certainly do not state their case with any semblance of  
8 particularity. Similarly, Responding Defendants fail to support their (apparently arbitrary)  
9 selection of August 5 as the new deadline. Responding Defendants fail to show good cause and  
10 the Court should require them to immediately respond to the FAC. *See Clark v. E.I. du Pont de*  
11 *Nemours*, 1995 U.S. Dist. LEXIS 12274, \*9-10 (W.D. Va., July 27, 1995) (denying motion for  
12 extension of time and dismissing case where party made no factual allegations supporting her  
13 failure to serve defendant within prescribed time period).

14 Responding Defendants' indefensible argument is further undermined because these  
15 particular parties are in a better position to timely answer the FAC than most defendants at a  
16 lawsuit's onset. In 2008, Responding Defendants were sued in the Eastern District of  
17 Pennsylvania for conduct similar to that which Cascade complains of here. Responding  
18 Defendants and their counsel — the same counsel who now seeks leave to appear in this matter  
19 *pro hac vice*<sup>4</sup> — presumably investigated the facts and legal issues alleged by Cascade years ago  
20 either when they responded to the complaint in the Pennsylvania suit, or in the course of  
21 subsequent discovery. Thus, Responding Defendants enter this suit with an uncommon mastery

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23 <sup>2</sup> The Answer was due on July 6 for the Defendants that Cascade served on June 12 due to the  
Fourth of July Holiday.

24 <sup>3</sup> Responding Defendants similarly do not indicate why they delayed sixteen days to send a copy  
25 of the FAC to their counsel. Motion at ¶¶ 2-4. Presumably, Defendants would have explained  
this delay if good cause for it existed.

26 <sup>4</sup> Cascade will address that request in a separate response.

1 of the facts and legal issues in dispute and have demonstrated no factual basis to support their  
2 request for an extension of time. To the contrary, their conduct evidences what Cascade can only  
3 assume is their true intent -- to stall this litigation.<sup>5</sup>

4 **B. Cascade Has Been, And Continues To Be, Irreparably Harmed By**  
5 **Defendants' Delay.**

6 Granting Responding Defendants' motion would allow them to delay this litigation  
7 another month and would irreparably harm Cascade. As Cascade thoroughly discussed in its  
8 motion for a preliminary injunction (Dkt. No. 10), among other conduct, Responding Defendants  
9 sell yarn that is mislabeled as cashmere when it is not, in fact, cashmere. Indeed, Cascade  
10 contends that in response to the allegations made in the Pennsylvania action and/or in response to  
11 other customer complaints, Defendants' reformulated their yarn to make detection of the absence  
12 of the labeled fibers more difficult to discover and continue to sell mislabeled yarns. Such conduct  
13 misleads customers into thinking that Responding Defendants' inferior yarn has the same  
14 cashmere content as Cascade's yarns, leading to an industry-wide diminution of the value of  
15 cashmere yarn as well as injury to Cascade's business. Responding Defendants' actions damage  
16 Cascade's sales, market value and the public acceptance of its yarn. The Court should not allow  
17 Responding Defendants to delay this litigation another month when Responding Defendants have  
18 provided this Court no reason why they need an extension of time and where the facts show that  
19 no extension is warranted.  
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21

22 <sup>5</sup> Indeed, Defendants spend a large part of their motion complaining about counsel's  
23 unavailability to reach a stipulation *during the Fourth of July weekend*. See Motion at ¶¶ 7-11.  
24 Defendants' argument is clearly a bait-and-switch tactic aimed at distracting the Court from  
25 Defendants' inability to demonstrate good cause for their request. If Defendants genuinely  
26 needed additional time to respond, they could have promptly engaged counsel actually admitted  
to practice before this Court to contact Cascade's counsel instead of waiting until the Friday  
before a holiday weekend to have counsel not admitted to practice in this jurisdiction make their  
request.

