

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA,
EX REL. BRANCH CONSULTANTS,
L.L.C.,

Plaintiff,

VERSUS

ALLSTATE INS. CO., et al.,

Defendants.

Case No.: 06-cv-4091 (SSV)

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Sect.: R

JUDGE VANCE

MAGISTRATE SHUSHAN

**EX PARTE MOTION FOR EXTENSION OF TIME TO PLEAD
AND FOR EXTENSION OF PAGE LIMITS**

Pursuant to Local Rule 7.9E and 7.8.1E, Defendant Allstate Insurance Company (“Allstate”), herein moves for (1) a ten day extension of time until October 8, 2010 to respond to relator Branch Consultants L.L.C.’s (“Branch”) Second Amended Complaint (“SAC”), and (2) an extension of the page limit for briefs set forth in Local Rule 7.8.1E from 25 page to 35 pages. Branch has indicated that it does not oppose Allstate’s application.

1.

Allstate’s current deadline to respond to the SAC is September 28, 2010. Allstate and the other defendants previously requested and received from Branch an agreement to extend the time to respond to the SAC from September 7, 2010 until September 28, 2010.

2.

Good cause exists to extend Allstate's deadline to respond to the SAC until October 8, 2010. On September 21, 2010 Judge Barbier unsealed a qui tam complaint filed by a different relator, *United States ex rel Denena v. Allstate Insurance Co.*, Civ. Action No. 07-2795, which alleges that in handling Hurricane Katrina claims, Allstate engaged in a "fraudulent scheme" to "substantially inflat[e] the amounts of its insureds' flood insurance claims at the expense of the Government, while at the same time enriching Allstate by eliminating or substantially deflating its insured's private homeowners wind insurance claims," and to "fabricat[e] data and information necessary to obtain federal flood benefits." In its notice of non-intervention filed in *Denenea*, the Government stated that "with the addition of Allstate as a defendant in *Branch Consultants*, the question of whether the jurisdictional bar under 31 U.S.C. § 3730(b)(5) is triggered as to either the relator in *Denenea* or the relator in *Branch Consultants* arises."

3.

Allstate requires additional time to address the issue the Government identified in responding to Branch's SAC. Allstate first learned of the *Denenea* action on September 23, 2010, three business days before the current September 28, 2010 due date for its response to the SAC. Accordingly, Allstate seeks a ten day extension of the deadline for it to respond to the SAC so that Allstate may address the impact of the *Denenea* action on the viability of the SAC's claims against Allstate. Although Allstate could raise this jurisdictional issue at any time, the most efficient way to do so would be in connection with Allstate's other arguments as to why Branch's SAC should be dismissed as to Allstate.

4.

For the foregoing reasons, and pursuant to Local Civil Rule 7.9E, Allstate respectfully moves for a ten day extension of time to respond to Branch's SAC.

5.

Allstate also respectfully moves for an extension of the page limit from 25 pages to 35 pages, pursuant to Local Civil Rule 7.8.1E. Allstate plans to respond to the SAC by filing a motion to dismiss. In addition to the issues raised by the *Denenea* action, Allstate's motion will address the first-to-file, res judicata, and law of the case issues raised by the *Rigsby* complaint and this Court's and the Fifth Circuit's prior rulings dismissing Allstate under the first-to-file rule. More than 25 pages will be necessary to address the issues raised by the *Rigsby* and *Denenea* complaints. Good cause therefore exists to extend the page limit to 35 pages.

Respectfully Submitted,

BARRASSO USDIN KUPPERMAN FREEMAN
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CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2010, I electronically filed the foregoing pleading with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all CM/ECF participants. I further certify that a copy was mailed, with the confirmation of filing, to any non-CM/ECF participants.

/s/ Judy Y. Barrasso
JUDY Y. BARRASSO

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* Sect.: R

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* **JUDGE VANCE**

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* **MAGISTRATE SHUSHAN**

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ORDER

Considering the foregoing *Ex Parte* Unopposed Motion for Extension of Time to Plead and For Extension of Page Limits by defendant Allstate Insurance Company (“Allstate”):

IT IS HEREBY ORDERED that Allstate’s motion is **GRANTED**. Allstate shall have until October 8, 2010 to respond to Branch Consultant L.L.C’s Second Amended Complaint. The page limit for Allstate’s brief in support of its motion to dismiss the Second Amended Complaint shall be extended to 35 pages.

UNITED STATES DISTRICT JUDGE