

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MICHAEL T. FLYNN,

Plaintiff,

Case no. 8:23-CV-00485-MSS-CPT

vs.

UNITED STATES OF AMERICA,

Defendant.

_____ /

**DEFENDANT UNITED STATES OF AMERICA’S SECOND
UNOPPOSED MOTION TO EXTEND TIME TO RESPOND TO
PLAINTFF’S SECOND AMENDED COMPLAINT**

Pursuant to Fed. R. Civ. P. 6(b), Defendant, United States of America, respectfully moves to extend the deadline for the filing of its response to the Plaintiff’s Second Amended Complaint (“SAC”) by 60 days. The parties are currently engaging in settlement discussions, and the additional time will allow the parties to continue these discussions. The United States’ response to the SAC is currently due by September 12, 2025. If the extension request is granted, and a settlement is not reached by the parties, the United States’ response to the SAC will be due on or before November 11, 2025. Plaintiff consents to the requested relief.

On July 28, 2023, Plaintiff filed an Amended Complaint asserting claims for abuse of process and malicious prosecution against the United States pursuant to the FTCA, 28 U.S.C. § 1346(b). ECF No. 34. The gravamen of Plaintiff's Amended Complaint was that agents or agencies of the United States, including the Department of Justice ("DOJ"), the Federal Bureau of Investigation ("FBI"), the Special Counsel's Office under Special Counsel Robert S. Mueller III ("SCO"), and the Executive Office of the President ("EOP"), improperly opened an investigation of Plaintiff, conducted an interview of Plaintiff after that investigation should have been closed, and brought criminal charges against him without probable cause based upon statements made during the interview. *See generally* ECF No. 34.

On September 15, 2023, the United States filed a motion to dismiss the Amended Complaint in its entirety because Plaintiff failed to plausibly allege an abuse of process or malicious prosecution claim under the FTCA—and thus the United States did not waive its sovereign immunity for either of those claims. *See* ECF No. 38. On December 10, 2024, the Court issued an Opinion finding that Plaintiff failed to adequately plead claims for malicious prosecution and abuse of process. *See* ECF No. 47. Accordingly, the Court granted the United States' motion to dismiss the Amended Complaint. *Id.* at 20. However, in its order dismissing the Amended Complaint, the Court

granted Plaintiff leave to file a Second Amended Complaint “that seeks to resolve the deficiencies identified” by the Court. *Id.*

On June 30, 2025, Plaintiff filed the SAC continuing to set forth claims for malicious prosecution and abuse of process. *See generally* ECF No. 58. Following the filing of the SAC, the parties have discussed settlement and are actively pursuing settlement negotiations.

Here, good cause exists to extend the current deadlines by an additional 60 days. *See* Fed. R. Civ. P. 6(b)(1) (stating a court has discretion to extend response deadlines for “good cause”). The additional time will provide the parties with the ability to continue settlement discussions. Granting the extension will serve judicial efficiency and will preserve the Court’s and the parties’ resources in the event a settlement is reached.

Local Rule 3.01(g) Certificate

Plaintiff, through his counsel, has consented to the relief sought.

Conclusion

For all the foregoing reasons, the United States respectfully requests the Court to extend the deadline for the filing of its response to the SAC by 60 days, to and including November 11, 2025.

Dated: September 5, 2025

Respectfully submitted,

BRETT A. SHUMATE
Assistant Attorney General
Civil Division

KIRSTEN L. WILKERSON
Director, Torts Branch
Civil Division

/s/Kristin McGrory
KRISTIN MCGRORY
Trial Attorney, Torts Branch
United States Department of Justice
Civil Division
Benjamin Franklin Station, P.O. Box 888
Washington, D.C. 20044
Telephone: (202) 616-4206
Email: kristin.b.mcgrory@usdoj.gov
Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that on September 5, 2025, I filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send an electronic notice of filing.

/s/Kristin McGrory
Kristin B. McGrory
Trial Attorney