

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

AKM ENTERPRISES INC. d/b/a Moblize,	§	
<i>Plaintiff,</i>	§	
	§	
vs.	§	Civ. No. 4:23-cv-04144
	§	
RYAN DAWSON	§	
and CORVA AI, LLC,	§	
<i>Defendants.</i>	§	

**DEFENDANTS’ RESPONSE TO PLAINTIFF’S MOTION FOR
LEAVE TO FILE RESPONSE TO DEFENDANTS’ MOTION FOR SANCTIONS**

Defendants Ryan Dawson and Corva AI, LLC (“Defendants”) file this Response to Plaintiff’s Motion for Leave to File Response to Defendants’ Motion for Sanctions (“Motion for Leave”).

I. INTRODUCTION

1. Plaintiff’s Motion for Leave fails to take accountability, misrepresents the law and **invents a rule that does not exist**. This is not excusable neglect but rather further evidence that Plaintiff is litigating in bad faith and utilizing the legal process to harass and abuse.

2. Plaintiff has not carried its burden to show “excusable neglect” under Rule 6(b)(1)(B). What Plaintiff offers instead is a *post hoc* story riddled with credibility issues. Plaintiff’s conduct and cavalier approach has materially affected Defendants’ trial preparation and forced Defendants to incur significant unnecessary expense.

II. ARGUMENT

A. Plaintiff's Case Law Citations Support a Finding of Gross Carelessness, not Excusable Neglect

3. Once a party misses a deadline, the deadline may be extended only upon that party's motion and only if the court finds that “the party failed to act because of excusable neglect.” FED. R. CIV. P. 6(b)(1)(B).

4. The Supreme Court in *Pioneer* examined the concept of “excusable neglect” while interpreting a federal bankruptcy rule which “was modeled after and is substantially identical to Federal Rule of Civil Procedure 6(b)(1).” *L.A. Pub. Ins. Adjusters, Inc. v. Nelson*, 17 F.4th 521, 524-25 (5th Cir. 2021). “[T]he determination [of excusable neglect] is at bottom an equitable one, taking account of all relevant circumstances surrounding the party’s omission.” *Pioneer Investment Services Co. v. Brunswick Assocs. LP*, 507 U.S. 380, 395 (1993). “One who fails to act diligently cannot invoke equitable principles to excuse that lack of diligence.” *Baldwin Cty. Welcome Ctr. v. Brown*, 466 U.S. 147, 151 (1984).

5. Courts in this District have applied that principle to reject similar excuses. In *Byford v. Fontenot*, No. H-19-470, 2020 U.S. Dist. LEXIS 62458, at *6–7 (S.D. Tex. Apr. 8, 2020), the court held that a calendaring error was “gross carelessness” and not excusable neglect. And in *Smith-Hubbard v. Amica Mut. Ins. Co.*, 2024 U.S. App. LEXIS 4437, at *4–6 (5th Cir. Feb. 23, 2024), the Fifth Circuit reaffirmed that counsel’s failure to monitor the docket for months was fatal. Attorneys have a “duty of diligence to inquire about the status of a case.” *Id.* at *4.

6. Plaintiff cites *Halicki* and *Thaler* for the proposition that “absence of error indication” or “inadvertent delays” establish excusable neglect. That is simply not what those cases hold. Both stand for the opposite: that parties must exercise diligence and do their best to ensure that it is able to file in a timely fashion in order to meet deadlines. See *McCarty v. Thaler*, 376 F. App'x 442 (5th Cir. 2010); *Halicki v. La. Casino Cruises*, 151 F.3d 465 (5th Cir. 1998).

7. Strangely, Plaintiff quotes *Thaler* on the concept of “inadvertent delays.” See (ECF No. 142, at p. 2). That phrase does not appear in *Thaler* even once. See *Thaler*, 376 F. App'x 442. Similarly incorrect, Plaintiff cites *Halicki* for the proposition that it could not have discovered the CM/ECF “error” absent clairvoyance. See (ECF No. 142, at p.3). The 1998 *Halicki* case does not discuss CM/ECF or any other form of filing error. See *Halicki*, 151 F.3d 465.

8. Worse than mischaracterizing case law, Plaintiff manufactures an entire rule by referencing § 13(D) of the administrative procedure for the Southern District of Texas (There are only 12 administrative procedures in the Southern District). See (ECF No. 142, at p. 3). This is classic “hallucination” behavior that one would expect from the usage of generative AI. Indeed, this is not the first time Plaintiff has completely mischaracterized a case citation or manufactured unsupported statements. See (ECF No. 90) (mischaracterizations outlined in ECF No. 98, at p. 6); See also (ECF No. 119, Ex. F, p. 6-7). Plaintiff even leaves a clue regarding its AI usage by injecting what is an obvious AI-prompt in the middle of Respondent’s Interrogatory No. 3. (ECF No. 119, Ex. F, p. 7).

INTERROGATORY NO. 3:

Identify all features in Corva's Fusion Can you provide this in sentence form?
I don't want to produce this table; it's way too good. product that Mobilize alleges
incorporate or were derived from Mobilize's trade secrets or confidential information,
detailing the specific similarities and alleged connection to Samarth Gupte.

9. Plaintiff's careless use of AI also resulted in a blatant misrepresentation to the Court regarding Defendants' document production. Plaintiff's claim that Defendants have only produced 3 pages is objectively false, and Plaintiff's counsel has represented a different number to this Court previously. *Compare* (ECF No. 143, at p. 4) *with* (ECF No. 121, at p. 2). Plaintiff's misrepresentation of such to the Court indicates its flippant attitude toward the truth and the lack of regard for diligently checking ChatGPT's output, instead relying on a "Paste and Pray" approach, leaving Defendants and the Court to shoulder the cost of correcting the record.

10. On a similar note, Plaintiff's non-traditional legal writing style of using bolded phrases to start a paragraph is also clearly the result of copy/pasting straight from ChatGPT. (ECF No. 143 at p. 4-5); *See* (ECF No. 103) (starting nearly every paragraph after page 3 with phrases and dependent clauses, containing a hallucinated "overlap," and mischaracterizing citations to the record).

B. Plaintiff's "Evidence" Holds No Weight

11. Plaintiff offers a declaration and a handful of screenshots. Neither establishes excusable neglect.

12. First, the declaration is self-serving and internally inconsistent. Counsel claims she said, “I’m so proud of us—we got this done, and there’s still daylight.” Yet elsewhere she quotes herself as saying, “it’s still daylight.” If Plaintiff cannot even consistently recount its supposed “proof,” the Court should give it no weight. And even taken at face value, a lawyer congratulating herself and her paralegal after believing they “submitted” proves nothing about whether a filing was received by the Court.

13. Second, the screenshots are irrelevant. Drafting a response is not filing one. The only evidence of a successful CM/ECF filing is the Notice of Electronic Filing (“NEF”). Plaintiff admits it never received one. In this District, the NEF is dispositive: if you do not receive it, you did not file. Counsel’s “belief” that the Response had been filed despite the absence of an NEF is not diligence; it is negligence. And Plaintiff’s suggestion that only “clairvoyance” could have revealed the problem is absurd. Every practitioner knows the responsibility lies with counsel—not the Court or CM/ECF—to confirm receipt before the deadline. Ignoring the absence of an NEF for twenty-eight days is not excusable neglect. Plaintiff’s failure to take accountability for its mistake should be dispositive. **The “reason for delay” was entirely within Plaintiff’s control.**

14. Third, Plaintiff’s fallback argument that cases should be decided on the merits, not “technicalities” would be compelling if not for the fact that deadlines are not technicalities. Deadlines are integral to the fair administration of justice. Excusing a month-long lapse despite obvious red flags (no NEF, no docket entry, no mention of a Response to the Motion for Sanctions in Defendants’ Joint Pretrial Order) and premised on

inconsistent quotes and AI-drafted misstatements of the law, would turn Rule 6(b) into a free pass for neglect.

15. A twenty-eight-day delay in responding to a sanctions motion is not trivial. The timing here matters—the Court and Defendants have been preparing to address sanctions, prior to focusing on the trial setting. Plaintiff is completely wrong when it states Defendants have been silent on the issue of sanctions. Defendants raised the issue of the unanswered Motion for Sanctions at the September 4, 2025 Pre-Motion Conference in front of Judge Bennett. Plaintiff was unaware because it failed to attend.

16. Defendants also raised the issue in the Joint Letter filed to this Court on September 19, 2025. (ECF No. 142). Notably, Plaintiff moved quickly (with the help of AI) to draft its Motion for Leave, but failed to remedy any of the other discovery abuses that Defendants have identified in that letter, including sharing its trial exhibits with Defendants. This necessitates action from this Court to maintain fairness.

C. Plaintiff's Pattern of Carelessness Burdens Defendants and the Court

17. This Motion is not an isolated lapse. Plaintiff's counsel has repeatedly flouted deadlines and procedures, imposing unnecessary costs on Defendants and consuming judicial resources:

- a. Plaintiff failed to collaborate with Defendants on the Joint Pretrial Order until 3:45 p.m. on the day the Order was due. Had Plaintiff diligently reviewed Defendants' portion of the Joint Pretrial Order, it would have noticed that Defendants did not log the Response to the Motion for Sanctions as one of the pending briefings in front of the Court.

b. Plaintiff failed to appear for a hearing Plaintiff itself had requested, wasting judicial resources and Defendants' counsel's time.

c. Plaintiff continues to flout Court Procedure 11A by refusing to send its exhibits to Defendants, despite multiple requests by Defendants.

18. These issues, along with the other discovery issues raised in the Joint Letter filed on September 19 (ECF No. 142), require relief for Defendants in order to fairly adjudicate the issues in this case.

19. Currently, Plaintiff has faced no repercussions for its abusive and dilatory tactics. Defendants are incurring unnecessary expense as a result of this pattern. When viewed together with Plaintiff's reliance on mischaracterizations of the record, mischaracterizations of case law, and AI-generated submissions, the record demonstrates not good faith but a consistent strategy: use procedural carelessness and delay as a litigation tactic.

20. Furthermore, Plaintiff's practice of using AI to generate its work product and then serving it distorts the playing field: it can churn out filings quickly and at low cost, while Defendants must expend significant resources to fact-check, research, and rebut them. That is the opposite of good faith. Equity necessitates that Plaintiff is forced to pay for Defendants' attorneys' fees for refuting error-riddled AI-generated work product that Plaintiff was able to produce cheaply.

D. Request for Further Relief

21. This pattern warrants more than denial of the Motion for Leave. At this point, equity requires broader relief than what Defendants initially requested in their Motion for

Sanctions. Defendants respectfully ask the Court to order Plaintiff to show cause why sanctions should not issue for repeated reliance on unreliable AI-generated filings, and to permit Defendants to submit a supplemental request for relief as docket call approaches and Plaintiff's procedural violations continue to harm Defendants' trial preparation.

Respectfully submitted,

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**ATTORNEYS FOR CORVA AI, LLC
AND RYAN DAWSON**

CERTIFICATE OF SERVICE

I hereby certify that, on the 10th day of October 2025, a true and correct copy of the above document was forwarded to all parties of record via Certified Mail, Electronic Mail, Facsimile, Regular Mail and/or Hand Delivery:

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/s/ Bradley L. DeLuca

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
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	§	
RYAN DAWSON;	§	
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**ORDER DENYING PLAINTIFF’S MOTION FOR LEAVE TO
FILE RESPONSE TO DEFENDANTS’ MOTION FOR SANCTIONS**

Having considered Plaintiff’s Motion for Leave to File Response to Defendants’ Motion for Sanctions (the “Motion”), the Response, and the Reply (if any), it is **HEREBY ORDERED** that the Motion is **DENIED**. It is further **ORDERED** that Plaintiff is in default of Defendants’ Motion for Sanctions. It is further **ORDERED** that Plaintiff shall appear and show cause at an oral hearing before this Court as to why it:

1. Certified a citation to a rule that does not exist;
2. Mischaracterized case authorities; and
3. Made factual claims in response to discovery requests that it knew to be untrue.

The Show Cause Hearing is set for _____ at _____
a.m/p.m.

Date: _____

UNITED STATES DISTRICT COURT JUDGE