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**United States District Court
Central District of California**

MECHANIX WEAR, INC., a California Corporation; ZACHARY JERGAN, an individual,

Plaintiffs,

v.

PERFORMANCE FABRICS, INC., a Michigan Corporation doing business as HEXAMOR; and DOES 1-50,

Defendants.

Case № 2:16-cv-09152-ODW (SS)

**ORDER GRANTING
DEFENDANT’S EX PARTE
APPLICATION [28]**

Defendant submits the pending ex parte application after filing its opposition to Plaintiffs’ motion to remand four days late. (ECF No. 28). Defendant opposes the application. (ECF No. 30.) An opposition is typically due twenty-one days before a hearing on the underlying motion. C.D. Cal. L.R. 7-9. However, this Court has its own rule requiring that when a filing date falls on a Monday holiday, the filing is due on the preceding Friday. Wright L.R. VII.A.1. Defendant did not follow this rule and instead filed its opposition on Tuesday, January 17, 2017, after the Monday, January

1 16, 2017 Martin Luther King holiday rather than on Friday, January 13, 2017. (ECF
2 No. 29.)

3 Nevertheless, the Court will consider Defendant's late filed opposition. Federal
4 Rule of Civil Procedure 6(b)(1)(B) allows a party to make a motion for a filing
5 extension "after the time has expired if the party failed to act because of excusable
6 neglect." The good cause standard governs the Court's review of such a motion.
7 *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010) (finding that
8 "good cause" is a "non-rigorous standard"). Here, Defendant's counsel admits that he
9 made a mistake and did not appreciate the Court's local, local rule. (Kobata Decl. ¶ 5,
10 ECF No. 28.) Defendant has otherwise timely filed during these proceedings and does
11 not appear to have acted in bad faith. Further, there is no evidence that considering
12 the late filing would *unduly* prejudice Plaintiffs. The actions of Defendant's counsel
13 amount to excusable neglect, plain and simple.

14 Therefore, in order to effectuate the federal rules' "general purpose of seeing
15 that cases are tried on the merits," the Court **GRANTS** Defendant's ex parte
16 application. *Ahanchian*, 624 F.3d at 1259. Plaintiffs reply is now due on
17 **Wednesday, January 24, 2017**. The hearing scheduled on the pending motion
18 for forum non conveniens shall be rescheduled to **February 6, 2017**, at 1:30 p.m. in
19 accord with the parties' stipulation. (ECF No. 25.)

20
21 **IT IS SO ORDERED.**

22 January 19, 2017

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26 **OTIS D. WRIGHT, II**
27 **UNITED STATES DISTRICT JUDGE**
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