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 7

8 **UNITED STATES DISTRICT COURT**
 9 **EASTERN DISTRICT OF CALIFORNIA**

10	TIPAKSORN TUNGJUNYATHAM,)	1:06-cv-01764-SMS
)	
11	Plaintiff,)	DEFENDANT UNITED STATES' EX
)	PARTE APPLICATION FOR EXTENSION
12	v.)	OF LITIGATION DEADLINES;
)	
13	MIKE JOHANNNS, SECRETARY OF)	ORDER
	UNITED STATES DEPARTMENT OF)	
14	AGRICULTURE AGENCY,)	[Local Rule 6-144(c)]
)	
15	Defendant.)	
)	

17 Pursuant to Local Rule 6-144 , defendant United States
 18 Department of Agriculture ("United States") requests by way of
 19 this ex parte application a four-month extension of this action's
 20 litigation deadlines. The United States explains as follows:

21 1. Plaintiff Tipaksorn Tungjunyatham ("plaintiff") brings
 22 Title VII claims against defendant the United States regarding
 23 her prior employment with the above federal agency. (Doc. 1;
 24 Declaration of Brian W. Enos ("Enos Decl."), para. 2).

25 2. The United States' present application for an extended
 26 litigation schedule is submitted based on good cause. (Enos
 27 Decl., para. 3).

28 ///

1 3. To explain chronologically:

2 a. On August 6, 2008, counsel for the United States
3 took plaintiff's deposition for seven full hours. (Enos
4 Decl., para. 4(a)). The deposition went exceedingly slow and
5 at the end of the day plaintiff agreed that the United
6 States could take her deposition a second day. (Ibid.)
7 Sometime within the next several weeks, plaintiff called the
8 undersigned to advise him that she injured her foot and
9 would not be able to participate in her continued deposition
10 until it healed. (Ibid.)

11 b. On October 1, 2008, the parties agreed that the
12 United States could complete Dr. Tung's deposition on
13 December 2, 2008. (Enos Decl., para. 4(b)). That same day,
14 the parties also filed a stipulation continuing litigation
15 dates in a manner that could accommodate the above completed
16 deposition date. (Ibid.) The court endorsed this stipulation
17 by way of formal order on October 7, 2008. (Doc. 21).

18 c. On October 23, 2008, the United States sent
19 plaintiff a deposition notice confirming the December 2,
20 2008 deposition date. (Enos Decl., para. 4(c)).

21 d. On November 6, 2008, the undersigned received two
22 voicemail messages from plaintiff. (Enos Decl., para. 4(d)).
23 Within these messages, plaintiff indicated that she was in
24 Thailand attending to a sick relative and would not be able
25 to return to the United States until March 2009. (Ibid.)
26 Plaintiff also advised the undersigned that (1) in light of
27 the above, she would not be able to attend her continued
28 deposition on December 2, 2008 and requested that the United

1 States agree to take it after she returned, and (2) the
2 undersigned would need to further communicate with her via
3 email in that she had very limited access to telephones
4 while out of the country. (Ibid.)

5 e. On November 7, 2008, the United States responded
6 to plaintiff's voicemail messages of the day before by way
7 of email. (Enos Decl., para. 4(e), Exh. A). Within this
8 email, the United States advised plaintiff that it would
9 agree to her request, so long as she agreed to moving this
10 action's "dispositive motion deadline from January 21, 2009
11 to May 2009. This way, all parties can make use of
12 deposition transcripts before filing any potential motions."
13 (Ibid.)

14 f. On November 9, 2008, plaintiff responded to the
15 United States' November 7, 2009 email message by email.
16 (Enos Decl., para. 4(f), Exh. B). Within this response,
17 plaintiff agreed to moving the dispositive motion filing
18 deadline, and specifically stated "[p]lease reschedule for
19 all as much appropriate as possible." (Ibid.)

20 g. On January 16, 2009, the United States sent
21 plaintiff a draft stipulation by email which incorporated
22 the above extended dispositive motion filing deadline, as
23 well as subsequent deadlines through trial. (Enos Decl.,
24 para. 4(g), Exh. C). Each date was tentatively moved four
25 months from their current deadlines, so as to keep the same
26 amount of time between each prior deadline. (Ibid.)

27 h. Plaintiff has not responded to the United States'
28 email message of January 16, 2009. (Enos Decl., para. 4(h)).

1 Accordingly, and while the undersigned interprets the above
2 exchange as already including plaintiff's general agreement
3 to the above dates, he sends it to the court in the form of
4 ex parte papers rather than a formal stipulation in an err
5 of caution. (Ibid.)

6 4. In light of the above-stated good cause, defendant
7 United States requests an extension of the above action's
8 litigation deadlines approximately four months, and specifically
9 set forth below:

	<u>Old Date</u>	<u>New Date</u>
10 Filing of Dispositive 11 Motions	January 21, 2009	May 20, 2009
12 Settlement Conference 13 (Magistrate Judge Beck)	May 13, 2009	September 14, 2009 10:00am Judge Beck
14 Pretrial Conference	July 14, 2009	November 17, 2009 11:00am Judge Snyder
15 Jury Trial	September 14, 2009	January 25, 2010 16 9:00am Judge Snyder

17 5. Based on the above, plaintiff is not prejudiced by this
18 request, in that she necessitated the continued deposition due to
19 her tending to unspecified family matters in Thailand, as well as
20 her general agreement to the above continuances. (Enos Decl.,
21 para. 6).

22 6. A timely stipulation extending time cannot be
23 reasonably obtained, in that plaintiff is out of the country and
24 has not responded to the United States' draft stipulation sent to
25 her last week. (Enos Decl., para. 7).

26 7. In light of the foregoing, the United States
27 respectfully requests the court to extend the parties' litigation
28

1 deadlines approximately four months, and as specified above.

2 (Enos Decl., para. 7).

3 Respectfully submitted,

4 Dated: January 20, 2009

LAWRENCE G. BROWN
Acting United States Attorney

6 By: /s/ Brian W. Enos
7 BRIAN W. ENOS
8 Assistant U.S. Attorney
9 Attorneys for Defendant
10 Mike Johanns

11 **ORDER**

12 IT IS SO ORDERED.

13 Dated: January 21, 2009

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE