

1 On December 20, 2010, Plaintiff sought, *ex parte*, an extension of the discovery
2 deadlines in the case because he had requested subpoenas, but they had not been
3 forthcoming. On January 6, 2011, he filed a Response to Defendants' Settlement Letter.

4 The request for an extension based on the need for subpoenas is moot because as
5 previously explained by the Court they may be unnecessary. The Response to the Motion
6 for Summary Judgment was, however, due by January 17, 2011. The Response filed by
7 Plaintiff on January 6, 2011, purports to be a response to an offer of settlement, but it
8 addresses arguments of exhaustion, which were included in the Defendants' Motion for
9 Summary Judgment.


10 The Court will afford the Plaintiff one more opportunity to Respond to the
11 Defendant's Motion for Summary Judgment and/or to show cause why he cannot respond.
12 Otherwise, the Court will consider his Response filed on January 6, 2011, to the extent it is
13 responsive to the Motion for Summary Judgment. Defendant may have an opportunity to
14 Reply, and thereafter, the Court will consider the matter fully briefed and ready for a ruling.

15 **Accordingly,**

16 **IT IS ORDERED** that the Plaintiff's Exparte Application to Modify Deadline for
17 Discovery is DENIED AS MOOT.

18 **IT IS FURTHER ORDERED** that the Plaintiff shall have 30 days from the filing
19 date of this Order to file a Response to the Motion for Summary Judgment or should good
20 cause as to why he cannot respond.

21 DATED this 28th day of March, 2011.

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25 David C. Bury
26 United States District Judge
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