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 Merced Irrigation District

9 **UNITED STATES DISTRICT COURT**
 10 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

11 LAMONTE TUMBLING,)	Case No. 1:08-CV-01801-LJO-DLB
)	
12 Plaintiff,)	EX PARTE APPLICATION AND ORDER
)	GRANTING LEAVE TO FILE
13 v.)	ENLARGED MEMORANDUM OF
)	POINTS AND AUTHORITIES
14 MERCED IRRIGATION DISTRICT, a)	
public entity)	
)	JUDGE: Lawrence J. O’Neill
15 Defendant.)	COURTROOM: 9
)	MAGISTRATE: Dennis L. Beck

17 Defendant Merced Irrigation District hereby applies to the Court ex parte for an Order to
 18 file an enlarged memorandum of points and authorities in support of Defendant's motion for
 19 summary judgment. Defendant requests leave to file a memorandum of points and authorities not
 20 to exceed 35 pages.

21 The undersigned has advised counsel for Plaintiff that such an ex parte request will be
 22 made to this Court. (Declaration of Matthew Racine ("Racine Dec.," ¶ 3.) Because counsel for
 23 Plaintiff was unavailable to speak with the undersigned, this advisory was made in the form of a
 24 voicemail message. (Racine Dec., ¶ 4-5.) Thus, the undersigned is unaware if plaintiff's counsel
 25 intends to oppose this motion. (Racine Dec., ¶ 6.)

26 This request is timely because it is made more than seven days prior to the July 23, 2010,
 27 deadline for filing dispositive motions. (Document 6-1, ¶ 3; Document 48, page 3.)

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1 Good cause exists for the Court to grant the ex parte motion because Defendant intends
2 to move for summary judgment on all seven of Plaintiff's claims for relief, and page limit of 25
3 pages listed in Document 6-1 is insufficient to brief fully the factual background of this case and
4 perform a sufficient legal analysis. (Racine Dec., ¶ 7-13.) Plaintiff's claims involve federal and
5 state law claims race and gender discrimination, retaliation for protected activities, whistle blower
6 retaliation as well as a claim under 42 U.S.C. § 1981. (Document 1.) The factual background
7 of this case is complex, requiring significant discussion in the body of the memorandum of points
8 and authorities. (Racine Dec., ¶ 11-13.)

9 In light of the foregoing, defendant respectfully requests that the Court enlarge by 10 pages
10 the page limit for defendant's memorandum of points and authorities in support of defendant's
11 motion for summary judgment to a total of 35 pages.

12 Dated: September 15, 2009

Daley & Heft, LLP

13 By: /s/Matthew T. Racine, Esq.

14 Neal S. Meyers

Matthew T. Racine

15 Attorneys for Defendant,

16 Merced Irrigation District

17 **ORDER**

18 Having considered Defendant's ex parte application for leave to file an enlarged
19 memorandum of points and authorities in support of Defendant's motion for summary
20 judgment, and finding good cause therefor,

21 **IT IS HEREBY ORDERED** that Defendant may file a memorandum of points and
22 authorities *not to exceed 35 pages* in support of Defendant's motion for summary judgment.

23 Dated: July 16, 2010

24 /s/ Lawrence J. O'Neill

25 Lawrence J. O'Neill

26 United States District Judge