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

11 ERIC LEWIS,
12 v.
13 ERIK K. SHINSEKI, Secretary
14 United States Department of Veterans Affairs,
15 Defendants.

16 CASE NO.: 1:09-cv-00318-LJO-DLB

17 EXPARTE APPLICATION TO CONTINUE
18 HEARING DATE; NON-OPPOSITION TO
19 CONTINUANCE BY DEFENDANT AND
20 ORDER

21 Date: November 15, 2010

22 Time: 8:30 a.m.

23 Ctrm: 4

24 Honorable Lawrence J. O'Neill

25 Proposed Date: November 29, 2010

26 Trial Date: March 14, 2011

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28 Counsel for plaintiff herein, ERIC LEWIS, files his Ex parte Application to Continue the
Hearing Date for the Motion for Summary Judgment filed by the defendant on October 13, 2010, from
November 15, 2010 to November 29, 2010.

29 The basis of this application is that based on the current hearing date, the plaintiff has only 21
30 days from the filing of Defendant's Motion for Summary Judgment to prepare and file his Opposition
31 which makes the Opposition due on November 3, 2010. That is insufficient time given the amount of
32 time that the defendant has had to prepare for this Motion than the issues that must be addressed in the
33 Opposition. The plaintiff has requested that the defendant stipulate to change the date of hearing.
34 The defendant was not willing to do so because the Scheduling Order identifies November 15, 2010

1 as the last day for hearing dispositive motions. However, the defendant is willing to state that it has
2 no opposition to such a change if the court, in its discretion, grants plaintiff's application.

3 It is, therefore, respectfully requested that the hearing date be moved from November 15,
4 2010, at 8:30 a.m., in Department 4, to November 29, 2010, at 8:30 a.m., in Department 4, with the
5 Opposition due on November 17, 2010.

6 DATED: October 15, 2010

/s/ Jacob M. Weisberg
JACOB M. WEISBERG
Attorney for Plaintiff
ERIC LEWIS

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10 **STATEMENT OF NO OPPOSITION**

11 The defendant, through its counsel, does not oppose the plaintiff's Application to Continue
12 Hearing Date from November 15, 2010, at 8:30 a.m., in Department 4, to November 29, 2010, at 8:30
13 a.m., in Department 4.

14 DATED: October 15, 2010

BENJAMIN B. WAGNER
United States attorney

16 /s/Alyson Berg
17 Alyson Berg, Assistant United States Attorney
18 Attorney for ERIK K. SHINSEKI, Secretary
19 United States Department of Veterans Affairs,

20 **ORDER**

21 GOOD CAUSE APPEARING, IT IS SO ORDERED that the Motion for Summary Judgment
22 be continued from November 15, 2010, at 8:30 a.m., in Department 4, to December 2, 2010, at 8:30
23 a.m., in Department 4, with the Opposition due on November 17, 2010.

25 DATED: October 15, 2010

26 /s/ Lawrence J. O'Neill
27 LAWRENCE J. O'NEILL
28 UNITED STATES DISTRICT JUDGE