

Jacob M. Weisberg, SBN 049065  
THE LAW OFFICE OF JACOB M. WEISBERG  
844 N. Van Ness Avenue  
Fresno, CA 93728  
Telephone: (559) 441-0201  
Facsimile: (559) 442-3164

Attorney for Plaintiff: ERIC LEWIS

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

ERIC LEWIS,

Plaintiff,

v.

ERIK K. SHINSEKI, Secretary  
United States Department of Veterans Affairs,

Defendants.

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

EXPARTE APPLICATION TO CONTINUE  
HEARING DATE; NON-OPPOSITION TO  
CONTINUANCE BY DEFENDANT AND  
ORDER

Date: November 15, 2010

Time: 8:30 a.m.

Ctrm: 4

Honorable Lawrence J. O'Neill

Proposed Date: November 29, 2010

Trial Date: March 14, 2011

Counsel for plaintiff herein, ERIC LEWIS, files his Exparte 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.

The basis of this application is that based on the current hearing date, the plaintiff has only 21 days from the filing of Defendant's Motion for Summary Judgment to prepare and file his Opposition which makes the Opposition due on November 3, 2010. That is insufficient time given the amount of time that the defendant has had to prepare for this Motion than the issues that must be addressed in the Opposition. The plaintiff has requested that the defendant stipulate to change the date of hearing. 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  
Alyson Berg, Assistant United States Attorney  
17 Attorney for ERIK K. SHINSEKI, Secretary  
18 United States Department of Veterans Affairs,

19 **ORDER**

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

23  
24  
25 DATED: \_October 15, 2010\_

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