KRISHNA REDDY, Plaintiff, v. PRECYSE SOLUTIONS LLC, et al., Defendants. to the discovery dispute.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

Case No. 1:12-cv-02061-AWI-SAB

ORDER RE <u>EX PARTE</u> APPLICATION TO AMEND THE SCHEDULING ORDER

(ECF No. 68, 69)

On April 6, 2015, Plaintiff Krishna Reddy filed a motion for a protective order to preclude Defendants from taking her deposition and motion to transfer this action. (ECF Nos. 63, 65.) The motions are currently set for hearing on May 6, 2015 at 10:00 a.m. in Courtroom 9. On April 10, 2015, Defendants filed an <u>ex parte</u> motion to amend the discovery and motion deadlines due to the discovery dispute.

Defendant's motion to amend the scheduling order is an inappropriate use of an <u>ex parte</u> application. "The expression 'ex parte motion' is a term of art. In its pure form it means a request a party makes to the court without any notice to the other side." <u>Mission Power Eng'g Co. v. Cont'l Cas. Co.</u>, 883 F. Supp. 488, 490 (C.D. Cal. 1995). "Ex parte relief is generally disfavored when relief may be had through a regularly noticed motion." <u>Hufnagle v. Rino Int'l Corp.</u>, No. CV 10-08695 DDP VBKX, 2012 WL 6553743, at *1 (C.D. Cal. Dec. 14, 2012). The Local Rules of the Eastern District recognize limited situations in which <u>ex parte</u> applications

may be filed: <u>ex parte</u> motions to extend time where the a stipulation cannot reasonably be obtained as where a defendant has not been served or where there is an application to shorten time (L.R. 144 (c) (e); injunctive relief (L.R. 231); and default judgment (L.R. 540). Defendant's request does not fall within any of these situations. Consistent with the Local Rules, the process by which the Court could entertain such requests would be to for a party to file a motion to amend the scheduling order and submit with that motion an application for an order shortening time to hear the matter, with notice to the opposing party, and on good cause.

Since the matters embraced in the motions before the Court are related, the Court will consider Defendant's motion to amend the scheduling order during the May 6, 2015 hearing.

Accordingly, IT IS HEREBY ORDERED that:

- 1. Defendants' motion to amend the scheduling order shall be heard on May 6, 2015 at 10:00 a.m. in Courtroom 9;
- 2. Plaintiff's opposition to Defendants' motion to amend the scheduling order shall be filed on or before April 22, 2015; and
- 3. Defendants' reply shall be filed on or before April 29, 2015.

IT IS SO ORDERED.

Dated: **April 13, 2015**

UNITED STATES MAGISTRATE JUDGE