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3 **UNITED STATES DISTRICT COURT**
4 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

5 **EUGENE FORTE,**

6 **Plaintiff,**

7 **v.**

8 **TIMOTHY SCHWARTZ,**

9 **Defendant.**

1:13-cv-1980-LJO-MJS

**ORDER RE PLAINTIFF'S EX PARTE
APPLICATION (Doc. 108)**

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12 On January 2, 2017, Plaintiff Eugene Forte filed an ex parte application requesting various
13 extensions of the deadlines contained in the Court's December 21, 2016 pre-trial order. Doc. 108.
14 Plaintiff requests that the February 7, 2016 trial be continued until April 10, 2017, and that the deadline
15 for all pre-trial motions, currently set for January 4, 2017, be continued to March 5, 2017. *Id.* at 2. The
16 basis for Plaintiff's request is "severe illness." *Id.* Plaintiff testifies that on December 26, 2016, he began
17 to feel ill, and that by December 30, he required medical attention. *Id.* Plaintiff submitted a doctor's note
18 from that visit, which indicates that Plaintiff has been diagnosed with acute bronchitis, but that he is
19 "[f]it for duty without restrictions" on January 8, 2017. Doc. 108-2.

20 Plaintiff's request to continue the trial is DENIED. It is too early to continue the trial, set to
21 commence in over a month, due to Plaintiff's illness. If Plaintiff's illness persists, Plaintiff may resubmit
22 his request to continue, along with appropriate documentation from his physician, that must include
23 diagnosis, prognosis and medical justification for a trial continuance, on or near January 16, 2017, and
24 the Court will reconsider his request.

25 Plaintiff's request to continue the deadline for pre-trial motions is DENIED IN PART and

1 GRANTED IN PART. Plaintiff's physician's note indicates he should be well by January 8, 2017. Doc.
2 108-2 at 2. Accordingly, all pre-trial motions are now due on or before January 16, 2017. This deadline
3 will not be re-extended absent good cause. Any response is due on or before January 23, 2017. The
4 January 30, 2017 hearing on all pre-trial motions remains set.

5 Finally, Plaintiff has waived his right to file a motion to disqualify the undersigned. The Court
6 set December 27, 2016, as the deadline to file such a motion. Plaintiff did not meet that deadline.

7 Although Plaintiff testifies that he began to feel ill on December 26, 2017, his illness was not so severe
8 as to require medical attention until December 30. Plaintiff therefore has not provided good cause for
9 missing the deadline for his disqualification motion.

10
11 IT IS SO ORDERED.

12 Dated: January 3, 2017

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE