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 8 *Attorneys for Defendants California Department of
 Corrections and Rehabilitation and Morelos*

9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA
 11 FRESNO DIVISION

13 **NOAH JOHN RUIZ,**

14 Plaintiff,

15 v.

17 **MORELOS, et al.,**

18 Defendants.

No. 1:14-CV-00179 AWI-SMS

**STIPULATION AND ORDER FOR
 EXTENSION FOR DEFENDANTS TO
 RESPOND TO THE FIRST AMENDED
 COMPLAINT**

[L.R. 143, 144(a)]

Action Filed: February 10, 2014

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 21 Under Local Rules 143 and 144, Plaintiff and Defendants California Department of
 22 Corrections and Rehabilitation (CDCR) and Morelos stipulate, by and through their respective
 23 counsel of record, to an extension, up to and including July 1, 2014, for Defendants CDCR and
 24 Morelos to respond to the first amended complaint. CDCR's response was due on May 21, and
 25 Morelos's response is due June 27. Good cause exists to grant this stipulation because the
 26 undersigned defense counsel was assigned to this case just recently and was unaware of the
 27 response deadline for CDCR until it had already passed. Also, defense counsel has no documents
 28 concerning the alleged incident to properly respond to the complaint.

1 When an act must be done within a specified time, the court may, for good cause, extend
2 the time with or without motion or notice if the court acts, or if a request is made, before the
3 original time expires. Fed. R. Civ. P. 6(b)(1)(A). If the request is made after the time has expired,
4 the court may extend the time upon a showing of excusable neglect. *Id.* 6(b)(1)(B). An extension
5 to respond to the complaint may be made by stipulation of the parties. L.R. 144(a).

6 Defendants request, and Plaintiff agrees, to a forty-one-day extension for CDCR to respond
7 to the first amended complaint. CDCR was served with process on April 30, 2014. (ECF No.
8 12.) Its response was due on May 21. This case was assigned to the undersigned defense counsel
9 on May 16. At the time the case was assigned to her, defense counsel was unaware that CDCR
10 had been served and that the deadline to respond was May 21. Defense counsel was unable to
11 review the complaint or the Court's docket because she was out of the office on May 19 and 20
12 for trial preparation in another case, and on May 21, she was working on a summary-judgment
13 motion due in another case.

14 On May 22, defense counsel learned for the first time that CDCR had been served and that
15 the date to respond had passed. Defense counsel immediately contacted Plaintiff's counsel,
16 Charles A. Piccuta, and explained this oversight. Further, defense counsel has no documents or
17 information concerning the events alleged in the complaint, such that she cannot adequately
18 respond to the complaint. Because CDCR's failure to respond to the complaint was due to the
19 excusable neglect of its counsel, the Court should grant the requested extension.

20 Good cause exists to grant a four-day extension for Morelos to respond to the complaint.
21 On May 22, defense counsel signed the waiver of service on behalf of Morelos and informed
22 Plaintiff's counsel that personal service on Morelos was not necessary. Based on the executed

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1 waiver, Morelos's response is due June 27. To avoid filing separate answers on behalf of CDCR
2 and Morelos, the parties agree to a short extension such that Morelos's answer will be due at the
3 same time as CDCR's.

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5 Dated: May 23, 2014

Respectfully submitted,

6 KAMALA D. HARRIS
7 Attorney General of California
8 CHRISTOPHER J. BECKER
9 Supervising Deputy Attorney General

10 */s/ Diana Esquivel*

11 DIANA ESQUIVEL
12 Deputy Attorney General
13 *Attorneys for Defendants CDCR and*
14 *Morelos*

15
16 Dated: May 23, 2014

PICCUTA LAW GROUP, LLP

17 */s/ Charles A. Piccuta*

18 Charles A. Piccuta
19 *Attorneys for Plaintiff*

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ORDER

Based on the parties' stipulation and good cause and excusable neglect appearing, the stipulation of the parties for an extension of time for Defendants CDCR and Morelos to respond to the first amended complaint is granted.

Defendants' response to the complaint is due on or before July 1, 2014.

IT IS SO ORDERED.

Dated: 5/23/2014

/s/ SANDRA M. SNYDER
UNITED STATES MAGISTRATE JUDGE