

1 that he had “served requests for production of documents, including requests for all relevant medical
2 and billing records for the treatment of Plaintiff’s injuries.” (Doc. 62 at 2) In addition, Defendant
3 indicated that he “intend[ed] to take Plaintiff’s deposition in June 2017 following the completion of
4 Plaintiff’s document production.” (*Id.*) The Court found the “discovery efforts [were] proceeding
5 appropriately,” and vacated the mid-discovery status conference. (Doc. 54)

6 On December 28, 2017, Defendant filed a motion to amend the scheduling order (Doc. 68),
7 accompanied by an ex parte application to shorten time on the hearing, which is now pending before
8 the Court. (Doc. 71)

9 **II. Defendant’s Ex Parte Application**

10 Local Rule 144 governs ex parte applications for orders shortening time. In relevant part, the
11 Rule provides:

12 Applications to shorten time shall set forth by affidavit of counsel the circumstances
13 claimed to justify the issuance of an order shortening time. Ex parte applications to
14 shorten time will not be granted except upon affidavit of counsel showing a satisfactory
15 explanation of the need for the issuance of such an order and for the failure of counsel
16 to obtain a stipulation for the issuance of such an order from other counsel or parties in
17 the action. Stipulations for the issuance of an order shortening time require the approval
18 of the Judge or Magistrate Judge on whose calendar the matter is to be heard before
19 such stipulations are given effect. Any proposed order shortening time shall include
20 blanks for the Court to designate a time and date for the hearing and for the filing of
21 any response to the motion.

18 Local Rule 144(e).

19 Orders shortening time are “reserved for the rare occasion where other options are unavailable.”
20 *Lema v. City of Modesto*, 2012 U.S. Dist. LEXIS 29699 at *3 (E.D. Cal. Mar. 6, 2012). Although
21 Local Rule 144 “does not state what ‘circumstances’ justify the order or what a ‘satisfactory
22 explanation’ is, but courts generally require that the applicant demonstrate circumstances showing that
23 (1) the applicant is not the cause of its own predicament, and (2) the order is ‘needed’ to avoid some
24 type of harm.” *Hanger Prosthetics & Orthotics, Inc. v. Capstone Orthopedic, Inc.*, 2007 U.S. Dist.
25 LEXIS 85849 at *2 (E.D. Cal. Nov. 8, 2007) (citing, *e.g.*, *In re Intermagnetics Am., Inc.*, 101 B.R. 191,
26 193 (C.D. Cal. 1989) (holding that ex parte “applications are not intended to save the day for parties
27 who have failed to present requests when they should have”). As the Central District stated, the
28 moving party “must show... [its] cause will be irreparably prejudiced if the underlying motion is heard

1 according to regular noticed motion procedures.” *Mission Power Engineering Co. v. Continental*
2 *Casualty Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995).

3 Defendant asserts the hearing of his motion to amend the scheduling order “on shortened time
4 is necessary due to impending pre-trial motion deadlines and upcoming trial.” (Doc. 71 at 1)
5 Defendant notes the hearing is currently set for January 18, 2018, while “the present deadline to file a
6 dispositive motion is January 12, 2018.” (*Id.* at 2, 3) Therefore, Defendant requests the hearing date
7 on the motion to amend be advanced to January 5, 2018. (*Id.* at 3)

8 **III. Conclusion and Order**

9 Due to the impending deadlines, the Court **ORDERS**:

- 10 1. Defendant’s motion for an order shortening time (Doc. 69) is **GRANTED in PART**;
11 2. Plaintiff **SHALL** file an opposition to the motion or a statement that he does not
12 oppose the motion no later than **January 5, 2018**;
13 3. No reply papers are authorized to be filed;

14 After the Court receives the opposition, it will determine whether a hearing on the motion is
15 needed.

16
17 IT IS SO ORDERED.

18 Dated: December 27, 2017

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE