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8 **UNITED STATES DISTRICT COURT**
9 EASTERN DISTRICT OF CALIFORNIA
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11 JAVIER ARIAS,

12 Plaintiff,

13 v.

14 RUAN TRANSPORT CORPORATION,

15 Defendant.
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Case No. 1:16-cv-00280-SAB

ORDER GRANTING DEFENDANT'S EX
PARTE APPLICATION TO SHORTEN
TIME

ORDER SETTING HEARING ON
DEFENDANT'S MOTION FOR TRIAL
CONTINUANCE AND EXTENSION OF
ASSOCIATED DEADLINES INCLUDING
DISPOSITIVE MOTIONS FOR MARCH 29,
2017, AT 10:00 A.M. IN COURTROOM 9

(ECF No. 32)

19 On March 23, 2017, Defendant filed an ex parte application to shorten time to hear
20 Defendant's motion for trial continuance and extension of associated deadlines including
21 dispositive motions. (ECF No. 32.) Defendant also filed the motion for trial continuance and
22 extension of associated deadlines including dispositive motions, and set the motion for hearing
23 on March 29, 2017, at 10:00 a.m. (ECF No. 32.)

24 "The expression 'ex parte motion' is a term of art. In its pure form it means a request a
25 party makes to the court without any notice to the other side." Mission Power Eng'g Co. v.
26 Cont'l Cas. Co., 883 F. Supp. 488, 490 (C.D. Cal. 1995). "Ex parte relief is generally disfavored
27 when relief may be had through a regularly noticed motion." Hufnagle v. Rino Int'l Corp., No.
28 CV 10-08695 DDP VBKx, 2012 WL 6553743, at *1 (C.D. Cal. Dec. 14, 2012). The Local

1 Rules of the Eastern District recognize limited situations in which ex parte applications may be
2 filed: an initial extension of time where a stipulation cannot reasonably be obtained (L.R.
3 144(c)); applications to shorten time (L.R. 144(e)); injunctive relief (L.R. 231); and default
4 judgment (L.R. 540). Since the request does not fall under these exceptions and the matter was
5 served on the other party, it is not appropriate to term the request as ex parte. However, the court
6 will construe the request as a “motion.”

7 Upon a review of Defendant’s motion to shorten time, the Court finds that Defendant’s
8 counsel has set forth a satisfactory explanation for the need for the issuance of an order to
9 shorten time and for the failure of counsel to obtain a stipulation for the issuance of such an order
10 from other counsel or parties in the action. See L.R. 144(e). Therefore, the Court grants
11 Defendant’s motion to shorten time for the hearing on Defendant’s motion for trial continuance
12 and extension of associated deadlines including dispositive motions. The Court expresses no
13 opinion on the merits of Defendant’s underlying motion for trial continuance and extension of
14 associated deadlines including dispositive motions.

15 The Court notes that Plaintiff’s counsel received notification through CM/ECF of
16 Defendant’s application to shorten time. Plaintiff’s counsel also has access through CM/ECF to
17 Defendant’s application to shorten time and the underlying motion for trial continuance and
18 extension of associated deadlines including dispositive motions.

19 Local Rule 144(e) requires proposed orders shortening time to include blanks for the
20 Court to designate the date and time for the hearing and for the filing of any response to the
21 motion. See L.R. 144(e). Accordingly, the Court sets the hearing on Defendant’s motion for
22 trial continuance and extension of associated deadlines including dispositive motions for
23 Wednesday, March 29, 2017, at 10:00 a.m. in Courtroom 9. Plaintiff shall file an opposition to
24 Defendant’s motion for trial continuance and extension of associated deadlines including
25 dispositive motions no later than Tuesday, March 28, 2017, at noon.

26 Accordingly, IT IS HEREBY ORDERED that:

- 27 1. Defendant’s motion to shorten time for the hearing on Defendant’s motion for
28 trial continuance and extension of associated deadlines including dispositive

