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5 Attorney for Plaintiff  
Jose Acosta  
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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**

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11 JOSE ACOSTA, ) Case No. 1:17-cv-00493-AWI-SAB  
12 Plaintiff, )  
13 vs. ) **PLAINTIFF’S EX PARTE APPLICATION**  
14 ADRIANA GABRIELA GOMEZ dba ) **FOR RELIEF FROM SERVICE**  
15 ZAMORA CARNITAS MEXICAN ) **DEADLINE; ORDER**  
16 RESTAURANT, et al., )  
17 Defendants. )

18 **WHEREAS**, the complaint in this matter was filed on April 7, 2017 (Dkt. 1);

19 **WHEREAS**, the first amended complaint in this matter, in which Defendant Enrique  
20 Sosa (“Sosa”) was named, was filed on June 6, 2017 (Dkt. 8);

21 **WHEREAS**, Rule 4(m) of the Federal Rules of Civil Procedure provides that all  
22 defendants are to be served 90 days from the date the complaint was filed, here September 5,  
23 2017;

24 **WHEREAS**, Plaintiff, Jose Acosta (“Plaintiff”), has served Defendants Adriana  
25 Gabriela Gomez and Humberto Gomez (collectively “the Gomez Defendants”) with the  
26 Summons (Dkt. 4 and 5) and the First Amended Complaint (Dkt. 9);

27 **WHEREAS**, Sosa is the only remaining defendant to be served in this action;

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1           **WHEREAS**, Plaintiff has been diligently attempting to serve Sosa with the Summons  
2 and First Amended Complaint but has not been able to effect service to date, and believes that  
3 Sosa is evading service, as more particularly set forth in the declaration of Zachary M. Best,  
4 filed herewith;

5           **WHEREAS**, Plaintiff believes that a full resolution of Plaintiff's claims will be  
6 impossible without the participation of Sosa;

7           **WHEREAS**, this request is made ex parte because the service deadline expires  
8 September 5, 2017. Plaintiff had hoped that this application would not be necessary, and that  
9 the ongoing efforts at service would be productive. However, it has now been determined that  
10 additional time will be needed to seek service via stake outs and possibly publication;

11           **WHEREAS**, counsel for the Gomez Defendants has stated that he does not oppose this  
12 request for relief from the service deadline.

13           **NOW, THEREFORE**, Plaintiff, by and through his counsel, hereby requests that he be  
14 given an additional 45 days from the current deadline of September 5, 2017 to October 20, 2017  
15 within which to complete service of the complaint on Sosa (or take other appropriate action) in  
16 order to exhaust such efforts.

17  
18 Dated: August 31, 2017

MISSION LAW FIRM, A.P.C.

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20 /s/ Zachary M. Best

Zachary M. Best

Attorney for Plaintiff,

Jose Acosta  
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**ORDER**

Upon request of Plaintiff and good cause appearing.

**IT IS HEREBY ORDERED** that the time within which Plaintiff must serve the First Amended Complaint on Defendant Enrique Sosa, is hereby extended from September 5, 2017 to October 20, 2017.

IT IS SO ORDERED.

Dated: August 31, 2017



UNITED STATES MAGISTRATE JUDGE