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6 **UNITED STATES DISTRICT COURT**  
7 **EASTERN DISTRICT OF CALIFORNIA**  
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9 **JAMES JACK, JR.,**

10 **Plaintiff**

11 **v.**

12 **STANISLAUS COUNTY DEPUTY**  
13 **SHERIFF ERIC PEARSON and**  
14 **STANISLAUS COUNTY DEPUTY**  
15 **SHERIFF CODY GUNSOLLEY ,**

16 **Defendants**

**CASE NO. 1:17-CV-0520 AWI SAB**

**ORDER EX PARTE APPLICATION**  
**FOR ONE DAY EXTENSION OF TIME**

(Doc. Nos. 31)

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18 On January 16, 2018, the Court denied Defendants' motion to dismiss and granted  
19 Plaintiff's motion to amend. See Doc. No. 29. The Court gave Plaintiff ten days in which to file a  
20 Second Amended Complaint, but warned Plaintiff that the failure to timely file the amended  
21 complaint would lead to the automatic withdrawal of leave to amend and trigger Defendants'  
22 obligation to file an answer to the First Amended Complaint. See id.

23 On January 29, 2018, Plaintiff filed a Second Amended Complaint and ex parte application  
24 for additional time. See Doc. Nos. 30, 31. In the ex parte application, Plaintiff requests a one day  
25 extension of time so that the Second Amended Complaint may be deemed timely filed. See Doc.  
26 No. 31. Plaintiff argues that there is no prejudice to the defense by a one business day extension  
27 of time, and that a calendaring error is the reason why the amended complaint was filed late. See  
28 id.

1 After consideration, the Court will grant the extension of time and accept the Second  
2 Amended Complaint as timely. Given the early stages of this case, and the prompt filing of the  
3 complaint and the application on the next business day after the deadline, the Court does not find  
4 bad faith or prejudice. However, for future deadlines, the Court expects all parties to ensure that  
5 deadlines are properly calendared and followed.

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7 **ORDER**

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's ex parte application for additional time (Doc. No. 31) is GRANTED;  
10 2. The deadline to file the Second Amended Complaint is EXTENDED to January 29, 2018;  
11 3. The Second Amended Complaint (Doc. No. 30) is deemed TIMELY and constitutes that  
12 active and operative complaint in this matter;  
13 4. Within twenty (20) days of January 29, 2018, Defendants shall file an answer or other  
14 appropriate response to the Second Amended Complaint; and  
15 5. This matter is referred back to the Magistrate Judge for the purpose of conducting a  
16 scheduling conference and entering a scheduling order.

17 IT IS SO ORDERED.

18 Dated: January 30, 2018

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20 SENIOR DISTRICT JUDGE