

1 Defendants make this *ex parte* request pursuant to Local Rule 144(c) to extend the
2 deadline to respond to Plaintiff's First Amended Complaint from January 19, 2018 to January
3 26, 2018 for the reasons set forth below. Defendants have received no response from Plaintiff's
4 counsel regarding their requested extension, and therefore make this request *ex parte* directly to
5 the Court. (Declaration of Tanya E. Moore, filed herewith ("Moore Decl."), ¶¶ 3-4.)

6 On December 1, 2018, this Court granted Defendants' motions to dismiss Plaintiff's
7 RICO action, but granted Plaintiff leave to amend within 20 days of the Court's Order. (ECF
8 No. 29.) On December 21, 2017, the Court further granted the Parties' stipulated request to
9 extend the deadline for Plaintiff to file her First Amended Complaint to January 3, 2018, and
10 the deadline for Defendants to file their responsive pleading to January 19, 2018. (ECF No. 31.)
11 Plaintiff timely filed her amended complaint. (ECF No. 33.)

12 On Friday, January 12, 2018, the Ninth Circuit Court of Appeals issued its decision in
13 the matter of *Moore v. Millennium Acquisitions, LLC, et al.*, Ninth Circuit Case Number
14 16:15531 ("*Millennium*"), which was an appeal by the *Millennium* defendants from a judgment
15 in favor of plaintiff, Ronald Moore, in the Eastern District of California case number 1:14-cv-
16 01402-DAD-SAB. A copy of that decision is attached as Exhibit A to the Moore Declaration.

17 The Ninth Circuit affirmed the district court's grant of summary judgment to Ronald
18 Moore on the issue of Ronald Moore's disability, finding that no factual dispute as to Ronald
19 Moore's disability was created by the video surveillance the *Millennium* defendants relied upon
20 to discredit Ronald Moore's disability:

21 The evidence on which Millennium relies is not to the contrary. Millennium
22 points to surveillance footage showing Moore walking short distances and a
23 declaration from Dr. Miller, a physician who once treated Moore, indicating that
24 Moore's wheelchair is not "medically necessary." But Moore does not dispute
25 that he is capable of walking unassisted. Rather, he maintains that he uses a
26 wheelchair because walking unaided is painful and difficult. Evidence that
27 Moore physically can walk but chooses to use a wheelchair as a mobility aid
28 does not raise a material factual dispute as to whether Moore is disabled under
the ADA. *See Bragdon v. Abbott*, 524 U.S. 624, 641 (1998).

(Moore Decl., Exhibit A at p. 3.)

1 Upon receiving this decision, Defendants, through attorney Tanya Moore, immediately
2 contacted Plaintiff's counsel that same date (January 12, 2018) and requested, amongst other
3 things relevant to the Ninth Circuit's decision, that Plaintiff agree to extend their responsive
4 pleading deadline as Defendants need to research and evaluate the impact of the Ninth Circuit's
5 decision on this matter. (Moore Decl., ¶ 3.) Defendants received no response to this request,
6 and, through attorney Tanya Moore, again contacted Plaintiff's counsel on Monday, January 15,
7 2018 and advised that if no response was received by close of business that day, Defendants
8 would make a request for the extension directly to the Court on January 16, 2018. No response
9 was received. (Moore Decl., ¶ 4.)

10 Good cause exists to grant this request because Defendants believe that Plaintiff may be
11 foreclosed from reasserting that Ronald Moore is disabled on the grounds of collateral estoppel
12 because Defendants believe that the evidence will demonstrate that the *Millennium* defendants
13 stand in privity with Plaintiff here, Fatemeh Saniefar. However, Defendants need time to
14 research and investigate this belief before briefing the matter to the Court in any argument that
15 this action should be dismissed with prejudice. No Scheduling Order has issued in this matter,
16 and the Scheduling Conference is not until April 9, 2018.

17 Defendants therefore respectfully request that they be given an additional week to
18 respond to Plaintiff's First Amended Complaint.

19 Dated: January 16, 2018

/s/ Tanya E. Moore

Tanya E. Moore

Attorney for Defendants

Mission Law Firm, Moore Law Firm, West
Coast CASp & ADA Services, Kenneth

Randolph Moore, Geoshua Levinson, Rick
D. Moore, Ronald D. Moore, Ronny

Loreto, Elmer LeRoy Falk, and Marejka
Sacks

25 Dated: January 16, 2018

/s/ Tanya E. Moore

Tanya E. Moore

Defendant in pro se

27 Dated: January 16, 2018

/s/ Zachary M. Best

Zachary M. Best

Defendant in pro se

DEFENDANTS' REQUEST TO EXTEND RESPONSIVE PLEADING DEADLINE; ORDER

1 **ORDER**

2 On January 16, 2018, Defendants submitted the instant *ex parte* request for an extension
3 of time to file their responsive pleading to the first amended complaint. Defendants explain that
4 additional time is needed to research the impact of the Ninth Circuit Court of Appeals decision
5 in the matter of *Moore v. Millennium Acquisitions, LLC, et al.*, Case No. 16-15531, which was
6 issued on January 12, 2018. (Doc. No. 36.)

7 On January 17, 2018, Plaintiff opposed the *ex parte* request, arguing that Defendants
8 have not presented any basis for the extension of time because, amongst other things, the same
9 information contained in the Ninth Circuit's decision was previously available to Defendants,
10 although at the trial court level, and no new arguments have been raised by the decision for
11 Defendants' consideration. (Doc. No. 37.)

12 Having considered the parties' arguments, the Court finds good cause for an extension of
13 time to allow Defendants an opportunity to assess the impact, if any, that the Ninth Circuit's
14 recent decision may have on this action. Plaintiff has not identified any prejudice resulting
15 from the brief seven-day extension of time requested by Defendants, and the Court finds none.
16 Accordingly, Defendants' *ex parte* request is GRANTED, and the deadline for all Defendants to
17 file their responsive pleading is extended to January 26, 2018. No further extensions of time
18 shall be granted absent a showing of good cause.

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20 IT IS SO ORDERED.

21 Dated: January 17, 2018

22 /s/ Barbara A. McAuliffe
23 UNITED STATES MAGISTRATE JUDGE
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