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9 Leonor Sanchez Rodriguez

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11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION**

13 JOSE ACOSTA, an Individual

14 Plaintiff,

15 vs.

16 DAVID RODRIGUEZ individually and dba
17 LA COSTENITA MEAT MARKET;
18 ARTURO RODRIGUEZ individually and
19 dba LA COSTENITA MEAT MARKET;
20 ROSA L. RODRIGUEZ; & LEONOR
21 SANCHEZ RODRIGUEZ

22 Defendants.

Case No. 1:17-cv-01017-DAD-SKO

**SECOND STIPULATION FOR
EXTENSION OF TIME FOR ALL
DEFENDANTS TO RESPOND
WITHIN 28 DAYS; ORDER**

Latest Date of Service: 8/24/17

Latest Response Date: 9/14/17

1st Extended Response Date: 10/3/17

2nd Extended Response Date: 10/12/17

1st Scheduling Conf Date: 11/2/2017

23 Defendants David Rodriguez, Arturo Rodriguez, Rosa Rodriguez, and Leonor
24 Sanchez Rodriguez (the “Defendants”) and Plaintiff, Jose Acosta (the “Plaintiff”) hereby
25 stipulate by and through their respective counsel to extend the time for all Defendants to
26 respond to Plaintiff’s Complaint to and including October 12, 2017.

- 27 1. WHEREAS, Defendants Rosa Rodriguez and Leonor Sanchez Rodriguez were
28 allegedly served on 8/13/17, with a response due date of 9/5/17, and

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- 2. WHEREAS, Defendants David Rodriguez and Arturo Rodriguez were allegedly served on 8/24/17, with a response due date of 9/14/17, and
- 3. WHEREAS, On 9/14/17, the Parties stipulated to extend all Defendants time to respond to October 3, 2017, and
- 4. WHEREAS, LR 144 allows for an extended response date of up to 28 days, and
- 5. WHEREAS, the full 28 days to respond would extend to October 12, 2017, and
- 6. WHEREAS, the Mandatory Scheduling Conference is set for 11/2/2017, and the Joint Statement would be due 7 days prior, and
- 7. WHEREAS, the Parties have been actively engaged in discussions about resolution of the matters contained in Plaintiff's Complaint, and wish to conserve party and court resources, and believe that a full 28 day extension of time will enable that to happen.
- 8. NOW THEREFORE, THE PARTIES AGREE AND STIPULATE pursuant to L.R. 144(a) that all Defendants' time to answer or otherwise respond to the complaint, currently due on October 3, 2017, shall be extended to October 12, 2017, with Joint Statement due within 7 days of the currently scheduled Mandatory Scheduling Conference.

IT IS SO STIPULATED.

DATED: October 3, 2017 MICHAEL SCHULTE, ATTORNEY

BY: /s/ Michael Schulte
Michael Schulte,
Attorney for Defendants

DATED: October 3, 2017 ZACHARY BEST, ATTORNEY
MISSION LAW FIRM, A.P.C.

BY: /s/ Zachary Best
Zachary Best,
Attorney for Plaintiff

ORDER

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2 By stipulation of the parties filed September 14, 2017, pursuant to Rule 144(a) of the
3 Local Rules of the United States District Court for the Eastern District of California,
4 Defendants David Rodriguez, Arturo Rodriguez, Rosa Rodriguez, and Leonor Sanchez
5 Rodriguez (the “Defendants”) were to respond to Plaintiff Jose Acosta’s complaint no later
6 than October 3, 2017. (Doc. 8.) The parties filed the above “Second Stipulation for
7 Extension of Time for All Defendants to Respond Within 28 Days” on October 5, 2017—
8 two days *after* Defendants’ responsive pleading deadline.

9 Although the Court may extend time to file a responsive pleading after the deadline
10 has expired because of “excusable neglect,” Fed. R. Civ. P. 6(b)(1)(B), no such excusable
11 neglect has been articulated—much less shown—here. Notwithstanding this deficiency,
12 given the absence of bad faith or prejudice to Plaintiff (as evidenced by the parties’
13 agreement to the extension of time), and in view of the liberal construction of Fed. R. Civ.
14 6(b)(1) to effectuate the general purpose of seeing that cases are tried on the merits, see
15 *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258–59 (9th Cir. 2010), the Court
16 GRANTS the parties’ stipulated request. *The parties are cautioned that future post hoc*
17 *request for extensions of time will be viewed with disfavor.*

18 **IT IS HEREBY ORDERED** that all Defendants must respond to Plaintiff’s
19 Complaint on or before October 12, 2017.

20 IT IS SO ORDERED.

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22 Dated: October 5, 2017

/s/ Sheila K. Oberto

23 UNITED STATES MAGISTRATE

24 JUDGE