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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JOSE ACOSTA,

Plaintiff,

v.

CITI TIRE LLC; et al.

Defendants.

CASE NO. 1:18-cv-00509-LJO-SKO

**ORDER ENLARGING TIME TO RESPOND TO COMPLAINT**

(Doc. 6)

\_\_\_\_\_ /

Plaintiff Jose Acosta (“Plaintiff”) filed his complaint on April 12, 2018. (Doc. 1.) Defendant Citi Tire LLC (“Citi Tire”) was personally served on April 18, 2018, and Defendant Lucinda Yer Cha, Trustee of the Soua Cha Family Trust (“Cha”), was served by substitute service on April 24, 2018.<sup>1</sup> (Docs. 4, 5.) Defendants’ responsive pleading were therefore due twenty-one (21) days after service, or May 9, 2018, for Defendant Citi Tire and May 15, 2018, for Defendant Cha. Fed. R. Civ. P. 6(a)(1)(c), 12(a)(1)(A)(i).

The parties filed a “Stipulation for Extension of Time for [Citi Tire] and [Cha] to Respond to Complaint” (Doc. 6) on June 22, 2018—forty-five (45) days *after* Defendant Citi Tire’s responsive pleading deadline and thirty-nine (39) days *after* Defendant Cha’s responsive pleading deadline. Although the Court may extend time to file a responsive pleading after the deadline has expired because of “excusable neglect,” Fed. R. Civ. P. 6(b)(1)(B), no such excusable neglect has been articulated—much less shown—here. Notwithstanding this deficiency, given the absence of bad faith or prejudice to Plaintiff (as evidenced by the parties’ agreement to the extension of time), and in view of the liberal construction of Fed. R. Civ. 6(b)(1) to effectuate the general purpose of

<sup>1</sup> The Court notes that Defendant Cha was served by substitute service on April 24, 2018, despite the docket entry stating that Defendant Cha was served on May 5, 2018. (See Doc. 5.)

1 seeing that cases are tried on the merits, see *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253,  
2 1258–59 (9th Cir. 2010), the Court GRANTS the parties’ stipulated request. *The parties are*  
3 *cautioned that future post hoc request for extensions of time will be viewed with disfavor.*

4 **IT IS HEREBY ORDERED** that Defendants Citi Tire and Cha shall respond to Plaintiff’s  
5 Complaint on or before July 16, 2018.

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7 IT IS SO ORDERED.

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9 Dated: June 25, 2018

*/s/ Sheila K. Oberto*  
UNITED STATES MAGISTRATE JUDGE

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