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5 Attorneys for Defendant  
 REDWOOD NURSERY, INC.  
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9 UNITED STATES DISTRICT COURT  
 10 EASTERN DISTRICT OF CALIFORNIA

11 SCOTT N. JOHNSON,

12 Plaintiff,

13 vs.

14 REDWOOD NURSERY INC., individually  
 and doing business as BRANCHES  
 15 NURSERY and DAEHLING RANCH, LLC,  
 a California limited liability company,

16 Defendants.  
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CASE NO. 2:09-CV-01319-MCE-KJM

**EX PARTE APPLICATION FOR  
 EXTENSION OF TIME FOR DEFENDANT  
 REDWOOD NURSERY, INC. TO ANSWER  
 OR OTHERWISE RESPOND TO  
 COMPLAINT; ORDER**

Complaint Filed: May 13, 2009  
 Trial Date: TBD

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 19 I, Jennifer K. Achtert, hereby declare as follows:

20 1. I am Of Counsel to Fisher & Phillips LLP, attorneys of record for defendant  
 21 Redwood Nursery, Inc., in this matter. I am licensed to practice law in the State of California  
 22 and before this Court, and I am familiar with the pleadings and documents pertaining to the  
 23 above-captioned lawsuit. I have personal knowledge of the facts stated in this declaration and,  
 24 if called as a witness, could competently testify to these facts.

25 2. Pursuant to Local Rule 6-144(c), Defendant Redwood Nursery, Inc. ("Defendant  
 26 Redwood"), submits its Ex Parte Application for Extension of Time to Answer or Otherwise  
 27 Respond to Complaint, to provide Defendant Redwood with an extension of time of twenty-

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EX PARTE APPLICATION FOR EXTENSION OF TIME FOR DEFENDANT REDWOOD NURSERY, INC. 1  
 TO ANSWER OR OTHERWISE RESPOND TO COMPLAINT; PROPOSED ORDER

1 seven (27) days, until August 17, 2009, to submit its answer or other responsive pleading to  
2 Plaintiff's Complaint.

3 3. On May 13, 2009, Plaintiff filed his Complaint in this matter which contains  
4 claims arising under Title III of the Americans With Disabilities Act and California Law.

5 4. On or about June 22, 2009, Defendant Redwood was served with a copy of the  
6 Complaint and summons through service upon its registered agent. Defendant Redwood had  
7 until approximately July 13, 2009, to file its answer or other responsive pleading to the  
8 Complaint.

9 5. On July 14, 2009, Defendant Redwood retained the undersigned counsel.

10 6. On July 14 and 15, 2009, my firm, as counsel for Defendant Redwood,  
11 contacted Plaintiff to ascertain Plaintiff's willingness to enter into a stipulation providing  
12 Defendant Redwood with the requested extension to submit its answer or other responsive  
13 pleading.

14 7. To date, counsel for Defendant Redwood have not received a response to their  
15 request. There have therefore been no previous extensions obtained.

16 8. Defendant Redwood is currently investigating this matter and the requested  
17 extension will provide Defendant Redwood with an opportunity to complete its investigation  
18 and explore the possibility of settlement.

19 9. In addition, the owners of Defendant Redwood have filed for individual  
20 bankruptcy. Defendant Redwood also anticipates filing for bankruptcy and closing the nursery  
21 in the near future. The requested extension will provide Defendant Redwood with an  
22 opportunity to advise Plaintiff (and Defendant Daehling Ranch, LLC, which is assembling a  
23 cross-claim against Defendant Redwood) of its pending bankruptcy and to discuss its  
24 ramifications on the possible resolution of this matter.

25 10. This Ex Parte Application is not being submitted for the purpose of undue delay  
26 or for any improper purpose and, again, will provide the parties an opportunity to explore the  
27 possibility of an early settlement. In addition, this Application will not impact any existing  
28 scheduling dates or prejudice any of the parties to this litigation.

