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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

G.M., a minor, by and through)	
his Guardian ad Litem, KEVIN)	2:10-cv-00944-GEB-GDH
MARCHESE, an individual, and)	
LYNDI MARCHESE, an individual,)	
)	<u>ORDER EXTENDING TIME IN WHICH</u>
Plaintiff,)	<u>DEFENDANT MAY FILE A REPLY TO</u>
)	<u>PLAINTIFF'S OPPOSITION TO</u>
v.)	<u>SUMMARY JUDGMENT; AND</u>
)	<u>VACATING THE HEARING</u>
DRY CREEK JOINT ELEMENTARY)	<u>SCHEDULED FOR APRIL 16, 2012</u>
SCHOOL DISTRICT,)	
)	
Defendant.)	
_____)	

Defendant filed a request under Local Rules 78-230(c) and 6-144(d) and Federal Rule of Civil Procedure ("FRCP") 6(b)(1), in which it states the Court should "reject Plaintiff's late [opposition to Defendant's summary judgment motion.]" (Def.'s Supp. Brief 2:3.) In the alternative, Defendant requests an extension of time in which to file its reply to Plaintiff's late opposition.

Defendant argues that "[b]ecause the hearing date [for Defendant's summary judgment motion] is scheduled for April 16, 2012, Plaintiff's Opposition was due no later than April 2, 2012." (Def.'s Supp. Brief 2:19-20.) Defendant further argues that "Plaintiff's Opposition . . . was untimely filed on Saturday, April 7, 2012, without having obtained the necessary extension from the court or requesting a stipulation from opposing counsel." Id. 2:8-11. Defendant also argues

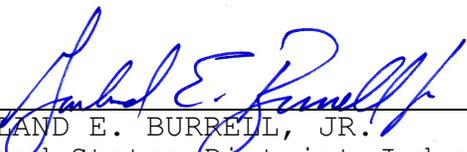
1 "Plaintiff's late filing the weekend prior to the [date Defendant's]
2 Reply is due prevents [Defendant] from timely filing its Reply, since it
3 affords [Defendant] only eight . . . hours to review, analyze, research,
4 and draft a Reply[.]" Id. 2:23-25.

5 Plaintiff's opposition brief was filed on two days, April 6
6 and 7, 2012, which is less than fourteen days before the date on which
7 the hearing on Defendant's summary judgment motion is scheduled.
8 Therefore, Plaintiff's opposition was not timely filed under Local Rule
9 78-230(c), which prescribes that an "[o]pposition . . . to the granting
10 of [a] motion . . . shall be filed and served not less than fourteen
11 (14) days preceding the noticed (or continued) hearing date." L.R. 78-
12 230(c).

13 Therefore, Defendant's request for an extension of time in
14 which to file its reply to Plaintiff's late opposition is granted.
15 Defendant has seven (7) days from the date on which this order is filed
16 to file its reply brief.

17 Further, the summary judgment motion will be decided without
18 oral argument and the hearing scheduled for April 16, 2012 is vacated.
19 L.R. 78-230(c) ("No party will be entitled to be heard in opposition to
20 a motion at oral arguments if opposition to the motion has not been
21 timely filed by that party.").

22 Dated: April 10, 2012

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25 _____
GARLAND E. BURRELL, JR.
26 United States District Judge
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