IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

Tony Martinez,   )
)   2:10-cv-01333-GEB-KJN
                Plaintiff,   )
)
        v.   )   ORDER GRANTING PLANITIFF'S
)   APPLICATION FOR CONTINUANCE
Columbia Sportswear USA Corp.   )
dba Columbia Sportswear Company   )
#446; Eddie Bauer, a Delaware   )
LLC dba Eddie Bauer Outlet   )
#R-867; New Balance Athletic   )
Shoe, Inc. dba New Balance   )
#0015,   )
)
                Defendants.   )
_____   )

        On August 26, 2011, Plaintiff filed an "Application and
Proposed Order to Continue the Briefing Schedule and Hearing Date for
Defendant New Balance's Motion for Attorney Fees[.]" (ECF No. 111.)
Plaintiff requests that the hearing on Defendant New Balance's motion
for attorneys' fees, currently scheduled to commence at 9:00 a.m. on
September 12, 2011, "be continued three weeks . . . so that [Plaintiff's
attorney] has adequate time to prepare plaintiff's opposition." Id. 3:2-
4.

        Defendant filed a response opposing Plaintiff's application.
(ECF No. 112.) Defendant argues that "if plaintiff's . . . request is
granted, this Court [w]ould hear argument on [the] motion for attorney's
fees after plaintiff files its opening brief in the Ninth Circuit[,]"

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and "[t]his is problematic because . . . the parties should brief any issues on appeal after the record is complete at the district court level, including a final judgment on attorneys' fees and costs." Id. 1:13-17.

However, Plaintiff's appeal in the Ninth Circuit does not concern the pending motion. See Plaintiff's Notice of Appeal, ECF No. 103. Therefore, this matter does not need to be heard before Plaintiff's brief is due to be filed in the Ninth Circuit and Plaintiff's application for a continuance is GRANTED; Defendant's motion for attorneys' fees is continued to October 11, 2011, commencing at 9:00 a.m.

Dated: August 29, 2011

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GARLAND E. BURRELL, JR.
United States District Judge