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6 Attorney for Plaintiff

7 UNITED STATES DISTRICT COURT  
 8 EASTERN DISTRICT OF CALIFORNIA

9 BERNARD HUGHES,

10 Plaintiff,

11 vs.

12 CALIFORNIA DEPARTMENT OF  
 13 CORRECTIONS, SCOTT KERNAN, in  
 14 his official capacity as Secretary of the  
 15 California Department of Corrections;  
 16 CHRISTIAN PFEIFFER, in his official  
 17 capacity as the Warden of the Kern Valley  
 State Prison; DR. DOE, M.D., and DOES  
 1-10, inclusive et al.,

Defendants

No. 2:11-CV-01856-KJM-EFB

UNOPPOSED EX PARTE  
 APPLICATION TO EXTEND  
 PERIOD TO FILE OPPOSITION IN  
 RESPONSE TO DEFENDANT'S  
 MOTION TO SUMMARY  
 JUDGMENT; DECLARATION OF  
 JEFF DOMINIC PRICE;  
 [~~PROPOSED~~] ORDER

18 TO: THE HONORABLE EDMUND F. BRENNAN, UNITED STATES MAGISTRATE JUDGE  
 19 AND TO THE DEFENDANT AND ITS ATTORNEYS OF RECORD:

20 Plaintiff requests an enlargement of time of 29 days within which to file an  
 21 opposition in response to the Defendant's Motion for Summary Judgment, Dkt. No  
 22 132, L.R. 144.

23 Whereas Plaintiff's Third Amended Complaint ("TAC") was filed on May 8,  
 24 2017, Dkt. # 116;

25 Whereas this Court entered its screening order of the TAC on May 16, 2018,  
 26 Dkt. # 117;

27 Whereas this Court entered its Discovery and Scheduling Order on July 16,  
 28

1 2018, Dkt. # 125;

2       Whereas this Court granted the parties stipulation on September 26, 2018 to  
3 continue the discovery cutoff until January 29, 2019 and the final day to file  
4 dispositive motions to March 19, 2019, Dkt. No. 131;

5       Whereas this Court granted the parties stipulation on November 14, 2018 to  
6 stay all discovery pending resolution of Defendants' Motion for Summary  
7 Judgment, Dkt. No. 132 and to set the deadline for Plaintiff's response to  
8 Defendants' Motion for Summary Judgment for December 17, 2018, Dkt. No. 134;

9       Plaintiff asks that his time to file an Opposition be extended 29 days from  
10 December 17, 2018, to January 15, 2019 and that the period for Defendant to file a  
11 Reply to the Opposition be extended to Friday, February 1, 2019.

12       Counsel for Plaintiff has been unable to prepare the Opposition in this case  
13 within that time period because he has not yet received a requested declaration from  
14 Plaintiff, he has been engaged in extensive discovery including numerous  
15 depositions in the case of *Drink Tank Ventures, LLC, v. Real Soda in Real Bottles,*  
16 *LTD. et al.*, BC654392, that is scheduled to begin trial on January 7, 2019 in Los  
17 Angeles Superior Court, he had a complex appellate brief due on December 6, 2018,  
18 and settled on December 11, 2018 another case in the Eastern District of California  
19 scheduled to begin trial on January 23, 2019 that required an entry on land at  
20 Pleasant Valley State Prison on November 29, 2018. Additionally, Mary McCaffrey,  
21 an attorney assisting me with this matter had a family emergency that caused her to  
22 travel to Florida in November and limited her availability to work on this matter as  
23 well as other matters.

24       Mary McCaffrey conferred with Jeremy Duggan, Counsel for Defendants, by  
25 telephone on December 19, 2018 and as per email received by Counsel for Plaintiff,  
26 Mr. Duggan will not oppose this motion for extension.

27       Counsel is aware that requests for ex parte extension of time are looked upon  
28



