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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
 18 State Prison; DR. DOE, M.D., and DOES
 19 1-10, inclusive et al.,

20 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

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

23 Plaintiff requests an enlargement of time of one week within which to file an
 24 opposition in response to the Defendant's Motion for Summary Judgment, Dkt. No
 25 132, L.R. 144.

26 Whereas Plaintiff's Third Amended Complaint ("TAC") was filed on May 8,
 27 2017, Dkt. # 116;

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

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

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 Whereas this Court granted Plaintiff's Unopposed Ex Parte Application to
10 Extend Period to File Opposition in Response to Defendants' Motion for Summary
11 Judgment, and set the deadline for Plaintiff's response for January 15, 2019, Dkt.
12 No. 136;

13 Plaintiff asks that his time to file an Opposition be extended one week from
14 January 15, 2019 to January 22, 2019 and that the period for Defendant to file a
15 Reply to the Opposition be extended to Friday, February 8, 2019.

16 Counsel for Plaintiff has been unable to prepare the Opposition in this case
17 within the time period because he has not yet received a requested communication
18 from Plaintiff, he has been planning for and engaged in trial that began on January
19 7, 2019 in Los Angeles Superior Court in the case of *Drink Tank Ventures, LLC, v.*
20 *Real Soda in Real Bottles, LTD. et al.*, BC654392, that is expected to go to the jury
21 by Thursday, January 17, 2019, and Plaintiff's counsel has been ill for several days.

22 Counsel for Plaintiff conferred with Jeremy Duggan, Counsel for Defendants,
23 by telephone on January 15, 2019 and as per communication received by Counsel
24 for Plaintiff, Mr. Duggan will not oppose this motion for extension.

25 Counsel is aware that requests for ex parte extension of time are looked upon
26 with disfavor, however, requests consideration given the circumstances as
27 explained. L.R. 144 (d).

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