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FILED

FEB 08 2016

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY *[Signature]*
DEPUTY CLERK

10
11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**

13 ROBERT KALANI,
14 Plaintiff,
15 vs.
16 THE AVENUE GRILL, INC., et al.,
17 Defendants.
18

) Case No. 2:15-cv-02114-JAM-AC

) **PLAINTIFF'S EX PARTE APPLICATION**
) **FOR RELIEF FROM SERVICE**
) **DEADLINE; [PROPOSED] ORDER**

) *Declaration of Tanya E. Moore filed*
) *concurrently herewith*

19 **WHEREAS**, the complaint in this matter was filed on October 9, 2015 (Dkt. 1);

20 **WHEREAS**, Rule 4(m) of the Federal Rules of Civil Procedure provides that all
21 defendants are to be served 120 days from the date the complaint was filed, here February 8,
22 2016¹;

23 **WHEREAS**, Plaintiff, Robert Kalani ("Plaintiff"), has served Defendant The Avenue
24 Grill ("The Avenue Grill") with the Summons and Complaint (Dkt. 4);

25 **WHEREAS**, Defendant Zarpad, LLC ("Zarpad"), is the only remaining defendant to be
26 served in this action;

27
28 ¹ Subsequent to the filing of this action, effective December 1, 2015, Fed. R. Civ. P. 4(m) was amended to provide that defendants are to be served within 90 days of filing of a complaint.

PLAINTIFF'S EX PARTE APPLICATION FOR RELIEF FROM SERVICE DEADLINE;
[PROPOSED] ORDER

1 **WHEREAS**, Plaintiff has been diligently attempting to serve Zarpad with the Summons
2 and Complaint but has not been able to effect service to date, and believes that Zarpad is either
3 out of town or evading service, as more particularly set forth in the declaration of Tanya E.
4 Moore, filed herewith;

5 **WHEREAS**, Plaintiff and The Avenue Grill believe that a full resolution of Plaintiff's
6 claims will require the participation from Zarpad;

7 **WHEREAS**, this request is made ex parte because the service deadline expires February
8 8, 2016. Plaintiff had hoped that this application would not be necessary, and that the ongoing
9 efforts at service would be productive. However, it has now been determined that additional
10 time will be needed to fully exhaust all means of service prior to seeking service via publication
11 or other means, which knowledge could not have been gained in time to bring a properly
12 noticed motion;

13 **WHEREAS**, counsel for The Avenue Grill has stated that he does not oppose this
14 request for relief from the service deadline;

15 **NOW, THEREFORE**, Plaintiff, by and through his counsel, hereby requests that he be
16 given an additional 90 days from the current deadline of February 8, 2016 to May 9, 2016
17 within which to complete service of the complaint on Zarpad (or take other appropriate action)
18 in order to exhaust such efforts.

19 Dated: February 4, 2014

MOORE LAW FIRM, P.C.

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/s/ Tanya E. Moore
Tanya E. Moore
Attorney for Plaintiff,
Robert Kalani

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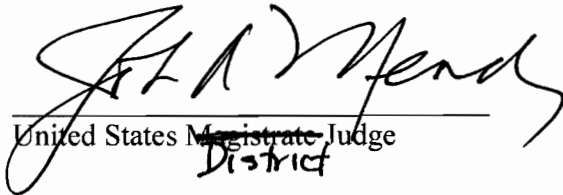
ORDER

Upon request of Plaintiff and good cause appearing.

IT IS HEREBY ORDERED that the time within which Plaintiff must serve the Complaint on Defendant Zarpad, LLC, is hereby extended from February 8, 2016 to May 9, 2016.

IT IS SO ORDERED.

Dated: 2-7-2016


United States Magistrate Judge
District