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Attorney for Plaintiff's  
Heath Thompson, Miranda Thompson

**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

HEATH THOMPSON,

Plaintiffs,

v.

ROBERT OANDASON,

Defendants.

**Case No.: C 08 – 02274 JL**

**PLAINTIFF'S EX-PARTE  
APPLICATION AND SUPPORTING  
DECLARATION  
OF MICHAEL S. BIGGS  
TO MODIFY  
ORDER SETTING INITIAL CASE  
MANAGEMENT CONFERENCE AND  
ADR DEADLINES**

Date: Ex-Parte  
Time: Ex-Parte  
Judge: LARSON

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I, Michael S. Biggs, declare as follows:

1. I am an attorney duly licensed to practice law in all courts of the State of California and before the United States District Court for the Northern District of California and I am the attorney of record for plaintiffs HEATH THOMPSON and MIRANDA THOMPSON.

2. Plaintiff hereby moves the Court to grant an Ex Parte Motion to to modify

1 order setting initial case management conference and ADR deadlines.

2 3. Defendant Robert Oandason has filed an answer on September 30, 2008 and again on  
3 October 3, 2008, in this matter.

4 4. Defendant Michael Flores has failed to file an answer.

5 5. Previously the Court was requested to modify the scheduling order as Defendant  
6 Oandason  
7 had expressed through attorney Myles Dresslove tthat he was interested in settlement talks prior  
8 to incurring expense on answer.  
9

10 6. Subsequently Oandason retained attorney Tadd Aiona who asked for an accounting  
11 estimate on Plaintiffs alleged damages.  
12

13 7. On August 12, 2008 Plaintiff executed a retainer with Robbye L. Mohn CPA CFE with  
14 the San Francisco firm "RGL Forensic Accountants & Consultants, the purpose of which to fix  
15 damages and also serve as Plaintiffs Rule 26 expert.  
16

17 8. As of the first week of October Ms. Mohn is working toward completion on her estimate.

18 9. In the meantime Mr. Aiona attorney for Oandason has been in contact with me several  
19 times August through September where counsel and I in good faith have attempted to drive a  
20 settlement forward using general damage figures as we have waited for Ms. Mohn to complete  
21 her project.  
22

23 10. As Mr. Flores has defaulted Plaintiff will file to enter Flores default.

24 11. In light of these circumstances involving Plaintiff and Defendant Oandason's  
25 good faith settlement attempts the Court is respectfully requested to once again modify the  
26 scheduling order in light of impending CMC and just recently filed answer by Oandason.  
27  
28

12. Plaintiffs will not be prejudiced by such an extension and Plaintiffs damages will take shape once the expert Ms. Mohn's report is complete.

13. It is not anticipated Defendant will object to this Ex-Parte request as counsel has had recent telephone meet and confer and Mr. Aiona expressed that his client would not be prejudiced and is eager to go forward with the Courts ADR program of which Plaintiff is in agreement.

**I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. This declaration was on the 7<sup>th</sup> day of October, 2008, executed in Petaluma, California.**

Dated: October 7, 2008

Respectfully Submitted

/S/ Michael S. Biggs  
Michael S. Biggs  
Attorney for Plaintiff's  
HEATH THOMPSON  
MIRANDA THOMPSON

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**ORDER**

The SCHEDULING ORDER as to SETTING INITIAL CASE MANANGEMENT CONFERENCE AND ADR DEADLINES shall be revised to put over meet and confer and initial disclosure requirements ~~until after~~ XXXXXXXXXX 2008. Initial Case Management Conference to be held October 29, 2008 at 10:30 a.m.

IT IS SO ORDERED.

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Dated: October 7, 2008

  
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Judge of the United States District Court  
Northern District of California