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

FRANK MAHAR,

Plaintiff,

v.

BNSF RAILWAY CORP.,

Defendant.

No. C 09-00357 CRB

**ORDER DENYING MOTION TO
STRIKE AND RESET HEARING**

The Court is in receipt of Defendant BNSF Railway Corp.'s Motion to Strike Plaintiff's Opposition, as well as Plaintiff's response thereto. Defendant argues that Plaintiff's Opposition was filed three days late, and asks that it be struck, or that the hearing be reset. Plaintiff responds that its filing was proper under Fed. R. Civ. P. 6(a)(1)(C), though adds that it is willing to stipulate to a reasonable extension of time. Having carefully reviewed the parties' filings and the applicable rules, the Court hereby DENIES the Motion to Strike. However, for the Court's own scheduling purposes, the motion hearing currently set for January 15, 2010 is hereby VACATED and RESET for February 12, 2010 at the same time.

IT IS SO ORDERED.

Dated: January 5, 2010



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE