

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAE-PASS TECHNOLOGIES,
Plaintiff,

No. C-09-5967 EMC

v.

**ORDER DENYING DEFENDANTS'
MOTION TO CHANGE TIME**MOSES & SINGER, LLP, *et al.*,
Defendants.**(Docket No. 19)**

Currently pending before the Court is Defendants' motion to change time. Defendants ask that the Court extend the time for Defendants to respond to the complaint from February 9, 2010, to April 7, 2010. Having reviewed the parties' briefs and accompanying submissions, the Court hereby **DENIES** Defendants' motion.

Defendants have asked for an extension of time so that this Court may first hear and rule on a motion to stay proceedings that Defendants intend to file shortly. Defendants' request for a stay will be predicated on the fact that there is an ongoing state court action involving the same parties and claims. (Currently, that action is on appeal.) While the Court is not unsympathetic to Defendants' position -- *i.e.*, that it is burdensome and inefficient for Defendants to litigate the same basic case in two different fora -- in the end it is not persuaded that requiring Defendants to answer the complaint before the resolution of the anticipated motion to stay would cause substantial harm or prejudice to Defendants. *See* Civ. L.R. 6-3(a)(3) (requiring a party asking for a time change to identify the substantial harm or prejudice that would occur if the court did not change time). In their papers, Defendants argue that they would be prejudiced because, if the Court does decide to stay this case,

1 then they “will have been unfairly required to reveal their response to the federal court action,
2 including their litigation strategy and affirmative defenses.” Mot. at 1. But this argument is not
3 convincing for several reasons. First, at this juncture, the merits of the motion to stay are not clear.
4 No briefing has been filed on the issue. Second, requiring Defendants to file an answer does not
5 reveal any work product.

6 Accordingly, the Court denies Defendants’ request that their answer be delayed for
7 approximately 60 days. However, the Court shall give Defendants an additional 20 days to respond
8 to the complaint to ensure that they have sufficient time to make a response and to ensure that the
9 timing of this order does not prejudice Defendants.

10 This order disposes of Docket No. 19.

11
12 IT IS SO ORDERED.

13
14 Dated: February 5, 2010



EDWARD M. CHEN
United States Magistrate Judge