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8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 INTEGRAL DEVELOPMENT
CORPORATION, a California corporation,

14 Plaintiff,

15 v.

16 VIRAL TOLAT, an individual, and DOES 1-
17 20,

18 Defendant

Case No.: 3:12-cv-06575-JSW (LB)

**ADMINISTRATIVE MOTION
REQUESTING CONTINUANCE OF
DATES IN SCHEDULING ORDER**

[Local Rule 7-11]

Judge: Hon. Jeffrey S. White

19
20 Pursuant to this Court's Civil Standing Order and Civil Local Rule 7-11, Defendant Viral
21 Tolat hereby moves this Court for a short continuance of the dates set forth in the scheduling
22 Order dated July 23, 2013. Good cause exists for this request in that Mr. Tolat has just retained
23 new counsel to represent him in this matter, and his former attorneys are withdrawing as counsel
24 of record in this action. Given the complexity of this matter and the very large number of
25 pending and anticipated motions and filings in this case, this short requested continuance of 5
26 weeks is necessary in order to give Mr. Tolat's new counsel at Farella Braun + Martel LLP an
27 opportunity to get up to speed on the case, and to accurately and professionally address these
28 many pending and anticipated matters.

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1 A short continuance is particularly important here, as many of the filings in the case are
2 redacted or sealed and have not previously been available to Mr. Tolat's new counsel. The
3 unredacted and sealed filings encompass many if not most of the substantive filings to date,
4 including three currently pending three motions – a voluminous motion for summary adjudication
5 and for a preliminary injunction and a motion seeking terminating sanctions, which are supported
6 by substantial evidentiary submissions – that Mr. Tolat's new counsel has not yet been able to
7 access in unredacted or unsealed form. Indeed, Counsel will not be permitted under the
8 Protective Order (Docket No. 50) to review material designated as protected until after this Court
9 signs the order allowing new counsel to substitute in as “counsel of record.” Under the current
10 case schedule, Mr. Tolat's oppositions to those motions are due one week from today, on August
11 9, 2013. Given these circumstances, Mr. Tolat will be significantly prejudiced if the requested
12 continuance is not granted and his new counsel are required to respond to these dispositive
13 motions under the present timeline.

14 Mr. Tolat's new counsel spoke by telephone earlier today with Plaintiff's counsel,
15 Christopher Sargent, and requested a short continuance of the hearing on the pending motions
16 from September 27, 2013 to November 1, 2013. (*See* Declaration of John L. Cooper in Support
17 of Administrative Motion Requesting Continuance of Dates in Scheduling Order (“Cooper
18 Decl.”) ¶ 6.) Mr. Sargent responded that he did not have authority to agree to such a request but
19 said he would communicate the request to Jack Russo and someone from his office would get
20 back to Mr. Tolat's new counsel. Since that phone conversation Mr. Russo has communicated to
21 Mr. Tolat's current counsel of record, Steven Eckhaus, by email that the requested continuance is
22 rejected. (*Id.* ¶ 7.) Because of the extremely short deadlines under the current case schedule, Mr.
23 Tolat is now forced to seek the Court's assistance by filing the instant Motion.

24 This Motion is being filed at the first available opportunity, as new counsel have just been
25 retained today. Other than the hearing dates addressed by this Motion, which have been set
26 consistent with dates shown as “available” on the Court's calendar, there are no other dates
27 pending in this matter that would be affected by this requested continuance.¹

28 ¹ We understand that Plaintiff intends to withdraw the one other filed motion that is not addressed
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1 For these reasons, Mr. Tolat hereby requests that the Court modify the existing schedule
2 as set forth in this Court's operative scheduling order (Docket No. 109) by continuing those
3 deadlines to the new dates set forth below:

- 4 1. Defendant Tolat shall file his Answer and Counterclaims to Integral's First
5 Amended Complaint, and/or move with respect to some or all of the allegations in
6 the Amended Complaint on **August 23, 2013**;
 - 7 a. If Defendant files a Rule 12 Motion, Plaintiff's Opposition shall be filed by
8 **September 6, 2013**; Defendant's Reply shall be filed by **September 13,**
9 **2013**;
- 10 2. Plaintiff Integral shall Answer Defendant Tolat's Counterclaims and/or file any
11 Opposition and/or responsive motions to such Counterclaims on **September 2,**
12 **2013**;
 - 13 a. If Plaintiff files a Rule 12 motion, Defendant's Opposition shall be filed by
14 **September 13, 2013**; Plaintiff's Reply shall be filed by **September 20,**
15 **2013**;
- 16 3. Any motions filed by Plaintiff Integral pertaining to Defendant Tolat's
17 Counterclaims, and any motions filed by Defendant Tolat concerning Plaintiff
18 Integral's Amended Complaint shall be heard on **September 27, 2013, at 9:00**
19 **a.m.**
- 20 4. Plaintiff's Motion for Sanctions Re: Spoliation and for Contempt.
 - 21 a. Hearing Date: **November 1, 2013** at 9:00 a.m.
 - 22 b. Plaintiff may re-file or amend its moving papers by: **September 27, 2013**
 - 23 c. Defendant will file any opposition by: **October 11, 2013**
 - 24 d. Plaintiff will file any reply by: **October 18, 2013**.
 - 25 e. Each brief will be no longer than 15 pages.
- 26 5. Plaintiff's Motions for Summary Adjudication and for Preliminary Injunction.
 - 27 a. Hearing Date: **November 1, 2013** at 9:00 a.m.

28 by this schedule (Docket No. 112). Cooper Decl. ¶ 7.
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- b. Plaintiff may re-file or amend its moving papers by: **September 27, 2013**
 - c. Defendant will file any opposition by: **October 11, 2013**
 - d. Plaintiff will file any reply by: **October 18, 2013**.
 - e. Each brief will be no longer than 25 pages.
6. Defendant's Motions (i) to hold Integral in contempt for e.g. altering evidence and (ii) for sanctions against Integral for e.g. intentionally misleading the Court.
- a. Hearing Date: **November 1, 2013** at 9:00 a.m.
 - b. Defendant will file its moving papers by: **September 27, 2013**
 - c. Plaintiff will file any opposition by: **October 11, 2013**
 - d. Defendant will file any reply by: **October 18, 2013**.
 - e. Each brief will be no longer than 15 pages.
7. Defendant's Motions for Summary Judgment.
- a. Hearing Date: **November 1, 2013** at 9:00 a.m.
 - b. Defendant will file its moving papers by: **September 27, 2013**
 - c. Plaintiff will file any opposition by: **October 11, 2013**
 - d. Defendant will file any reply by: **October 18, 2013**.
 - e. Each brief will be no longer than 25 pages.

Respectfully submitted:

Dated: August 2, 2013

FARELLA BRAUN + MARTEL LLP

By: /s/ John L. Cooper
John L. Cooper

Attorneys for Defendant
Viral Tolat

1 **[PROPOSED] ORDER**

2 IT IS HEREBY ORDERED THAT good cause exists to support the granting of Defendant
3 Tolat's administrative motion for a continuance of the deadlines set forth in the Court's prior
4 scheduling order (Docket No. 109). Accordingly, Tolat's motion is GRANTED. The Court
5 hereby enters the following revised scheduling Order:

6 1. Defendant Tolat shall file his Answer and Counterclaims to Integral's First
7 Amended Complaint, and/or move with respect to some or all of the Amended
8 Complaint on **August 23, 2013**;

9 a. If Defendant files a Rule 12 Motion, Plaintiff's Opposition shall be filed by
10 **September 6, 2013**; Defendant's Reply shall be filed by **September 13,**
11 **2013**;

12 2. Plaintiff Integral shall Answer Defendant Tolat's Counterclaims and/or file any
13 Opposition and/or responsive motions to such Counterclaims on **September 2,**
14 **2013**;

15 a. If Plaintiff files a Rule 12 motion, Defendant's Opposition shall be filed by
16 **September 13, 2013**; Plaintiff's Reply shall be filed by **September 20,**
17 **2013**;

18 3. Any motions filed by Plaintiff Integral pertaining to Defendant Tolat's
19 Counterclaims, and any motions filed by Defendant Tolat concerning Plaintiff
20 Integral's Amended Complaint shall be heard on **September 27, 2013, at 9:00**
21 **a.m.**

22 4. Plaintiff's Motion for Sanctions Re: Spoliation and for Contempt.
23 November 8

24 a. Hearing Date: **November 1, 2013** at 9:00 a.m.

25 b. Plaintiff may re-file or amend its moving papers by: **September 27, 2013**

26 c. Defendant will file any opposition by: **October 11, 2013**

27 d. Plaintiff will file any reply by: **October 18, 2013**.

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- 5. Plaintiff's Motions for Summary Adjudication and for Preliminary Injunction.
November 8
 - a. Hearing Date: ~~November 1, 2013~~ at 9:00 a.m.
 - b. Plaintiff may re-file or amend its moving papers by: **September 27, 2013**
 - c. Defendant will file any opposition by: **October 11, 2013**
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 - b. Defendant will file its moving papers by: **September 27, 2013**
 - c. Plaintiff will file any opposition by: **October 11, 2013**
 - d. Defendant will file any reply by: **October 18, 2013**.
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- 7. Defendant's Motions for Summary Judgment.
November 8
 - a. Hearing Date: ~~November 1, 2013~~ at 9:00 a.m.
 - b. Defendant will file its moving papers by: **September 27, 2013**
 - c. Plaintiff will file any opposition by: **October 11, 2013**
 - d. Defendant will file any reply by: **October 18, 2013**.
 - e. Each brief will be no longer than 25 pages.

IT IS SO ORDERED.

Dated: August 8, 2013



HON. JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE