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

12 KEITH AMBROSINI,
 13 Plaintiff,
 14 v.
 15 UNIVERSAL CABLE HOLDINGS,
 16 INC., DBA SUDDENLINK
 17 COMMUNICATIONS,
 18 WENDY PURNELL,
 19 CHARLES HARRIS, and
 20 DOES 1 through 100, inclusive,
 21 Defendants.

Case No. CV 14-00896 HSG

**EX PARTE APPLICATION AND
 ORDER FOR EXTENSION OF TIME TO
 FILE OPPOSITION TO MOTION FOR
 SUMMARY JUDGMENT OR, IN THE
 ALTERNATIVE, SUMMARY
 ADJUDICATION**

Judge: Haywood Stirling Gilliam, Jr.

22 Plaintiff hereby applies to the Court ex parte for an Order extending time to file his
 23 opposition to defendants' motion for summary judgment or, in the alternative, summary
 24 adjudication, to March 30, 2015. The undersigned counsel has advised counsel for
 25 defendants that such an ex parte request will be made to this Court. Defendants' counsel
 26 has not indicated whether or not they will oppose such request.

1 Plaintiff has not sought or obtained any previous extensions of time. Such an
2 extension is timely and is necessary because there are still unresolved discovery issues
3 which discovery is essential to plaintiff's preparation of an opposition to the motion for
4 summary judgment or, in the alternative, summary adjudication ("MSJ/MSA").

5 The motion will be based upon Federal Rules of Civil Procedure, rule 6(b); this
6 Notice of Motion; the Memorandum of Points and Authorities; the Declaration of Carlton
7 D. Floyd, attorney for plaintiff; the records and files in this action; and upon such further
8 evidence and argument as may be presented prior to or at the time of hearing on the
9 motion.

10 Respectfully submitted,

11 Law Office of Bradford C Floyd

12 /s/ Carlton D. Floyd

13 Dated: March 17, 2015

14 By Carlton D. Floyd, Attorneys for Plaintiff

15 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EX**
16 **PARTE APPLICATION AND ORDER FOR EXTENSION OF TIME**

17 When an act may or must be done within a specified time, the court may, for good
18 cause, extend the time with or without motion or notice if the court acts, or if a request is
19 made, before the original time or its extension expires. (Fed. Rules Civ.Proc., § 6(b).)

20 Here, plaintiff's opposition to defendants' motion for summary judgment or, in the
21 alternative, summary adjudication is due March 19, 2015.

22 However, there remains unresolved discovery issues which have been presented to the
23 Court in the parties' Joint Letter re Discovery Dispute filed March 13, 2015. In that Joint
24 Letter, plaintiff's counsel requested an extension of time of one week from March 19, 2015,
25 within which to file his opposition to the MSJ/MSA. Defendants opposed plaintiff's request
26 in the Joint Letter.

27

28 Ex Parte Application and Order for Extension of Time to File Opposition to Motion for Summary
Judgment or, in the Alternative, Summary Adjudication

CV 14-00896HSG

1 Plaintiff's counsel discovered today from the Court that the request for an extension
2 of time included in the Joint Letter was not proper; therefore, plaintiff is now requesting the
3 Court grant him an order extending his time to file an opposition to the MSJ/MSA by this ex
4 parte application.

5 "Although inadvertence, ignorance of the rules, or mistakes construing the rules do
6 not usually constitute 'excusable' neglect, it is clear that 'excusable neglect' under rule 6(b)
7 is a somewhat 'elastic concept': and is not limited strictly to omissions caused by
8 circumstances beyond the control of the movant. (*Pioneer Investment Serv. Co. v. Brunswick*
9 *Associates Ltd. Partnership* (1993) 507 US 380, 392.)

10 Here, because of plaintiff's counsel mistake in the procedure for requesting an
11 extension of time within which to file an opposition to defendants' MSJ/MSA, plaintiff
12 himself should not be prejudiced by said mistake.

13 Furthermore, there is a telephonic conference scheduled for Monday, March 23, 2015,
14 at 2:00 p.m. between the parties before Magistrate Judge Nandor J. Vadas, in an effort to
15 resolve the outstanding discovery disputes. Plaintiff is only requesting a 10-day extension
16 in which to file his opposition to March 30, 2015, with the hopes that the discovery issues
17 will be resolved, and he will be in a better position to formalize an opposition to the
18 MSJ/MSA.

19 Dated: March 17, 2015

Respectfully submitted,
Law Office of Bradford C Floyd

21
22 By /s/ Carlton D. Floyd
23 Carlton D. Floyd, Attorneys for
24 Plaintiff


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ORDER

Having considered plaintiff's ex parte application for an extension of time to file an opposition to defendants' motion for summary judgment or, in the alternative, summary adjudication, and finding good cause therefore,

IT IS HEREBY ORDERED that plaintiff has to and including March 30, 2015, by which to file such opposition.

Dated: _____ March 18, 2015



HAYWOOD S. GILLIAM, JR.
United States District Judge