

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

EDUARDO GUILARTE,

Plaintiff,

v.

ANDREA MONTI, et al.,

Defendants.

Case No. [16-cv-01726-MMC](#)

**ORDER GRANTING PLAINTIFF'S  
APPLICATION FOR EXTENSION OF  
TIME; CONTINUING HEARING ON  
DEFENDANT MONTI'S MOTION TO  
DISMISS**

Re: Dkt. No. 38

Before the Court is plaintiff Eduardo Guilarte's "Application for Order [to] Extend Time," filed November 23, 2016. Defendant Andrea Monti ("Monti") has not filed a response thereto. Having read and considered the application,<sup>1</sup> the Court rules as follows.

In his application, plaintiff seeks an extension of time to respond to Monti's motion to dismiss; specifically, plaintiff seeks an extension from November 23, 2016, to November 25, 2016, for the asserted reason that his counsel was "in the hospital." (See Appl. at 1:26-27.) Plaintiff, through counsel, filed the application at literally the eleventh hour, specifically, at 11:59 p.m. on November 23, 2016. Moreover, the application was filed one minute before the start of a national holiday, and, as set forth on this District's

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<sup>1</sup>Plaintiff failed to provide the Court with a chambers copy of his application. Nonetheless, the Court has considered it. For future reference, plaintiff is reminded that, pursuant to Civil Local Rule 5-1(e)(7) and the Court's Standing Orders, parties are required to provide for use in chambers one paper copy of each document that is filed electronically.

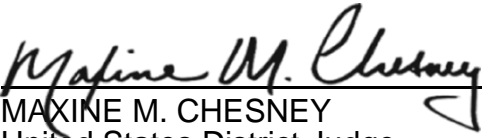
1 website, the undersigned was unavailable the following day as well. Lastly, as the  
2 deadline for any opposition to the application was not due until November 28, 2016, see  
3 Civil L.R. 6-3(b) (providing any opposition to motion to change time must be filed "no later  
4 than 4 days after receiving the motion"),<sup>2</sup> the application ordinarily could not be resolved  
5 until a date after the date of the proposed extension.

6 Nevertheless, in light of the stated reason for an extension, the Court hereby  
7 GRANTS the application, as follows:

- 8 1. Plaintiff's opposition shall be filed no later than December 2, 2016.
- 9 2. Monti's reply, if any, shall be filed no later than December 16, 2016.
- 10 3. The hearing on the motion is continued from December 16, 2016, to January 6,  
11 2017, at 9:00 a.m.

12 **IT IS SO ORDERED.**

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14 Dated: November 29, 2016

  
MAXINE M. CHESNEY  
United States District Judge

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26 <sup>2</sup>Although plaintiff characterizes his application as "ex parte," the Local Rules of  
27 this District prohibit a motion from being brought on an ex parte basis in the absence of  
28 the moving party's having identified "the statute, rule or order which permits the use of an  
ex parte motion to obtain the relief sought." See Civil L.R. 7-10. Plaintiff failed to cite any  
such statute, rule or order, nor could plaintiff, as none exists.