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3 UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA
5 OAKLAND DIVISION
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7 WELLS FARGO BANK, N.A., as
8 TRUSTEE FOR THE CLARA POPPIC
9 TRUST,

10 Plaintiff,

11 vs.

12 KENNETH G. RENZ, et al.,

13 Defendants.
14

Case No: C 08-02561-SBA

**ORDER DENYING EX PARTE
APPLICATION FOR EXTENSION
OF HEARING DEADLINE**

Dkt. 334

15 AND RELATED ACTIONS.
16

17 Plaintiff commenced this action on May 21, 2008. This action arises primarily under
18 the federal Comprehensive Environmental Response, Compensation, and Liability Act
19 (“CERCLA”). Plaintiff brings claims under CERCLA and related statutes, as well as common
20 law tort claims, against the Defendants. Also at issue are related counter-claims and cross-
21 claims filed by various parties.

22 The motion hearing deadline in this case is April 26, 2011. Moreover, a mandatory
23 settlement conference is set for May 6, 2011, the pretrial conference is scheduled for June 14,
24 2011, and trial is scheduled for June 20, 2011. On April 8, 2011, Defendant Hoyt Corporation
25 (“Hoyt”) filed an Ex Parte Application for Extension of Motion Cut-Off Deadline
26 (“Application”), along with a Motion to Dismiss the amended cross-claims asserted against
27 Hoyt by Defendant Kenneth Renz (“Renz”), which Renz filed on March 22, 2011 in response
28 to Plaintiff’s Fourth Amended Complaint, filed on February 2, 2011. Dkts. 333, 334. In its

1 Application, Hoyt seeks a hearing date after the April 26, 2011 motion hearing deadline for its
2 Motion to Dismiss, as the first available hearing date on the Court's calendar is July 19, 2011.

3 The Court notes that this matter was originally scheduled for trial on January 10, 2011,
4 and the original motion hearing deadline was September 14, 2010. See Dkt. 174.
5 Subsequently, on April 27, 2010 the Court granted the parties' stipulated request to extend
6 certain pretrial deadlines, continuing the fact discovery deadline to December 30, 2010 and the
7 motion hearing deadline to March 15, 2011. Dkt. 251. The Court also continued the pretrial
8 conference to June 14, 2011 and the trial date to June 20, 2011. Id.

9 On November 15, 2010, the Court granted the parties' further stipulated request to
10 extend certain pretrial deadlines, continuing the expert discovery deadline to February 25, 2011
11 and the motion hearing deadline to April 26, 2011. Dkt. 270. One basis for the parties' request
12 was that a brief continuance would "facilitate further settlement discussions." Id. at 2.

13 On December 28, 2010, the Court granted the parties' stipulated request for a further
14 continuance of certain pretrial deadlines, continuing the fact discovery deadline to February 25,
15 2011, and continuing the deadline for exchange of rebuttal expert reports from January 7, 2011
16 to February 1, 2011. Dkt. 276. Again, the parties represented to the Court that a continuance
17 would "facilitate further settlement discussions." Id. at 2. However, to date, this case has not
18 settled.

19 As indicated, Renz filed his amended cross-claims on March 22, 2011, approximately
20 one month before the motion hearing deadline of April 26, 2011, which has necessitated Hoyt's
21 instant Application for an extension of the motion hearing deadline for its Motion to Dismiss.
22 Given the multiple stipulated continuances already granted in this matter, and in view of the
23 approaching pre-trial and trial dates, the Court finds that an additional extension of the motion
24 hearing deadline is not appropriate. Moreover, the present urgency with respect to the motion
25 hearing deadline is of the parties' own making, as Plaintiff did not file its Fourth Amended
26 Complaint until February 2, 2011, and Renz did not file his amended cross-claims in response
27 to the complaint until March 22, 2011. Therefore, the Court will schedule Hoyt's Motion to
28 Dismiss for April 26, 2011, which is also the scheduled hearing date for other of the

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defendants' dispositive motions, and will set an accelerated briefing scheduled on Hoyt's motion so that all pending motions can be resolved before trial. Accordingly,

IT IS HEREBY ORDERED THAT:

1. A hearing date on Hoyt's Motion to Dismiss (Dkt. 333) is scheduled for April 26, 2011 at 1:00 p.m. Any opposition shall be filed by April 18, 2011; any reply shall be filed by April 20, 2011. Hoyt's Application is DENIED as MOOT.

2. This order terminates Docket 334.

IT IS SO ORDERED.

Dated: April_12, 2011


SAUNDRA BROWN ARMSTRONG
United States District Judge