

1 LOUIS A. HIGHMAN, State Bar No. 61703
 2 BRUCE J. HIGHMAN, State Bar No. 101760
 3 HIGHMAN, HIGHMAN & BALL
 A Professional Law Association
 4 870 Market Street, Suite 467
 San Francisco, CA 94102
 Telephone: (415) 982-5563
 Fax: (415) 982-5202
 5 Email: bruce.highman@highman-ball.com

6 Attorneys for Plaintiffs Cesar Berrospi,
 Lourdes Castilla, Wilfredo Chafloque,
 7 Carlos Gonzalez, Evelyn Luarca, Maria Luna,
 Diego Morales, Gimin Morales, Hortensia
 8 Morales, Samuel Navarrete, Grover Sanchez,
 and Humberto Zaragoza (misnamed Humberto
 9 Zapata in caption of complaint)

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 CLEMENTE R. FLORENDO, et al.,

13 Plaintiffs,

14 -v-

15 HILTON WORLDWIDE, INC.; S.F.
 HILTON LLC; and DOES 1-10, inclusive,

16 Defendants.

Case Number: 14-cv-01523-JSW

UNOPPOSED MOTION TO
 CHANGE TIME TO FILE
 RESPONSE TO FIRST AMENDED
 COMPLAINT AND TO FILE
 OPPOSITION AND REPLY PAPERS
 RE DEFENDANTS' MOTION FOR
 JUDGMENT ON THE
 PLEADINGS/SUMMARY
 JUDGMENT TO ORIGINAL
 COMPLAINT AND RE
 DEFENDANTS' MOTION TO
 DISMISS FIRST AMENDED
 COMPLAINT; ~~PROPOSED~~ ORDER

Date: July 11, 2014

Time: 9:00 a.m.

Ctrm.: 5 in Oakland

Judge: Honorable Jeffrey S. White

Complaint Filed: January 6, 2014

Removal Filed: April 2, 2014

24 I, Bruce J. Highman, hereby declare:

25 **A. Background Facts re Attorneys, Parties, and Original and First Amended**
 26 **Complaints.**

27 1. I currently am one of the attorneys of record for twelve of the plaintiffs in this case. Nine
 28

1 of these twelve plaintiffs have asked me to withdraw from representing them. Accordingly, on May
2 1 and 7, I filed requests to withdraw from representing them. On May 7, at the request of one other
3 of the twelve plaintiffs I currently represent, Cesar Berrospi, I filed a request to dismiss him. The
4 requests to withdraw and dismiss are pending. Attorneys Shannon Liss-Riordan and Monique
5 Olivier (hereinafter collectively "Liss-Riordan") represent all but two of the plaintiffs in this case
6 who I don't represent. Ms. Liss-Riordan also has filed Notices of Appearance for eight of the nine
7 plaintiffs who have requested I withdraw and informs me that she will also shortly be filing a Notice
8 of Appearance for the ninth of these plaintiffs, Cesar Berrospi, because he recently hired her.
9 Therefore, because my requests to withdraw are pending, there are nine plaintiffs who are
10 represented for now by both Ms. Liss-Riordan and me but who want only Ms. Liss-Riordan to
11 represent them. The two plaintiffs who are not represented by either Ms. Liss-Riordan or me are
12 Daniel Urbina Meza and Juan Peralta. They are in propria persona.

13 2. Maria Luna and Humberto Zaragoza (misnamed Humberto Zapata in caption of
14 complaint) are the only two plaintiffs who I still represent who have not yet told me either to
15 withdraw from representing them or to dismiss them. However, on May 8 and 9, 2014, Ms. Liss-
16 Riordan informed me that she understands that she will soon be representing them also, that it is in
17 progress.

18 3. I filed the original complaint in this case on behalf of 25 plaintiffs in San Francisco
19 Superior Court. While the case was pending there, twelve of the plaintiffs discharged me and chose
20 to represent themselves, and one plaintiff dismissed himself without prejudice. On April 2, 2014,
21 the defendants removed this case to this court. On April 21, 2014, Ms. Liss-Riordan first filed a
22 Notice of Appearance in this case. On April 28, 2014, Ms. Liss-Riordan filed a first amended
23 complaint (FAC) on behalf of the plaintiffs she represents. Her FAC discards the legal theories I
24 assert in the original complaint, and replaces them with a different legal theory. The original
25 complaint still applies to the plaintiffs who are not represented by Ms. Liss-Riordan. Although not
26 entirely clear to me, I assume only the FAC applies to the nine plaintiffs who are represented for
27 now by both Ms. Liss-Riordan and me but who want only Ms. Liss-Riordan to represent them.

28 /

1 **B. Request to Extend Time to File Opposition and Reply Papers to Motion for**
2 **Judgment on the Pleadings, or in the Alternative, for Summary Judgment to Original**
3 **Complaint.**

4 4. On April 9, 2014, defendants filed a motion for judgment on the pleadings, or in the
5 alternative, for summary judgment (hereinafter “MJP/MSJ”) to the original complaint. Defendants
6 have renoticed the motion to July 11, 2014, from June 13, 2014. I am hereby moving to extend the
7 time to file the opposition papers to the MJP/MSJ to June 20, 2014, and the reply papers to June 27,
8 2014. All counsel have agreed to this extension. If the Court grants it, the Court will still have all
9 papers on the motion by fourteen days before the hearing.

10 5. There are two reasons why all counsel have agreed to continue the hearing date and the
11 due date of the opposition and reply papers on defendants’ MJP/MSJ to the original complaint. First,
12 the MJP/MSJ is directed at the legal theories I assert in the original complaint. Defendants’ attorney
13 Tyler Brown has informed me that defendants are going to file a separate motion to dismiss the FAC
14 directed at its different legal theory. All counsel agree that defendants’ motion directed at the
15 original complaint and defendants’ motion directed at the FAC should be heard on the same date.
16 To have both motions heard on June 13, defendants would have had to file their motion directed at
17 the FAC by May 9 which was not feasible, especially since the FAC was filed on April 28. The first
18 date after June 13 when all counsel and the Court are available is July 11.

19 6. The second reason why all counsel have agreed to continue the hearing date and the due
20 date of the opposition and reply papers on the MJP/MSJ to the original complaint is because of my
21 pending requests to withdraw or dismiss at the request of ten of the twelve plaintiffs I currently
22 represent (see paragraph 1 above), and because Ms. Liss-Riordan informed me on May 8 and 9 that
23 she also will soon be representing the two other plaintiffs who I represent. If Ms. Liss-Riordan does
24 appear for those two plaintiffs, Maria Luna and Humberto Zaragoza, then I will ask the Court to
25 withdraw from the entire case. Extending the time to file the opposition to the MJP/MSJ will allow
26 time to see if all my clients switch to Ms. Liss-Riordan, and if so, for me to request to withdraw from
27 the entire case, for the Court to rule on my requests to withdraw and to dismiss Hortensia Morales,
28 and for me to file an opposition to the MJP/MSJ if it turns out that I will still be representing one

1 or more plaintiffs.

2 7. There has been one previous extension of the time to file the opposition to the MJP/MSJ
3 to the original complaint. The circumstances of that extension are as follows. This case was removed
4 to this Court on April 2, 2014, and assigned to Magistrate Judge Spero. No discovery has been done.
5 A week after removal, on April 9, 2014, the defendants filed their MJP/MSJ, which they noticed for
6 hearing on May 16, 2014. On Thursday, April 10, 2014, I asked defendants' attorney Tyler Brown
7 to agree to continue the hearing two weeks to May 30, 2014, and to allow the opposition papers to
8 be filed on May 9, 2014, with defendants' reply papers to be filed on May 16, 2014. I wanted the
9 continuance because I needed more time to prepare the opposition papers and to file a remand
10 motion to be heard at the same time as the MJP/MSJ. On April 16, 2014, defendants renoticed the
11 motion for hearing on May 30. Also, on April 16, I filed an unopposed motion to extend the time
12 to file the opposition and reply papers to May 9 and May 16 respectively.

13 8. On April 22, 2014, this case was reassigned from Magistrate Judge Spero to Judge White.
14 Because of this reassignment, the motion needed to be renoticed. On April 23, the motion was
15 renoticed for June 13. Also on April 23, I filed an unopposed amended motion to extend the time
16 to file the opposition papers in which I requested that plaintiffs have until May 13 to file the
17 opposition. On April 24, 2014, the Court granted the motion, ordered that the opposition papers be
18 filed by May 13, and that the reply papers be filed by May 20.

19 **C. Request to Extend Time to File Motion to Dismiss FAC and to File Opposition and**
20 **Reply Papers to this Motion to Dismiss FAC.**

21 9. As mentioned above, the FAC was filed on April 28, 2014. Defendants' response to the
22 FAC is due on May 12, 2014. As mentioned above, defendants plan to file a motion to dismiss the
23 FAC. All counsel have agreed that defendants can have until May 23, 2014, to file the motion to
24 dismiss or otherwise respond to the FAC.

25 10. If the motion to dismiss the FAC is filed on May 23, the opposition would be due on June
26 6, 2014. As mentioned above, only the plaintiffs represented by Ms. Liss-Riordan are parties to the
27 FAC. All counsel have agreed that they may have an extension to June 13, 2014 to file an opposition
28 to the motion to dismiss the FAC, and that the reply to the opposition will be due on June 24, 2014.

1 If this request is granted, the Court will still have all papers regarding this motion by 17 days before
2 the hearing.

3 11. There have been no previous extensions of time to respond to the FAC or to file an
4 opposition or reply re a motion to dismiss the FAC.

5 **D. Other Factors**

6 12. All counsel have agreed to the extensions of time sought by this motion. Because of the
7 two in propria persona plaintiffs, Daniel Urbina Meza and Juan Peralta, it was not feasible to obtain
8 the extensions by stipulation.

9 13. The parties do not believe the time modifications sought by this motion will affect the
10 schedule for this case.

11 I declare under penalty of perjury under the laws of the United States that the foregoing is true
12 and correct, and that this declaration was executed on May 9, 2014.

13
14 /s/ Bruce J. Highman
15 Bruce J. Highman

16 **ORDER**

17 The Motion to Change Time is hereby granted. Plaintiffs shall have until June 20, 2014, to
18 file their opposition papers to the motion for judgment on the pleadings, or in the alternative, for
19 summary judgment to the original complaint. Defendants shall have until June 27, 2014, to file their
20 reply papers on this motion.

21 Defendants shall have until May 23, 2013, to file a response to the First Amended Complaint
22 (FAC). If the response is a motion to dismiss the FAC, plaintiffs shall have until June 13, 2014, to
23 file their opposition papers to the motion to dismiss. Defendants shall have until June 24, 2014 to
24 file their reply papers on this motion.

25 DATED: May 27, 2014

26 
27 Honorable Jeffrey S. White
28 United States District Court Judge