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**\*E-Filed 04/19/2010\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

RICHARD B. FOX,

Plaintiff,

v.

GOOD SAMARITAN L.P., et al,

Defendants.

**No. C 04-0874 RS**

**ORDER RE DEFENDANTS' MOTION  
UNDER RULE 58(e)**

Defendants have filed a motion seeking an order under Rule 58(e) of the Federal Rules of Civil Procedure that their pending motion for attorney fees will be given the effect of extending the time that any notice of appeal of the underlying judgment becomes effective. Defendants contend that such an order will prevent the undue burden to them of simultaneously litigating issues in this action both in this Court and in the Ninth Circuit, and will allow for a single appeal. Recognizing that this Court's power to grant such relief under Rule 58(e) will be terminated should plaintiff file his notice appeal before such an order issues, defendants have moved under Civil Local Rule 6-3 to have the matter decided immediately.

While it would appear to be reasonable and efficient to proceed as defendants suggest, the Court will not preclude plaintiff from pursuing an immediate appeal of the underlying judgment if

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he so chooses. Accordingly, defendants' motion under Rule 58(e) is denied, without prejudice to seeking such relief by stipulation, in the event plaintiff agrees that judicial efficiency would be served thereby. This order disposes of docket nos. 459 and 462.

IT IS SO ORDERED.

Dated: 04/19/2010



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RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE