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

Bailun Zhang,
Plaintiff,
v.
Michael Chertoff,
Defendant.

NO. C 08-02589 JW

ORDER DENYING DEFENDANT’S *EX PARTE* APPLICATION TO STAY PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT

Presently before the Court is Defendant’s *Ex Parte* Application to Stay Plaintiff’s Motion for Summary Judgment. (hereafter, “Motion,” Docket Item No. 8.) Plaintiff has timely filed an opposition to the motion. (See Docket Item No. 9.)

Defendant requests that the due date for its opposition to Plaintiff’s Motion for Summary Judgment, currently due on October 6, 2008, be extended to thirty days after the Court’s resolution of Defendant’s Motion to Dismiss. (See Defendant’s Motion to Dismiss for Lack of Jurisdiction, Docket Item No. 5.) Defendant contends that further briefing on Plaintiff’s Motion for Summary Judgment should be stayed because the motion will be moot, and resources wasted, if Defendant’s Motion to Dismiss is granted.

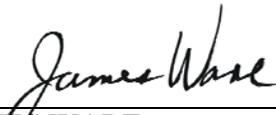
Plaintiff has timely brought his Motion for Summary Judgment under Fed. R. Civ. P. 56(a). Although Plaintiff’s Motion for Summary Judgment may become moot, Plaintiff will be prejudiced by the delay and the need for an additional hearing on his motion if Defendant’s Motion to Dismiss is denied. Expeditious resolution of this case is more likely if Plaintiff’s Motion for Summary Judgment is fully briefed and the parties are prepared to present that motion to the Court at the

United States District Court
For the Northern District of California

1 hearing scheduled for October 27, 2008. Thus, without addressing the merits of Defendant's Motion
2 to Dismiss, the Court finds that there is not good cause for staying Defendant's opposition.

3 Accordingly, the Court DENIES Defendant's *Ex Parte* Application to Stay Plaintiff's
4 Motion for Summary Judgment.

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6 Dated: October 2, 2008



JAMES WARE
United States District Judge

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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Justin X. Wang justin@lawbw.com
3 Melanie Lea Proctor Melanie.Proctor@usdoj.gov

4 **Dated: October 2, 2008**

Richard W. Wieking, Clerk

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6 **By: /s/ JW Chambers**
7 **Elizabeth Garcia**
8 **Courtroom Deputy**

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