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

10 Stephen McMahon,

NO. C 09-01230 JW

11 Plaintiff,

12 v.

**ORDER GRANTING DEFENDANT'S *EX*
PARTE APPLICATION TO EXTEND
TIME TO FILE RESPONSIVE PLEADING**

13 City of Monterey,

14 Defendant.
_____ /

15 Presently before the Court is Defendant's *Ex Parte* Application to Extend Time to File a
16 Responsive Pleading (hereafter, "Application," Docket Item No. 9.) Defendant seeks a thirty-day
17 extension to file a responsive pleading. Plaintiff has filed a timely opposition. (See Docket Item
18 No. 14.)

19 Plaintiff filed his Complaint on March 20, 2009. (See Docket Item No. 1.) Defendant was
20 served on March 25, 2009. (Declaration of Christine Davi in Support of *Ex Parte* Application to
21 Extend Time, hereafter, "Davi Decl.," Docket Item No. 10.) Defendant contends that it needs more
22 time to address the Complaint on the ground that it is lengthy, complex and filed while Defendant is
23 also litigating two other actions against Plaintiff in California Superior Court. (Application at 1.)

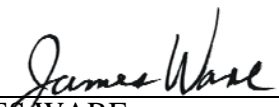
24 Under Fed. R. Civ. P. 12(a), a defendant has 20 days after being served to file an answer.
25 Under Fed. R. Civ. P. 6(b), the Court has the authority to, "for good cause," extend a defendant's
26 time for filing an answer

27 Pursuant to Rule 12(a), Defendant's answer is due April 14, 2009. Based on Plaintiff's
28 opposition, it appears that Plaintiff will not be prejudiced by a minor delay in Defendant's filing of

1 an answer. In addition, the Court takes interest in Defendant's representation that there are currently
2 two pending actions between the parties in state court. Thus, the Court finds that good cause exists
3 for extending Defendant's time for filing a response in accordance with Rule 12.

4 Accordingly, the Court GRANTS Defendant's *Ex Parte* Application to Extend Time to File a
5 Responsive Pleading. Defendant shall respond to the Complaint pursuant to Rule 12 of Fed. R. Civ.
6 P. on or before **May 15, 2009**.

7
8 Dated: April 10, 2009



JAMES WARE
United States District Judge

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

Danielle Katura Little danielle@policeattorney.com
M. Christine Davi davi@ci.monterey.ca.us

Dated: April 10, 2009

Richard W. Wieking, Clerk

By: /s/ JW Chambers

Elizabeth Garcia
Courtroom Deputy