IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

Stephen McMahon,

Plaintiff,

v.

City of Monterey,

Defendant.

_____/

NO. C 09-01230 JW

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

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

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

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

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

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

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

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