

****E-filed 4/25/11****

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

KENNETH L. CRAWFORD, et al.,

No. C 10-0280 RS

Plaintiffs,

**ORDER RE BRIEFING OF MOTION
TO CONTINUE TRIAL DATE**

v.

ZACHARIA MELZER, et al.,

Defendants.

On April 22, 2011, defendants filed a motion to continue the trial date in this action, purporting to set a hearing date of May 5, 2011. Citing Local Civil Rule 7-2(a), defendants assert they believed the motion could only be heard on 35 days notice absent leave of court, but that they set it on the Court's regular law and motion calendar for an earlier date based on information from the clerk that motions must be made in writing and generally are heard on Thursdays. As expressly set out in Rule 7-1(a), however, motions to change time are governed by Rule 6, which in turn provides for such motions to be filed without setting a hearing date, with any opposition to be filed within four days. Thus, a motion seeking relief on an expedited basis *other* than a change in time should be *accompanied* by a motion under Rule 6 to shorten time. Where, as here, the relief sought is *only* a change in a scheduled date or deadline, the motion should be filed under the provisions of Rule 6, and it typically will be decided without a hearing date unless otherwise ordered.

1 Accordingly, defendants' motion to continue the trial date will be deemed to have been brought
2 under Rule 6, and the May 5, 2011 hearing date they set is vacated. Plaintiff shall file any response
3 no later than April 26, 2011, and should include his views as to the length of a continuance of the
4 trial that would be appropriate, in the event the Court is inclined to grant relief.

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8 IT IS SO ORDERED.

9 Dated: 4/25/11

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RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE