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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

MAHMOUD ASCARIE,  
Plaintiff,  
v.  
GAVILAN COLLEGE, et al.,  
Defendants.

Case No. [16-cv-02493-BLF](#)

**ORDER (1) DENYING MOTION TO  
SHORTEN TIME AND (2) VACATING  
HEARING**

[Re: ECF 27]

Before the Court is Plaintiff Mahmoud Ascarie’s motion to shorten time for the hearing related to Defendants’ motion to dismiss. Mot., ECF 27. Plaintiff asks the Court to shorten time in order to hear Defendants’ motion to dismiss before November 17, 2016, and preferably before November 2, 2016. *Id.* at 1. Currently, the motion to dismiss is scheduled to be heard on December 22, 2016. In his motion, Ascarie states that Defendants do not oppose the motion. *Id.* at 2.

Pursuant to Civil Local Rule 6-3, in order to justify shortening time, Plaintiff must identify the “substantial harm or prejudice that would occur if the Court did not change the time.” Civil L.R. 6-3(a)(3). Plaintiff argues that he would be harmed if the Court did not change the time because he intends to file his complaint in state court if the Court grants Defendants’ motion to dismiss, and his right to sue notice from the California Department of Fair Employment and Housing (“DFEH”) will expire on November 17, 2016, which means he would be precluded from filing in state court after that date. Mot. 1.

Ascarie has satisfied his burden of identifying the harm or prejudice that would occur if the Court did not change the time of the hearing. However, because the Court finds, pursuant to Civil L.R. 7-1(b), that Defendants’ motion to dismiss is suitable for submission without oral argument,

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the Court DENIES Plaintiffs' motion to shorten time and VACATES the hearing scheduled for December 22, 2016. The Court will consider the fully briefed motion as soon as possible.

**IT IS SO ORDERED.**

Dated: October 18, 2016

  
BETH LABSON FREEMAN  
United States District Judge