

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

STANLEY HOFFMAN, Individually and on
behalf of the Estate of PHYLLIS
HOFFMAN,

Plaintiff,

vs.

AMERICAN SOCIETY FOR TECHNION-
ISREAL INSTITUTE OF TECHNOLOGY,
INC., aka AMERICAN TECHNION
SOCIETY, aka ATS, et al.,

Defendants.

CASE NO. 09-CV-2482 BEN (KSC)

ORDER:

**(1) GRANTING EX PARTE
APPLICATION TO STRIKE OR
DISMISS PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT
AGAINST ALL DEFENDANTS ON
THE LIFE INSURANCE BENEFITS**

**(2) DENYING AS UNTIMELY
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT AGAINST
ALL DEFENDANTS ON THE LIFE
INSURANCE BENEFITS**

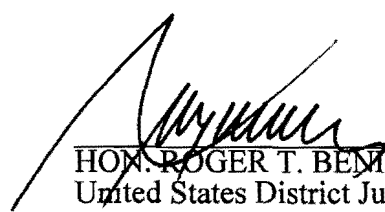
[Docket Nos. 75, 79]

Presently before the Court is Defendant ATS's Ex Parte Application to Strike or Dismiss Plaintiff's Motion for Summary Judgment Against All Defendants on the Life Insurance Benefits. (Docket No. 79.) For good cause shown, the Ex Parte Application is **GRANTED**. Because Plaintiff did not request modification of the Scheduling Order Regulating Discovery and Other Pretrial Proceedings (Docket No. 52), Plaintiff's Motion for Summary Judgment Against All Defendants on the Life Insurance Benefits (Docket No. 75) is **DENIED AS UNTIMELY**. *See U.S. Dominator v. Factory Ship Robert E. Resoff*, 768 F.2d 1099, 1103-04 (9th Cir. 1985) (where no request to modify the scheduling order has been made, the court may properly deny as untimely a motion filed after the

1 deadline specified in the scheduling order), *superseded by statute on other grounds as recognized in*
2 *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996). Plaintiff must request that the
3 Scheduling Order be modified before filing a pretrial motion after the deadline established in the
4 Scheduling Order.

5 **IT IS SO ORDERED.**

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7 DATED: December 8, 2012


HON. ROGER T. BENITEZ
United States District Judge

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