

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LI LIU,

Plaintiff,

v.

KEEGAN KELL,

Defendant.

CASE NO. C17-640-JCC

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable John C. Coughenour, United States District Judge:

This matter comes before the Court on Defendant’s unopposed motion for leave to file a late jury demand (Dkt. No. 15). The Federal Rules of Civil Procedure require a party to demand a jury trial within fourteen days of the last pleading. Fed. R. Civ. P. 38(b)(1). Defendant’s motion comes 36 days after the last pleading. However, where good cause is shown and the party failed to act due to excusable neglect, the Court may extend the time period. Fed. R. Civ. P. 6(b)(1)(B).

Neglect can include failure to act caused by inadvertence, mistake, or carelessness. *Pioneer Investment Services Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 388 (1993). Whether an omission is excusable is an equitable determination based on the following factors: “(1) the danger of prejudice to the non-moving party, (2) the length of delay and its potential impact on judicial proceedings, (3) the reason for the delay, including whether it was within the

1 reasonable control of the movant, and (4) whether the moving party's conduct was in good
2 faith." *Pincay v. Andrews*, 389 F.3d 853, 855 (9th Cir. 2004).

3 Here, the Court finds that because the Plaintiff did not oppose the motion and because
4 trial is set for April 2018, the first two factors weigh in favor of granting leave. The length of
5 delay was in control of the movant, which weighs in favor of denying leave. The moving party's
6 conduct was in good faith, and therefore the fourth factor weighs in favor of granting leaving. On
7 balance, the Court finds that Defendant failed to act due to excusable neglect.

8 Accordingly, Defendant's motion for leave to file a late jury demand (Dkt. No. 15) is
9 GRANTED. Defendant shall file a jury demand within seven days of this order.

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11 DATED this 16th day of August 2017.

12 William M. McCool
13 Clerk of Court

14 /s/Paula McNabb
15 Deputy Clerk