



Ricks et al v. Menlo Worldwide Government Services, LLC et al

2016 | Cited 0 times | E.D. California | August 16, 2016

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1 UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES ex rel. RICHARD RICKS and MARCELO CUELLAR,

Plaintiffs, v. MENLO WORLDWIDE GOVERNMENT SERVICES, LLC, et al.,

Defendants.

No. 2:13-cv-00539-KJM-AC ORDER

Service of the first amended complaint was completed on defendants Estes Express Lines, Inc. and Estes Forwarding Worldwide, LLC on July 15, 2016. ECF Nos. 38 & 39. On August 5, 2016, these defendants applied ex parte for an extension of time to file a responsive pleading. ECF No. 40. The attorney responsible for preparing the pleading, Thomas Coulter, who has not yet appeared or applied for admission pro hac vice, explained that he had been unable to prepare a timely response because he has been busy with other matters and has a pre-planned vacation. See Coulter Decl., ECF No. 41. Mr. Coulter also reported that Michael Hirst, counsel for the plaintiff-relators, had agreed to an extension of time, but the two were unable to finalize language for a stipulated request. See id.

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2 In response, the plaintiffs filed an opposition, and Mr. Hirst attached a declaration with the details of his abortive negotiations with Mr. Coulter, relating even that some of his responses were delayed because he had turned off his cell phone during the 4:00 p.m. showing of Café Society at the Varsity Theater in Davis, California. Opp'n, ECF No. 44; Hirst Decl., ECF No. 45. In short, Mr. Hirst and his clients agreed to the extension, but problems arose during negotiations of an extended briefing schedule on the defendants' anticipated motion to dismiss. The parties seem to agree that an extension of time would harm no one, but the plaintiff-relators ask the court to hold them and the defendants to a particular briefing schedule for the planned motion to dismiss.

The Federal Rules of Civil Procedure and the Local Rules of this District allow the court to extend deadlines for the filing of responsive pleadings. See Fed. R. Civ. P. 6(b)(1); E.D. Cal. L.R. 144. "This rule, like all the Federal Rules of Civil Procedure, is to be liberally construed to effectuate the



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general purpose of seeing that cases are tried on the merits.” Ahanchian v. Xenon Pictures, Inc., 624 F.3d 1253, 1258–59 (9th Cir. 2010) (citation, quotation marks, and alterations omitted). Requests for extensions of time of this sort are normally granted unless doing so would cause prejudice to an adverse party or the request was advanced in bad faith. Id.

The court can discern no bad faith or prejudice in the parties’ filings. The request for an extension of time is granted. The court declines to accept the plaintiff-relators’ proposed briefing schedule, but encourages counsel again to attempt resolving their differences.

IT IS SO ORDERED. DATED: August 16, 2016

