

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 2:22-cv-02333-MEMF-AS Date: March 18, 2024

Title *Shaheryar Khan v. Adam Kraemer, et al.*

Present: The Honorable: Maame Ewusi-Mensah Frimpong

Damon Berry
Deputy Clerk

Not Reported
Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Proceedings: (IN CHAMBERS) ORDER RE: Plaintiff's Notice and Application for Ex Parte Motion for An Extension of Time to File First Amended Complaint [ECF No. 95]

The Court is in receipt of Plaintiff Shaheryar Khan's Ex Parte Application for an Extension of Time to File First Amended Complaint (ECF Nos. 115, 120, 122) and Amended Ex Parte Application for Extension of Time to File First Amended Complaint (ECF No. 123, collectively, the "Ex Parte Filings"), as well as Defendant Google LLC's Opposition to Shaheryar Khan's Ex Parte Motion for an Extension of time to File an Amended Complaint (ECF No. 118).

In the Central District, a party seeking ex parte relief must comply with (1) the Local Rules and Federal Rules of Civil Procedure, and (2) the standards set forth in *Mission Power Engineering Co. v. Continental Casualty Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995).

Local Rule 7-19.1 requires a party filing an ex parte application to:

L.R. 7-19 Ex Parte Application. An application for an ex parte order shall be accompanied by a memorandum containing, if known, the name, address, telephone number and e-mail address of counsel for the opposing party, the reasons for the seeking of an ex parte order, and points and authorities in support thereof. An applicant also shall lodge the proposed ex parte order.

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L.R. 7-19.1 Notice of Application. It shall be the duty of the attorney so applying (a) to make reasonable, good faith efforts orally to advise counsel for all other parties, if known, of the date and substance of the proposed ex parte application and (b) to advise the Court in writing and under oath of efforts to contact other counsel and whether any other counsel, after such advice, opposes the application. C.D. Cal. R. 7-19, 7-19.1.¹

Here, several of Khan’s Ex Parte Filings all indicate that Khan reached out to opposing counsel to alert them about the ex parte filings prior to filing. *See, e.g.*, ECF No. 115 at 2–3, ECF No. 123 at 2. Thus, Khan has complied with the notice portion of Local Rule 7-19.1

Under *Mission Power*, a party seeking ex parte relief must establish (1) that the requesting party will be irreparably prejudiced if the motion is heard on a normal schedule and (2) that the requesting party did not create the crisis requiring ex parte relief.

Here, Khan does not explicitly discuss the prejudice he would face if his motion were heard in accordance with regular procedures. However, the Court notes that Khan asks for an extension to file his First Amended Complaint (“FAC”), *see e.g.*, ECF No. 115 at 2, that would moot the pending motions to dismiss, which could be granted with prejudice. *See* ECF No. 66. Thus, it is conceivable that Khan could be irreparably prejudiced.

However, the second *Mission Power* factor does not weigh in Khan’s favor. Khan has moved *several* times to extend the deadline to file his FAC—originally April 21, 2023, ***almost a full year ago***. Khan states that more time is necessary because he needs to retain counsel and re-draft his FAC due to a hacking incident. ECF No. 115 at 2. While the hacking incident is new, each of Khan’s prior requests have reiterated Khan’s need to secure counsel. Khan also states that he is still under treatment for his medical conditions. ECF No. 115 at 2. Although the Court understands that medical issues are beyond Khan’s control, the deadline cannot be extended indefinitely until Khan’s personal health issues are resolved. The Court has provided Khan with ample time—a little over 10 months measured from April 25, 2023, the date the Court granted Khan’s first ex parte, to present day—to procure counsel and file a FAC. The Court thus

¹ Pro se litigants must comply with the Local Rules. L.R. 83-2.2.3.

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DENIES Khan's Ex Parte Filings. The Court will issue a separate order setting a hearing on the pending motions to dismiss.

Initials of Preparer

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DBE
