MATTHEW R. WALSH
19197 GOLDEN VALLEY RD #333
SANTA CLARITA, CA 91387
(661) 644-0012

Plaintiff In Pro Per,

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MATTHEW R. WALSH

Plaintiff In Pro Per,

vs.

ROKOKO ELECTRONICS
(AND DOES 1 THROUGH 50, INCLUSIVE)
DEFENDANT

Case No.: 2:25-CV-05340-ODW-RAO

[Assigned to Hon. Otis D. Wright, II, Courtroom 5D; Hon. Rozella A. Oliver, Courtroom 590]

OBJECTION TO DEFENDANTS MOTION FOR EX PARTE EXTENSION OF TIME

State Court Action Filed: May 12, 2025
Removal Date: June 12, 2025
Discovery Cutoff: August 10, 2026
Trial Date: March 9, 2027

Filed concurrently with:
- Walsh Decl. re: Evidentiary Package

I. INTRODUCTION AND SUMMARY

The Defendants continue to say they only have sixteen days to respond to Plaintiff's motion for summary judgment… However, the hearing was noticed 37 days from the filing date of April 11, 2026. The Defendants sat on their hands for a week while [stating they wished to] seek ex-parte even before the MSJ was refiled. Simply put, their urgency is wholly manufactured to gain a strategic advantage.

Defendants' position is irreconcilable. They seek emergency relief on the basis that they require additional time to respond to a timely noticed motion. Yet,

they have declined to meaningfully participate in discovery for ~seven months while Plaintiff has produced a professional, complete and litigation-ready record of 4,000+ pages. Rokoko foreclosed discovery despite agreeing with the Court they would proceed, leaving Plaintiff to painstakingly build the record capable of supporting a dispositive motion without their participation.

The Defendants complain that *"discovery has only barely begun; … no depositions have been taken"* which is interesting because not only has discovery been open for seven months; Plaintiff has attempted to begin depositions since March and the Defendants failed no less than three deadlines to participate. After continued silence, Plaintiff set a date, noticed them and the Defendants immediately objected, stating the depositions were *"not calculated to lead to admissible evidence"* (objection removed from FRCP in 2015). When a Motion to Compel was sought, they stated they will not stand for deposition until June instead (Ex. 1). This is another manufactured conflict.

Having chosen not to develop their own record, Defendants cannot now seek emergency relief from their own choices or shift the consequences of that decision onto Plaintiff. Further, the discovery they now seek—Plaintiff's personal financial records, cash flow and tax returns, **materials from unrelated/ongoing confidential celebrity litigation** which Plaintiff is retained, personal

communications with family members, and other non-infringement topics—bears no relation to the singularly narrowed issue presented in Plaintiff's Motion.

This is not a situation requiring emergency relief; it is the consequence of Defendants' own litigation strategy becoming unfavorable to them.

TABLE OF CONTENTS

II. Defendants Did Not Meet And Confer Before Filing

Once again, Rokoko did not meet and confer. However, they state to the Court in their motion: "*We attempted to understand the basis of any refusal and Plaintiff did not provide one"*. They were given a reason in line with prior orders after the last few denials: *"ex-parte is not appropriate"*.

In all, the Defendants excuses are a gross mischaracterization of the events at hand, which will be detailed herein.

L.R. 7-19.1 requires reasonable, good faith efforts to orally advise opposing parties of both the date and substance of any proposed ex parte application. Defendants did not comply. Instead—despite the Court's repeated warnings—**pro hac counsel Emily Graue made a single 42-second phone call** on April 10, 2026 (Ex. 2), which did not address any ex parte application, but merely inquired whether Plaintiff would withdraw his MSJ. Plaintiff did so. He then filed a narrowed, single-claim MSJ. A week later, without further meaningful effort, Defendants sought ex parte relief anyway following only an email requesting stipulation. Such conduct falls well short of L.R. 7-19.1. See *UPS Supply Chain Sols., Inc. v. Directed Elecs., Inc.*, 2022 WL 21785582, at *1 (C.D. Cal. Mar. 7, 2022) ("a single perfunctory phone call" is insufficient). This is not an isolated incident. Defendants have repeatedly failed to comply with meet-and-confer

obligations, conduct that has warranted sanctions and striking of filings in similar circumstances. See *Clark v. EmCare, Inc.*, 2017 WL 7858273, at *1 (C.D. Cal. May 9, 2017).

III. The Defendants Have Shown No Good Cause For Ex Parte Relief

Defendant characterizes the schedule as "extremely short," yet it provides approximately 37 days to respond—well within the ordinary timeframe for summary judgment briefing. A standard litigation deadline does not constitute irreparable harm. This Courts prior denied the Defendants' application for this same ex parte relief. The reasonings for that denial are still applicable today:

In Mission Power Engineering Company v. Continental Casualty Company, the court provided the requirements a party must meet to obtain ex parte relief. 883 F. Supp. 488, 492 (C.D. Cal. 1995). Notably, the party seeking ex parte relief must establish why a motion cannot be calendared in a regular manner; that they will be irreparably prejudiced if the motion is heard in accord with regular procedures; and that the requesting party is without fault in creating the crisis that requires ex parte relief or that the crisis was due to excusable neglect. Id. Defendant fails to address Mission Power in their Ex Parte Application. In any event, Defendant falls short of satisfying the Mission Power requirement. Defendant provides no explanation as to why it is unable to timely respond here either. Defendant thus fails to demonstrate

that it is without fault in creating the crisis or that the crisis occurred as a result of excusable neglect. See Mission Power, 883 F. Supp. at 492.

IV. Defendants Originally Sought Ex-Parte Extension On A Full-Case MSJ, Now Still Seek The Same Relief For A Narrower Motion

Rokoko has sought ex-parte for weeks even prior to today, but had a pending Rule 11 motion standing in the way for clearly altered evidence they could not explain and refused to produce the natives for. Instead of risking that issue being before the Court, The Defendant chose to wait to seek ex-parte and once Plaintiff filed his MSJ, they did just that:

> ***First (April 10, 2026 / 9am):*** *"Rokoko intends to file an ex parte application requesting that the Court set a briefing schedule on your motion for summary judgment that permits any opposition to be filed at least 45 days after the Court's ruling on Rokoko's pending Motion to Dismiss"*

The Court then hours later ruled on their Motion to Dismiss, yet the Defendant continued e-mailing regarding withdrawal:

> ***Second (April 10, 2026 / 11:26am):*** *"I presume by now you have seen the Court's Order from today on Rokoko's Motion to Dismiss …*

> *Please confirm that you will be withdrawing… to refile at a later date"*

As the Plaintiff was unavailable, the Defense called him (2:18 pm) and then followed up in writing:

> ***Third (April 10, 2026 / 2:28pm):*** *"I called you to tell you that we planned to move ex parte for a status conference regarding your Motion for Summary Judgment and asked if you would be withdrawing it. You confirmed that you will be withdrawing the MSJ, and I stated that if that was the case we would not need to move ex parte. Hope you have a good weekend. "*

After several days, Counsel then stated:

> ***Fourth (April 15, 2026 / 7:32pm):*** *"As you are aware, your recently refiled Motion for Partial Summary Judgment (ECF No. 167) maintains the May 18, 2026 hearing … this affords Rokoko an extremely short window of time to draft its opposition… Rokoko intends to file an ex parte application requesting that the Court grant a two-week extension for Rokoko to submit its opposition…"*

Defendants' original ex parte request sought to accelerate a ruling on their Motion to Dismiss *("to obtain clarity and a ruling… before additional dispositive motions"*). That ruling issued hours later. Yet Defendants now seek the

same ex parte relief for a different purpose—an extension of time to oppose a narrowed, single-claim MSJ filed after Plaintiff withdrew the original motion. Across four separate events, the relief sought has remained the same while the justification has shifted.

V. The Defendants Created The Very Crisis They Seek Relief From

This case is far removed from Defendants' first ex parte request (Dkt. #24, June 20, 2025). Over the past year, Plaintiff has been forced to file multiple motions—including sanctions, motions to compel, and a motion to deem admitted—due to Defendants' continued refusal to meaningfully participate in discovery. Despite these proceedings, Defendants have remained undeterred, even after representing to the Court on February 4, 2026 that they would proceed with discovery:

> *Defendant: "And then once that (protective order) is in place — and we'll be — we'll be looking for it and **ready to do our part**" – Rokoko*
>
> *Hon. Oliver: "Then, Ms. Ellena, I assume whatever discovery has been held off, the production has been held off in abeyance until that was issued, then, that **can move apace**. Does that sound reasonable?"*
>
> *Defendant: "**It does**, your honor."*

Virtually nothing changed after that discussion. In fact, there are now three pending IDC's, a Motion to Compel; deemed admitted fully briefed, a forthcoming protective order against the Defendants, and another Motion to Compel being drafted presently. Any argument about lack of discovery, by a non-participating party invoking Rule 56(d) is moot. *"A party cannot claim 'irreparable prejudice' from a crisis of its own making. 'The 'irreparable' nature of the [harm]... must be one not caused by the party's own delay or lack of diligence.*" See Chivichyan v. W. Heritage Ins. Co., 2012 WL 12882823 (C.D. Cal. 2012). Having sat on their hands for seven months, Defendants cannot now claim the calendar is their enemy; *"equity does not come to the aid of those who sleep on their rights" quoting* (Lake Mich. Fed. v. US Army Corps of Engineers, 742 F. Supp. 441 (N.D. Ill. 1990))

VI. Plaintiff Over-Complied With Discovery, Defendants Chose Deferral

Plaintiff, by contrast, produced a complete, litigation-ready discovery record exceeding 4,000 bates-stamped pages, including load files, metadata, responsive indexes, metadata extractions, multi-format conversions and their native counterparts (Ex. 3). The production was sufficiently comprehensive that Defendants' own expert remarked: *"Is this a Relativity production?"*

Defendants conversely have not provided a single compliant document production; producing incomplete to only two RFP's. The Defendants have largely maintained throughout that deferral is preferred while any one of their four Motion to Dismiss' were pending. As their counsel stated*: "Our client feels strongly that the motion to dismiss… should be decided before… determining how... whatever may be left should be resolved."*

VII. Defendants Seek an Extension of Time For Their Additionally Propounded ~200 Discovery Requests, While Not Participating Themselves

Rokoko has refused to **(a)** provide a single privilege log while claiming privilege, despite continuous request and; **(b)** declare any statement of document withholding per Rule 34(b)(2)(C) , despite continuous request and; **(c)** declare if documents even exist, despite continuous request and; **(d)** refused to comply with either Plaintiff's or their own ESI protocols and; **(e)** to follow Court order[1] for -- and Plaintiff's requests -- of native files where the provided documents appear to have been modified across 23 minutes to 1 hour by Defense Counsel:

---

[1] *"TIFF production may be appropriate…where a party has not requested native production… It is also not improper or inappropriate for Plaintiff to request native production… Defendant agrees to produce … documents such as Excel files, PowerPoint files, or audio files, in native format"- Dkt #158*

"We have confirmed that any change to the metadata was an inadvertent byproduct of the Bates-stamping process. Attached are the same documents that omit the Bates-stamps." – Rokoko

*"I just checked – The metadata is destroyed by Aspose.PDF in these files as well… You may provide bates stamped files, but they must come with untouched natives as well. Please resubmit, [also include the **actual** operative agreements] from 2020, 2022, 2025" – Plaintiff*

"We've given you what we have, Matt, thanks." – Rokoko

VIII. The Defendants Are Well Represented And Resourced

The Defendants complain that *"discovery has only barely begun; … no depositions have been taken"* which is interesting because not only has discovery been open for seven months; Plaintiff has attempted to begin depositions since March and the Defendants failed three deadlines to participate. Plaintiff then unilaterally set a date, noticed them and the Defendants said they will not stand for deposition until June instead claiming they have depositions somehow every day for nearly three months (Ex. 1). This is a manufactured conflict.

A single pro se Plaintiff simply cannot reasonably be seen to out-resource ReedSmith or multi-national Defendants with a valuation of a quarter billion dollars. *"Defendants cannot avoid their duties to respond to Plaintiffs'*

otherwise reasonable and targeted discovery requests by failing to dedicate sufficient resources… given [Defendants] resources, Defendants are in a better position than most to muster the necessary resources for the limited discovery at issue here." (Doe v. Trump, 329 F.R.D. 262, 271 (W.D. Wash. 2018)). See also United States v. Eggen, 51 MJ 159 (a litigant cannot create crisis and then take advantage of a situation of his own making; invited crisis provides no basis for relief).

IX. Further Discovery Will Likely Not Change The Outcome. Plaintiff's Motion is Admission Based

Defendants' opposition cannot be cured by additional discovery. Plaintiff's Motion is based on Defendants' own admissions and records, including: that Plaintiff agreed only to 2020 terms; that Defendants collected Plaintiff's intellectual property and returned portions of it; that Plaintiff never subscribed to any paid collection feature; that Defendants' own systems nonetheless collected data ("Skip_Data_Sync = False"); and that no license existed permitting such collection, with Defendants unable to identify any applicable agreement beyond 2020. No additional discovery [from Plaintiff] can overcome Defendants' own admissions, code, and communications.

X. What The Defendants Are Seeking In Discovery To Defeat This Motion Has Nothing To Do With Intellectual Property Infringement

Defendants have already received nearly everything Plaintiff has to offer in discovery. Yet, within days of Plaintiff's MSJ, they propounded ~200 requests—seeking (1) Plaintiff's personal tax returns, cash flow and personal financial statements (2) confusingly - Defendants' own financials (3) Plaintiff's internal security measures including password and encryption (4) privileged communications with non-parties (5) Guest lists & RSVP from Plaintiff's Hollywood release event (6) confidential and potentially sealed documents from unrelated litigation involving a high-profile celebrity case which Plaintiff is retained:

> ***"RFP No. 94:*** *[All Documents drafted] or signed by You and submitted to the court in Ronald Radke v. Brittany Furlan, Case No. 26STRO00192 in the Los Angeles County Superior Court of the State of California"*

These requests are overbroad, invasive, and largely irrelevant to the single infringement issue before the Court. Of the ~200 requests, almost none of them even touch copyright infringement as an issue. This is not

targeted discovery—it is an attempt to burden, harass, oppress and embarrass the Plaintiff and manufacture conflict and delay in response to an admission-based motion.

XI. Defendant Is Not Entitled To More Time, Nor Ex-Parte Relief

Lastly, the other litigant potentially prevailing on a developed record is not an excuse for an unreasonable extension of time – nor does it rise to the level of ex-parte relief. As this Court has prior said:

> *"Ex Parte Applications are reserved for extraordinary circumstances and responding to timely-noticed motions do not generate the requisite prejudice required to justify ex parte relief.* ***Both sides also improperly use ex parte applications****—which is reserved for extraordinary circumstances—****as a mechanism to bypass noticed motion requirements."***

That's what the Defendant seeks to accomplish.

XII. CONCLUSION

Defendant's application for ex-parte relief and an extension of time should be denied.

Matthew R. Walsh
Plaintiff In Pro Per

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Plaintiff appearing in pro per, certifies that this brief contains 2,238 words, which complies with the word limit of L.R. 11-6.2.