

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

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Case Number: CGC-15-543478

Filing Date: Dec-11-2015 10:25

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**EX PARTE APPLICATION FOR ORDER**

BANK OF AMERICA, N.A. VS. CLIFFORD H PORTER ET AL

001C05192139

**Instructions:**

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9      Internal File: B1400678

FILED  
San Francisco County Superior Court

DEC 11 2015

CLERK OF THE COURT  
BY: Alma M. Lopez Deputy Clerk

8      **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

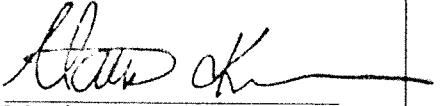
9      **COUNTY OF SAN FRANCISCO– LIMITED CIVIL**

10		FAX FILED
11	BANK OF AMERICA, N.A., )	Case No. CGC15543478
12	Plaintiff, )	<i>EX PARTE APPLICATION AND</i>
13	)	<i>AND STIPULATION TO CONTINUE</i>
14	vs. )	<i>TRIAL; DECLARATION OF</i>
15	)	<i>MATTHEW KUMAR; STIPULATION</i>
16	CLIFFORD H PORTER )	<i>TO CONTINUE; MEMORANDUM OF</i>
17	)	<i>POINTS AND AUTHORITIES.</i>
18	Defendants. )	Date: December 11, 2015
19	)	Time: 11:00 AM
20	)	Department: 206

18      Notice is hereby given that on December 11, 2015, at 11:00 AM, in Department 206 of  
19      the above captioned Court, both parties Plaintiff, BANK OF AMERICA, N.A. and CLIFFORD  
20      PORTER, will and hereby does apply *ex parte* for an order continuing the Court Trial currently  
21      set in this action for December 14, 2015, based on the good cause set forth herein.

22      This application is based on the attached Declaration of MATTHEW J. KUMAR, the  
23      accompanying Memorandum of Points and Authorities, and any other such evidence or argument  
24      as may be presented at the hearing on this matter.

25  
26      Dated: December 11, 2015

  
Matthew J. Kumar, Esq.  
Attorney for Plaintiff

**DECLARATION OF MATTHEW J. KUMAR**

I, MATTHEW J. KUMAR, declare and state:

1. I am an attorney licensed to practice law in the State of California and am a member of the Law Office of Rory W. Clark, A Professional Law Corporation, which is counsel of record for Plaintiff herein.

2. Presently, Plaintiff and Defendant have been engaged in settlement discussions and are hoping to resolve the matter informally. As of this week, I was personally able to discuss the matter with Mr. Porter and discovered a new factual issue that requires a significant amount of review from both my client, Plaintiff, and Mr. Porter prior to proceeding to trial. Therefore, it is Mr. Porter's and my request that this Trial be continued for a period of three months, to allow sufficient time to complete the necessary trial preparations.

3. On December 9, 2015, I prepared the Stipulation to Continue Trial and discussed the matter with Defendant. He waives notice of this ex parte motion and would like to continue this matter to allow him additional time to review his records and allow my client to do the same.

4. I have personal knowledge of the above facts and, if called to testify thereto, could and would competently do so as to same.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED on December 11, 2015, at Westlake Village, California.

nia.   
MATTHEW J. KUMAR

## MEMORANDUM OF POINTS AND AUTHORITIES

**I.**  
**THE COURT MAY GRANT A CONTINUANCE  
OF TRIAL UPON GOOD CAUSE SHOWN**

California Rules of Court, Rule 3.1332

Rule 3.1332 of the California Rules of Court provides the guidelines for a party who seeks a continuance of an established trial date. Subsection (b) states that the party must make the request by noticed motion or *ex parte* application “as soon as reasonably practical once the necessity for the continuance is discovered.” In the herein matter, Plaintiff applies *ex parte* due to the proximity of the trial date, as insufficient time remains for a noticed motion.

Subsection (c) of said rule outlines the grounds which constitute good cause for a continuance. The unavailability of a party due to excusable circumstances qualifies as such good cause. As evidenced by the attached Declaration of MATTHEW J. KUMAR and the Stipulation to Continue to Trial. Therefore, it is requested that Plaintiff be afforded a brief continuance of the herein Court Trial for a period of three months.

Respectfully submitted,

Matthew J. Kumar, Esq.  
Attorney for Plaintiff