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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Tina Diaz, Plaintiff, vs. C. S. & W. Contractors, Inc., Defendant.	No. CV 10-1591-PHX-JAT **ORDER**

Pending before the Court is Defendant's motion to reopen discovery to take the deposition of Fernando Flores. In this case, Plaintiff is suing for sexual harassment. Many of Plaintiff's claims arise from actions allegedly taken by Flores. The parties did not take Mr. Flores' deposition within the original discovery deadline because they were unable to locate him. Defendant seeks to take Mr. Flores' video-taped deposition in Mexico.

Plaintiff objects to taking of Mr. Flores deposition of several grounds: 1) this Court has no jurisdiction in Mexico; 2) Plaintiff's counsel does not have a passport that would allow him to travel to Mexico; 3) Chihuahua, Mexico is too dangerous for the Court to order the parties to travel there; 4) Mr. Flores appeared at Plaintiff's house after she quit working for Defendant and she had to obtain an Order of Protection against him, so she does not want to travel to Mexico where Mr. Flores might again harass her; and 5) because deposing Mr. Flores would cause Plaintiff to need to do some additional discovery of her own, the Court should not permit the deposition because it would delay the resolution of this case.

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Without considering Plaintiff's objections numbered 2, 3, and 4, which raise legitimate concerns, the Court will deny the motion based on objections 1 and 5. First, Plaintiff is correct that this Court has no jurisdiction in Mexico. Further, the appropriate procedure for this Court to seek testimony from a witness outside this Court's jurisdiction is a letter rogatory. 23 Am. Jur. 2d Depositions and Discovery § 17; *see also In re Premises Located at 840 140th Ave. NE, Bellevue, Washington*, 634 F.3d 557 (9th Cir. 2011). Defendant has not sought a letter rogatory and the Court has no reason to believe this procedure could be accomplished within the current trial schedule. Thus, because this Court does not have jurisdiction to hold a person to their oath in Mexico, and because there is not adequate time for either Plaintiff or Defendant to complete additional discovery in Mexico within the current trial schedule,

IT IS ORDERED that Defendant's motion to reopen discovery (Doc. 31) is denied.

DATED this 21st day of July, 2011.

James A. Teilborg
United States District Judge