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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL TATER-ALEXANDER

Plaintiff,

v.

COMMUNITY REGIONAL MEDICAL CENTER,
et al.,

Defendants.

1:08-cv-00372 OWW SMS

ORDER RE PLAINTIFF'S REQUEST
TO FILE A LIMITED REPLY TO
DEFENDANT'S OBJECTIONS TO
PLAINTIFF'S PROPOSED FINDINGS
OF FACT (DOC. 342)

Plaintiff requests leave to file a limited Reply to Defendant's Objections to Plaintiff's Proposed Findings of Fact regarding the issue of the video that was shown to the jury through witness Bianco. The video was admitted for impeachment purposes under the exception to Federal Rule of Civil Procedure 26 for evidence offered "solely for impeachment." In its objections to Plaintiff's Proposed Findings of Fact, Defendant stated: "[The video] counters the credibility of plaintiff's testimony on the first element plaintiff must prove to prevail, that he was disabled under the ADA." Plaintiff suggests that this language amounts to an admission that the video was "not

1 offered, nor intended to be offered, solely for impeachment
2 purposes and should have been excluded from the trial for a
3 violation of FRCP 26 - a failure to produce prior to trial...."
4 Doc. 342 at 2.

5
6 This is nonsensical for two reasons. First, language in
7 Defendant's objections does not reference any purpose other than
8 impeachment as to the evidence offered in support of a particular
9 element of Plaintiff's claim. Second, the evidence was admitted
10 for the purposes of impeachment only, limiting its use by the
11 advisory jury to that purpose only. The jury was appropriately
12 admonished. There is no basis for additional briefing on this
13 issue. The request to file a limited reply is DENIED.
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16 SO ORDERED
Dated: August 2, 2011

17 /s/ Oliver W. Wanger
18 United States District Judge.
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