

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

In Re Ryan Uehling

Case No. 1: 13-mc-00022-BAM

Kelly Nelson,

Plaintiff,

Millennium Laboratories, Inc., *et al.*,

Defendants.

**ORDER DENYING MILLENNIUM
LABORATORIES, INC.’S EX PARTE
APPLICATION TO SHORTEN TIME
ON ITS MOTION TO UNSEAL
PORTIONS OF RYAN UEHLING’S
DEPOSITION TESTIMONY**

*Pending in the United States District Court for the
District of Arizona as Case No. 2: 12-cv-01301-SLG*

I. INTRODUCTION

Currently before the Court is Millennium Laboratories, Inc.’s (“Millennium”) Ex Parte application to shorten time on its motion to unseal portions of Ryan Uehling’s deposition testimony. (Doc. 69.) A hearing was held on May 8, 2014. Counsel Stephanie Borchers appeared by telephone for Ryan Uehling. Ryan Eddings appeared by telephone for Millennium. Having considered the parties’ arguments and the entire record in this case, Millennium’s Ex Parte Application is DENIED.

II. DISCUSSION

Local Rule 144(e) governs ex parte applications to shorten time. “Ex Parte applications to shorten time will not be granted except upon affidavit of counsel showing a satisfactory explanation for the need for the issuance of such an order” L.R. 144(e). Courts in the Fresno Division of Eastern District of California have interpreted this rule to require a showing of “good cause” to hear

1 a motion on shortened time. *See, Flores v. Merced Irr. Dist.*, No. 09-cv-1529-LJO-DLB, 2010 WL
2 4877795 (E.D. Cal., Nov. 23, 2010) (“Plaintiff has not demonstrated good cause to hear the motion
3 on shortened time.”)

4 Millennium has not shown good cause to hear its motion to unseal on shortened time.
5 Millennium argues the approaching trial date in the underlying *Nelson* litigation – July 29, 2014 –
6 creates the need for expedited relief. The proximity of the *Nelson* trial date is not good cause for
7 expedited consideration of Millennium’s motion to unseal. As the Court explained during the May
8 8, 2014 hearing, there numerous remedies Millennium can seek at trial from the *Nelson* court
9 concerning Mr. Uehling’s testimony. Moreover, Millennium’s regularly noticed motion, currently
10 set for hearing on May 30, 2014, provides ample time for this Court to consider the matter before the
11 *Nelson* trial.

12 Millennium also argues that “Uehling continues to disobey this Court’s June 27, 2013 Order
13 [, and] Millennium intends to move to hold Uehling in contempt” (Doc. 69, 2: 5-6.) The
14 Court’s June 27, 2013 ordered Mr. Uehling to sit for an additional deposition under seal, and has no
15 relation to the request before this Court. As a practical matter, if Mr. Uehling has refused to answer
16 certain questions, such conduct cannot possibly concern Millennium’s motion to unseal deposition
17 testimony because the testimony does not yet exist. Moreover, even if Mr. Uehling’s refusal to
18 answer certain questions was improper, this conduct does not create good cause to hear
19 Millennium’s motion to unseal on an expedited basis, especially since the defendants have copies of
20 the transcript. The issue of unsealing merely centers around their use at trial.

20 //
21 //
22 //
23 //
24 //
25 //
26 //
27 //
28 //

