

1 2018 order, Plaintiff failed to cooperate in his deposition, which lasted only a minute or a few minutes,
2 causing defense counsel to incur significant costs and expenses travelling and preparing for the
3 deposition. (Doc. 287.) Defendants filed a motion to compel and for sanctions, including terminating
4 sanctions, based on Plaintiff's refusal to participate in discovery. (Doc. 197.)

5 The Court issued an order on April 16, 2018, finding that Plaintiff willfully refused to be
6 deposed, impeding this litigation. The Court declined to recommend sanctions at that juncture, but
7 required that Plaintiff attend his deposition, to take place on a single day, and to be limited to seven (7)
8 hours, with reasonable breaks. Fed. R. Civ. P. 30(d)(1). The parties were ordered to meet and confer
9 and agree on a date for Plaintiff's deposition, to be taken on or before June 18, 2018.

10 **II. Motion for Protective Order**

11 Now, as stated above, Plaintiff has filed a motion for protective order, pursuant to Federal Rule
12 of Civil Procedure 26(c). Plaintiff asserts that he his colitis flare-ups, incontinence, and leg ulcers
13 prevent him from sitting in his deposition for any length of time beyond a few minutes. Therefore, he
14 seeks to be given two weeks, or fourteen (14) days, to complete the deposition, allowing him to
15 maintain his regular schedule of medical treatments, lunches, bathroom breaks, and other matters,
16 while being deposed. Plaintiff also declares that he does not believe any deposition of him is
17 necessary, and that "even with 10 depositions it will not change the outcome nor the facts in the
18 record." (Pls.' Decl., Doc. 316, at 6 ¶1.)

19 The Court does not find good cause to grant Plaintiff's request, or to otherwise excuse him
20 from being deposed. His request that his deposition occur over a fourteen-day period is excessive and
21 unduly burdensome. Plaintiff has declared that he wears diapers and needs breaks for changing them,
22 and may necessitate leg elevation due to circulation issues or swelling. The Court finds that reasonable
23 accommodations can be made for Plaintiff's health issues, meals, and bathroom breaks in the ordinary
24 course of conducting a single-day deposition. If the parties find themselves unable to complete a
25 single-day deposition in good faith, they may agree to reasonably extend the time, or seek court
26 intervention if necessary. *See* Fed. R. Civ. P. 30(d)(1). Plaintiff is required under the rules to submit
27 to a deposition.

1 Accordingly, the Court again directs the parties to meet and confer to schedule Plaintiff's
2 deposition to be taken on or before June 18, 2018. Defendants shall inform the Court within fourteen
3 (14) days whether the parties were able to come to an agreement and schedule Plaintiff's deposition,
4 or whether the Court should consider sanctions in this matter, including terminating sanctions.

5 **III. Conclusion**

6 For the reasons explained above, the Court HEREBY ORDERS that:

- 7 1. Plaintiff's motion for a protective order, filed on April 27, 2018 (Doc. 316), is denied;
- 8 2. The parties shall meet and confer to schedule Plaintiff's deposition to be taken on or
9 before **June 18, 2018**; and
- 10 3. Defendants shall inform the Court within **fourteen (14) days** whether the parties were
11 able to come to an agreement and schedule Plaintiff's deposition, or whether the Court
12 should consider sanctions in this matter.

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14 IT IS SO ORDERED.

15 Dated: May 4, 2018

16 /s/ Barbara A. McAuliffe
17 UNITED STATES MAGISTRATE JUDGE
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