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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRIAN DAWE, individually and d/b/a  
FLAT IRON MOUNTAIN ASSOCIATES;  
FLAT IRON MOUNTAIN ASSOCIATES,  
LLC, formerly known as Flat Iron Mountain  
Associates, a Partnership,

Plaintiffs,

CIV-S-07-1790 LKK EFB

vs.

CORRECTIONS USA, a California  
corporation; CALIFORNIA  
CORRECTIONAL PEACE OFFICERS  
ASSOCIATION, a California corporation;  
JAMES BAIARDI, an individual;  
DONALD JOSEPH BAUMANN, an  
individual;

Defendants.

ORDER

\_\_\_\_\_  
AND CONSOLIDATED ACTIONS AND  
RELATED CLAIMS  
\_\_\_\_\_

On November 2, 2009, Brian Dawe and Flat Iron Mountain Associates, LLC  
("Plaintiffs") filed a notice of motion and motion for a protective order "that forbids, or in the  
alternative significantly limits, the discovery proposed to be taken pursuant to the 'Notice of  
Taking Oral Deposition of Person(s) Most Knowledgeable for Flat Iron Mountain Associates,

1 LLC.” Dckt. No. 245. Concurrently with the motion for a protective order, Plaintiffs filed an  
2 ex parte application for an order shortening the time for that motion to be heard and a request for  
3 a stay of the deposition pending hearing on the motion. Dckt. No. 246. Plaintiffs state that they  
4 received a copy of the deposition notice at issue on November 2, 2009, and that the deposition  
5 notice commands the November 12, 2009 appearance of Flat Iron Mountain Associates, LLP’s  
6 person most knowledgeable for deposition concerning about 25 identified subject matter  
7 categories, and commands the production of 66 categories of documents. *Id.*

8 Eastern District of California Local Rule (“Local Rule”) 6-144(e) provides that  
9 “[a]pplications to shorten time shall set forth by affidavit of counsel the circumstances claimed  
10 to justify the issuance of an order shortening time [and] will not be granted except upon affidavit  
11 of counsel showing a satisfactory explanation for the need for the issuance of such an order and  
12 for the failure of counsel to obtain a stipulation for the issuance of such an order from other  
13 counsel or parties in the action.” Although Plaintiffs’ application does not explain why or  
14 whether Plaintiffs were unable “to obtain a stipulation for the issuance of such an order from  
15 other counsel or parties in the action,” and the application reveals that Plaintiffs have not yet met  
16 and conferred regarding their motion, in light of the deposition scheduled for November 12,  
17 2009 and the November 18, 2009 discovery deadline, Plaintiffs’ application for an order  
18 shortening time will nonetheless be granted. However, because Plaintiff’s motion for a  
19 protective order will be heard in advance of the deposition scheduled for November 12, 2009,  
20 Plaintiffs’ request for a stay of the deposition pending hearing on the motion is denied as moot.

21 Accordingly, IT IS ORDERED that:

- 22 1. Plaintiffs’ application for an order shortening time, Dckt. No. 246, is granted.
- 23 2. Plaintiffs’ request for a stay of the November 12, 2009 deposition pending hearing on  
24 Plaintiffs’ motion for a protective order, Dckt. No. 246, is denied.
- 25 3. Plaintiffs’ motion for a protective order, Dckt. No. 245, will be heard on November  
26 10, 2009, at 9:30 a.m. in Courtroom No. 25.

1           4. On or before 12:00 p.m. (noon) on Friday, November 6, 2009, Plaintiffs shall file a  
2 Joint Statement re Discovery Disagreement (“Joint Statement”), which complies with the content  
3 requirements of Local Rule 37-251, and provides (1) the specific disputed discovery category or  
4 item; (2) the response; (3) the moving party’s position; and (4) the opposition.<sup>1</sup> Before filing the  
5 Joint Statement, the parties are directed to meet and confer in good faith in an attempt to reach  
6 resolution of this dispute. A failure of any party to do so will result in denial of the motion  
7 and/or the issuance of sanctions. *See* Local Rule 37-251(d).

8           5. In addition to filing the Joint Statement electronically in .pdf format, Plaintiffs shall  
9 also submit the Joint Statement by email in Word or Word Perfect format to  
10 [efborders@caed.uscourts.gov](mailto:efborders@caed.uscourts.gov) by November 6, 2009, at 12:00 p.m. (noon). The email subject  
11 line must contain the words “Joint Statement,” as well as the case number.

12           SO ORDERED.

13           DATED: November 3, 2009.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE

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24           <sup>1</sup> Although Plaintiffs request “that any briefing on the matter not be due until sometime  
25 late next week,” that request is not feasible in light of the current timing constraints in this  
26 action, and is therefore denied. *See* Dckt. No. 246 at 2, n.1. If Plaintiffs are unable to prepare  
and file a Joint Statement on or before the November 6, 2009 deadline set forth herein, Plaintiffs’  
motion for a protective order will be deemed withdrawn and the November 10, 2009 hearing will  
be vacated.