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UNITED STATES DISTRICT COURT

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FOR THE EASTERN DISTRICT OF CALIFORNIA

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BRIAN DAWE; FLAT IRON
MOUNTAIN ASSOCIATES, LLC,
formerly known as FLAT
IRON MOUNTAIN ASSOCIATES,
a Partnership,

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Plaintiffs,

NO. CIV. S-07-1790 LKK/EFB

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v.

O R D E R

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

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Defendants.

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AND CONSOLIDATED ACTIONS &
RELATED COUNTERCLAIMS

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Defendants move to further modify the pretrial order to add additional witnesses and exhibits (Dkt. No. 373). The court heard this motion in connection with the hearings on the parties' motions in limine. For the reasons stated at the hearing, the court GRANTS the motion in part, permitting defendants to call Jeffrey Rogers

1 at trial. The motion is otherwise DENIED.


2 The court notes, however, that defendants may nonetheless call
3 witnesses designated by plaintiffs regardless of whether defendants
4 designated them themselves. See Final Pretrial Order, 50.
5 Therefore, defendants' motion is unnecessary as to Shannon Lahey,
6 the 42nd witness named on plaintiffs' witness list. Furthermore,
7 deposition transcripts need not be designated as exhibits. Final
8 Pretrial Order at 57:7-11. Accordingly, defendants may seek to
9 introduce portions of Brian Dawe's deposition notwithstanding the
10 court's denial of this motion.

11 No similar circumstance permits defendants to call John Dyer
12 or to introduce exhibit "26P," which defendants describe as
13 detailing "receipts, expenses, and email exchanges between
14 plaintiffs Brian Dawe and Richard Loud."

15 Furthermore, because defendants have admitted that the various
16 untimely errata resulted solely from counsel's carelessness,
17 counsel for defendants are collectively SANCTIONED \$300. This sum
18 shall be paid to the Clerk of the Court no later than twenty-one
19 (21) days from the date of this order. Counsel shall file an
20 affidavit accompanying the payment of this sanction which states
21 that it is paid personally by counsel, out of personal funds, and
22 is not and will not be billed, directly or indirectly, to the
23 client or in any way made the responsibility of the client as
24 attorneys' fees or costs.

25 IT IS SO ORDERED.

26 DATED: June 22, 2010.


LAWRENCE K. KARLTON
SENIOR JUDGE
2 UNITED STATES DISTRICT COURT