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

JACOB WINDING,

Plaintiff,

No. 2:09-cv-03526 KJM KJN PS

v.

ALLSTATE INSURANCE COMPANY  
and DOES 1 through 25, inclusive,

Defendants,

ORDER TO SHOW CAUSE

\_\_\_\_\_  
AND RELATED COUNTERCLAIM

\_\_\_\_\_/

On August 2, 2012, defendant and counter-claimant Allstate Insurance Company (“Allstate”) filed a motion to compel plaintiff’s compliance with Allstate’s request to permit its “attorneys, agents, employees, consultants and/or experts to enter upon and inspect the property located at 1127 W. Harding Way in Stockton, California.”<sup>1</sup> (Mot. to Compel at 1, Dkt. No. 142). Allstate also seeks sanctions. Allstate noticed its motion for an August 30, 2012 hearing date.

On June 7, 2012, United States District Judge Kimberly J. Mueller reopened discovery in this case for 90 days, to approximately September 5, 2012, but for a very limited

<sup>1</sup> This matter proceeds before the undersigned pursuant to Eastern District of California Local Rule 302(c)(1) and 28 U.S.C. § 636(b)(1).

1 purpose. (Memo. & Order, Dkt. No. 138.) Judge Mueller reopened discovery so that Allstate  
2 could depose witnesses that plaintiff failed to disclose until just prior to trial. (Memo. & Order  
3 at 2 (“Here, the court finds that good cause exists to grant defendant’s request to reopen  
4 discovery. Without the opportunity to depose those witnesses plaintiff intends to disclose,  
5 defendant would be genuinely prejudiced at trial. Indeed, at the final pretrial conference, the  
6 court intimated that it would be willing to reopen discovery for the limited purpose of deposing  
7 those witnesses plaintiff failed to properly disclose. (ECF 132 at 4:24-5:13.) As such,  
8 defendant’s motion to reopen discovery for 90 days is granted.”); see also Order, July 18, 2012,  
9 at 1, Dkt. No. 141 (denying plaintiff’s motion for reconsideration and stating that “[o]n June 8,  
10 2012, the court granted defendant’s motion to reopen discovery so that defendant could depose  
11 certain witnesses plaintiff failed to previously disclose”). Indeed, Judge Mueller’s order was in  
12 response to Allstate’s motion to reopen discovery, which only sought the relief ultimately  
13 granted. (Allstate’s Mot. to Reopen Discovery at 2 (“By this motion, Allstate seeks to re-open  
14 discovery in this insurance ‘bad faith’ case to allow depositions of certain individuals whom  
15 plaintiff failed to disclose properly before discovery closed, yet intends to produce at trial.”); see  
16 id. (“Allstate respectfully requests that the Court reopen discovery for a brief period of ninety  
17 days to allow for the depositions of plaintiff’s belatedly-disclosed witnesses.”).)

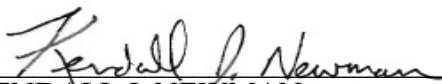
18 Judge Mueller reopened discovery for a limited purpose that does not include  
19 filing a motion to compel a property inspection that was noticed after the close of discovery.  
20 Nothing prohibits the parties from agreeing to such an inspection without court intervention.  
21 However, nothing in Judge Mueller’s orders suggests that discovery was reopened in a manner  
22 that permitted Allstate to file its motion to compel. As a result, the undersigned is strongly  
23 inclined to deny Allstate’s motion without prejudice to Allstate seeking an order from Judge  
24 Mueller reopening discovery for a broader purpose.

25 Accordingly, IT IS HEREBY ORDERED that on or before August 7, 2012, at  
26 5:00 p.m., Allstate shall show cause in writing why its motion to compel a property inspection is

1 properly before the court. Specifically, Allstate must identify an order of this court that reopened  
2 discovery in a manner that permits Allstate to file a motion to compel compliance with a property  
3 inspection.

4 IT IS SO ORDERED.

5 DATED: August 3, 2012

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9 KENDALL J. NEWMAN  
10 UNITED STATES MAGISTRATE JUDGE  
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