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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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ATPAC, INC., a California corporation,

NO. CIV. 2:10-294 WBS JFM

Plaintiff,

ORDER RE: STIPULATION FOR
EXTENDING SUPPLEMENTAL
BRIEFING

v.

APTITUDE SOLUTIONS, INC., a Florida corporation, COUNTY OF NEVADA, a California County, and GREGORY J. DIAZ, an individual,

Defendants.

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This matter came on for a hearing on March 14, 2011, on the motion for partial summary judgment filed by defendant Aptitude Solutions, Inc. ("Aptitude"). Plaintiff argued at the hearing that Aptitude's reply and oral argument had improperly raised new arguments and new evidence, and sought leave to file its own new arguments and evidence in response. The parties do not have a right to introduce such new arguments or evidence. See Burnham v. City of Rohnert Park, No. C 92-1439, 1992 WL

1 672965, at *1 n.2 (N.D. Cal. May 18, 1992) ("[R]epley briefs are
2 limited in scope to matters either raised by the opposition or
3 unforeseen at the time of the original motion.").

4 The court nevertheless, in deference to the parties'
5 wishes, sought to accommodate counsel by allowing the new
6 arguments and evidence, giving plaintiff an opportunity to
7 respond, and giving Aptitude an opportunity to reply. The
8 parties now state that they need more than the month previously
9 allotted by the court in order to respond; indeed, they now ask
10 for a further three-month extension. This court has an
11 independent obligation to decide motions promptly, and is
12 unwilling to postpone decision on the pending motion any further.

13 Accordingly, the request for an extension of time to
14 file supplemental briefs is denied, and the court takes
15 Aptitude's motion for partial summary judgment (Docket No. 80)
16 under submission **without any supplemental briefing** or arguments.

17 IT IS SO ORDERED.

18 DATED: April 8, 2011

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21 WILLIAM B. SHUBB
22 UNITED STATES DISTRICT JUDGE
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