

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

No. C 04-0322 MMC ARB

FELIPE MATA,
Plaintiff,

v.

OWENS & MINOR, et al.,
Defendant

ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR RELIEF FROM JUDGMENT; DENYING PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT; SETTING ASIDE ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND VACATING JUDGMENT ENTERED THEREON; SETTING ASIDE CLERK'S TAXATION OF COSTS; SUSTAINING DEFENDANT'S OBJECTION

Before the Court are plaintiff's motions for relief from judgment, pursuant to Rules 60(b)(1) and 60(b)(6) of the Federal Rules of Civil Procedure, and to alter or amend judgment, pursuant to Rule 59(e). The matters came on regularly for hearing May 27, 2005. John E. Skeath appeared on behalf of plaintiff. Steven Spaulding and Leopoldo J. Chanco of Jedeikin, Spaulding, Meadows & Schneider appeared on behalf of defendant.

Having considered the papers filed in support of and in opposition to the motions, the arguments of counsel, and for the reasons stated on the record at the hearing, the Court rules as follows:

1. Plaintiff's motion for relief from judgment is hereby GRANTED, to the extent plaintiff seeks relief pursuant to Rule 60(b)(1), and DENIED, to the extent plaintiff seeks relief pursuant to Rule 60(b)(6).
2. Plaintiff's motion to alter or amend judgment is hereby DENIED.
3. The Court's order of April 5, 2005 granting defendant's motion for summary

1 judgment is hereby SET ASIDE, and the judgment entered April 7, 2005 thereon is hereby
2 VACATED.

3 4. The Clerk's notice of taxation of costs, filed May 4, 2005, is hereby SET ASIDE.

4 5. Defendant's objection to the Order Denying Motions to Compel and Motion for
5 Sanctions, and Granting Motion for Protective Order, filed February 22, 2005, is hereby
6 SUSTAINED, to the extent defendant objects to the denial of its motions to compel and the
7 granting of plaintiff's motion for a protective order.¹ Specifically, the non-expert discovery
8 cut-off is extended to September 16, 2005, for the limited purpose of allowing defendant to
9 take discovery on the issues of plaintiff's immigration status and driving conduct, and to
10 depose plaintiff's wife, who is not entitled to rely on the spousal privilege.²

11 **IT IS SO ORDERED.**

12
13 Dated: June 1, 2005

/s/ Maxine M. Chesney
MAXINE M. CHESNEY
United States District Judge

14
15
16
17
18
19
20
21
22
23
24
25 _____
26 ¹By order filed April 5, 2005, the Court denied the objection, to the extent defendant
objected to the denial of its motion for sanctions.

27 ²As set forth at the hearing on the motions, the non-expert cut-off is also extended
28 for the purpose of reserving subpoenas issued before the above-referenced order granting
summary judgment.