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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAGORDON SIMPSON,
Plaintiff,

No. C-06-4837 EMC

v.

**ORDER DENYING PLAINTIFF'S
MOTION FOR PROTECTIVE ORDER**OFFICER A. McNACK, *et al.*,
Defendants.**(Docket No. 109)**

Plaintiff has moved for a protective order, seeking to bar Defendants from taking any further deposition of him. Having reviewed the parties' briefs and accompanying submissions, as well as all other evidence of record, the Court hereby **DENIES** the motion.

Plaintiff is correct that, under Federal Rule of Civil Procedure 30(d), a deposition is ordinarily "limited to 1 day of 7 hours." Fed. R. Civ. P. 30(d)(1). However, the rule specifically makes an exception when the parties have stipulated otherwise or the Court has ordered otherwise. *See id.* In the instant case, the evidence indicates that the parties stipulated to a continued deposition of Plaintiff because Plaintiff had not produced all documents to Defendants at the time of his initial deposition. *See* Larsen Decl., Ex. A (Pl.'s Depo. at 175-76, 220); *see also id.* ¶ 3 (discussing off-the-record agreements). The evidence also reflects that the Court on multiple occasions indicated that Plaintiff should appear to complete his deposition. *See, e.g.*, Docket No. 95 (Order at 2); Docket No. 100 (Order at 2); Docket No. 105 (Order at 2). Therefore, on these grounds alone, Plaintiff's motion is denied.

1 Even if there were no stipulation by the parties and no order of the Court, the Court would
2 still deny Plaintiff's motion. Rule 30(d) provides that a court must allow for additional time
3 (consistent with Rule 26(b)(2)) beyond the one-day, seven-hour limit "if needed to fairly examine
4 the deponent." Fed. R. Civ. P. 30(d)(1). In the instant case, Defendants have made a sufficient
5 showing that additional time is needed to fairly examine the deponent. Most notably, there were
6 documents that Plaintiff did not produce prior to his first deposition such that Defendants were not
7 able to pursue certain lines of inquiry at the first deposition.

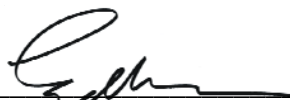
8 To ensure, however, that Plaintiff is not unduly burdened by a continued deposition, the
9 Court shall limit the continued deposition to a total of four hours (excluding breaks). The continued
10 deposition shall take place no later than November 25, 2009. The parties shall meet and confer to
11 select a date and time that is mutually agreeable to all parties.

12 Finally, the Court shall not address on the merits Defendants' request for an extension of the
13 discovery deadlines for themselves, but not for Plaintiff. It was not appropriate for Defendants to
14 raise this unrelated issue in their opposition; instead, they should have filed a separate motion for
15 relief. Given, however, that Plaintiff has now filed a motion to extend the discovery deadlines, *see*
16 Docket No. 111 (motion), the Court shall allow Defendants to move for alteration of discovery
17 deadlines as part of their opposition to Plaintiff's motion.

18 This order disposes of Docket No. 109.

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20 IT IS SO ORDERED.

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22 Dated: November 6, 2009

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26 EDWARD M. CHEN
27 United States Magistrate Judge
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GORDON SIMPSON,
Plaintiff,

No. C-06-4837 EMC

v.

CERTIFICATE OF SERVICE

OFFICER A. McNACK, *et al.*,
Defendants.

_____ /

I, the undersigned, hereby certify that I am an employee in the U.S. District Court, Northern District of California. On the below date, I served a true and correct copy of the attached, by placing said copy/copies in a postage-paid envelope addressed to the person(s) listed below, by depositing said envelope in the U.S. Mail; or by placing said copy/copies into an inter-office delivery receptacle located in the Office of the Clerk.

GORDON SIMPSON
27817 Norwich Way
Hayward, CA 94545
510-887-0394

PRO SE

Dated: November 6, 2009

RICHARD W. WIEKING, CLERK

By: _____ /s/
Leni Doyle
Deputy Clerk