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

KIMBERLY FREEMAN,

Plaintiff,

No. C 06-04900 JSW

v.

MICHAEL J. ASTRUE,

Defendant.

ORDER RE PRETRIAL ISSUES

The Court has received the parties' statement regarding remaining pretrial issues and orders as follows:

(1) The parties shall file, and provide in Word Perfect on a CD to chambers by no later than 9:30 a.m. on December 1, 2008, the proposed clarifying instruction they seek to have given to the jury;

(2) Vicky Currey shall appear as a witness on December 10, 2008 and shall continue to appear, if necessary, on December 11, 2008;

(3) Plaintiff shall meet and confer with Defendant regarding the availability of Peter Spencer to testify and shall send a subpoena to Mr. Spencer to appear on such available date;

(4) Plaintiff identified Janice Cambell, Charlie Estudillo, and Scott Incardona in her witness list submitted with the parties' pretrial submissions. Defendant failed to file a motion *in limine* to exclude these witnesses and, thus, waived the ability to move to exclude them based on Plaintiff's alleged failure properly to disclose them. Defendant failed to list Steve Korn in

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his witness list submitted with the parties' pretrial submissions and thus is precluded from calling Mr. Korn as a witness at trial;

(5) Sally White may testify outside of the presence of the jury; and

(6) The parties shall provide a copy of their proposed special verdict forms in Word Perfect on a CD to chambers by no later than 9:30 a.m. on December 1, 2008.

IT IS SO ORDERED.

Dated: November 25, 2008



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE