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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 DEFENDANT'S  
MOTION FOR LEAVE TO FILE A  
MOTION FOR  
RECONSIDERATION**

Now before the Court is the motion for leave to file a motion for reconsideration filed by Defendant regarding the Court's order on pretrial issues dated November 25, 2008. Based upon the Court's initial understanding that Defendant failed to list Steve Korn in his witness list submitted with the parties' pretrial submissions, the Court ruled that Defendant was precluded from calling Mr. Korn as a witness at trial. Upon receipt of Defendant's motion for leave to file a motion for reconsideration, the Court examined the witness list again and observed that Defendant had in fact disclosed Mr. Korn. Therefore, because Plaintiff failed to file a motion *in limine* to exclude Mr. Korn as a witness, the Court finds that she waived the ability to move to exclude him. The Court thus reverses its previous ruling excluding Mr. Korn as a witness. Defendant may call Mr. Korn as a witness.

**IT IS SO ORDERED.**

Dated: December 1, 2008

  
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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE