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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
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7 BEVERLY KANAWI, et al.,

8 Plaintiffs,

No. C 06-05566 CRB (EDL)

9 v.

**ORDER GRANTING PLAINTIFFS'
MOTION TO SHORTEN TIME AND
DENYING PLAINTIFFS' EMERGENCY
MOTION TO COMPEL DEPOSITIONS OF
DEFENDANTS' EXPERTS**

10 BECHTEL CORP., et al.,

11 Defendants.
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15 On September 5, 2008, Plaintiffs filed a letter brief entitled "Emergency Motion," regarding
16 the parties' dispute over the depositions of Defendant Bechtel's experts, Stuart Lewis and Steven
17 Grenadier, and a Motion to Shorten Time to hear that emergency motion no later than September 8,
18 2008. In their Emergency Motion, Plaintiffs contend that Defendant Bechtel improperly refused to
19 produce Mr. Lewis for deposition on September 10, 2008 on the ground that Plaintiffs reserved their
20 right to depose Mr. Lewis for a second time after service of a rebuttal report, if any, by Mr. Lewis on
21 September 15, 2008. Therefore, Plaintiffs sought an order to compel Defendant Bechtel to produce
22 Mr. Lewis for deposition on September 10, 2008 and again between September 17, 2008 and
23 September 22, 2008 if he renders a rebuttal opinion. Plaintiffs also sought an order requiring
24 Defendant Bechtel to produce Mr. Grenadier for deposition on a date between September 17, 2008
25 and September 22, 2008.

26 Pursuant to the Court's request, Defendant Bechtel filed a response letter and supporting
27 documents on September 8, 2008, noting also that Plaintiffs did not formally notice Mr. Lewis'
28 deposition until September 5, 2008. See Taylor Decl. Ex. A. The Court has carefully reviewed all

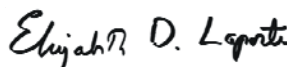
1 the briefing on this matter and finds that it is appropriate for decision without oral argument or
2 further briefing. For good cause shown, Plaintiffs' Motion to Shorten Time is granted.

3 Plaintiffs' reliance on In re Dynamic Random Access Memory (DRAM) Antitrust Litig.,
4 2006 WL 3462580 (N.D. Cal. Nov. 29, 2006) in support of their motion to compel is misplaced.
5 The DRAM court considered a request to take a second deposition of an expert where the expert
6 disclosures were phased under the court's scheduling order, which did not provide for defense
7 rebuttal reports, and the defendants sought to take a second deposition after the expert submitted a
8 rebuttal report raising new conclusions. Under those circumstances, and in the interest of fairness,
9 the DRAM court permitted the second deposition. DRAM, however, does not counsel the same
10 result here where the court's scheduling order provides for simultaneous initial and rebuttal expert
11 reports, and where there is time to take Mr. Lewis' deposition before the close of discovery.

12 Accordingly, Plaintiffs' Emergency Motion to Compel Mr. Lewis' deposition is denied. As
13 proposed by Defendant, Plaintiffs should either stipulation to briefly extend the deadline for rebuttal
14 reports or take Mr. Lewis' deposition after his rebuttal report is submitted on September 15, 2008.
15 Plaintiffs have not provided sufficient information to warrant an order regarding Mr. Grenadier's
16 deposition. Therefore, Plaintiffs' motion to compel Mr. Grenadier's deposition is denied.

17 **IT IS SO ORDERED.**

18 Dated: September 8, 2008

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21 ELIZABETH D. LAPORTE
22 United States Magistrate Judge
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