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12 UNITED STATES DISTRICT COURT
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14 NORTHERN DISTRICT OF CALIFORNIA
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16 SAN FRANCISCO DIVISION

16 SUSAN WYCKOFF, et al,)
17) Case Nos. C 07 3600 SI and C 07 2301 SI
17 and CHARLIE EAP,)
18) [PROPOSED] ORDER APPOINTING
18 Plaintiffs,) SPECIAL MASTER
19)
20 v.)
21 UNITED STATES OF AMERICA and)
21 DANIEL EARL SPERL,)
22)
23 Defendants.

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26 On March 10, 2007, the Wyckoff plaintiffs filed an administrative motion for modification
27 of case management order. In that motion, plaintiffs requested, among other things, that a
28 “briefing and hearing schedule shall be set for Plaintiffs’ Motion for Appointment of Special

1 Master for Discovery.” As grounds therefore, plaintiffs asserted in their motion: “The importance
2 of the ESI [electronically stored information] evidence on the central issues in the case, the
3 complexity of the disputed ESI discovery issues, the level of resistance and course of litigation of
4 the ESI issues by the government, and the resources the discovery proceedings are taking from the
5 Court all justify consideration of a special discovery master going forward.” The government
6 opposed plaintiffs’ administration motion.
7

8 Plaintiffs’ administrative motion was discussed during a telephone conference, which
9 occurred on March 17, 2009, in which all parties, through their attorneys of record, participated.
10 During that telephone conference, the Court indicated that it would appoint a Special Master to
11 handle discovery disputes, and directed the parties to meet and confer regarding candidates for
12 appointment. On March 19, 2009, the parties advised the Court that they had selected the Hon.
13 Read Ambler (Ret.) of JAMS.
14

15 Pursuant to F.R.C.P. 53(a)(1)(C), the Court hereby appoints the Hon. Read Ambler (Ret.)
16 as Special Master to handle all discovery disputes, except as noted below, notwithstanding the
17 lack of consent by all the parties, because such disputes cannot be effectively and timely
18 addressed by an available district judge or magistrate judge of the district.
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20 The Special Master is directed to proceed with all reasonable diligence.
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22 The Special Master is directed to handle all pending and future discovery disputes, except
23 for (1) the March 31, 2009, telephone conference with Magistrate Judge Zimmerman concerning
24 plaintiffs’ request that the government produce the results of the computer backup tape project in
25

native file format; and (2) plaintiffs' anticipated motion for sanctions based on alleged spoliation of evidence.

The Special Master may communicate ex parte with the Court but not with the parties, unless the parties so stipulate.

All parties will e-file all filings and materials submitted to the Special Master, and the Special Master will e-file all orders, findings, and recommendations that he may issue.

Consistent with the case management dates set forth in the Court's Second Pretrial Order attached hereto, the Special Master will establish the procedures for adjudication of the discovery disputes tendered to him.

Unless otherwise directed by the Special Master and approved by the Court, compensation for the Special Master will be allocated as follows: Wyckoff plaintiffs (25%); Eap Plaintiff (25%); Defendant Sperl (25%); and Defendant USA (25%).

Unless the parties stipulate otherwise, the parties and the Special Master will comply with all other requirements of Rule 53.

Good cause appearing, it is so ordered.



Dated: _____

Hon. Susan Illston
United States District Judge

Approved as to form: _____

/S/

Jonathan Gertler
Counsel for Wyckoff Plaintiffs

/S/

Andy Davis
Counsel for Eap Plaintiff

[PROPOSED] ORDER APPOINTING SPECIAL MASTER
Case Nos. C 07-2301 SI and C 07-3600 SI

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/S/

Kristina Velarde
Counsel for Defendant Sperl

/S/

James A. Scharf
Counsel for Defendant USA

/S/

Hon. Read Ambler (Ret.)

[PROPOSED] ORDER APPOINTING SPECIAL MASTER
Case Nos. C 07-2301 SI and C 07-3600 SI