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

BILL A DUFFY,

Plaintiff,

v.

MERLE SCOTT,

Defendant.

No. C-08-00878 EDL

**ORDER GRANTING IN PART
DEFENDANT'S RENEWED MOTION TO
EXTEND FACT DISCOVERY CUTOFF
DATE**

On January 28, 2009, Defendant filed a renewed motion to extend the fact discovery cutoff to February 27, 2009, primarily to conduct the depositions of David Griffin, Megan Compain and Julie Neumann. Plaintiff filed an opposition to this motion on February 2, 2009. This matter is appropriate for decision without oral argument.

As described in the Court's December 18, 2008 Order Denying Without Prejudice Defendant's Motion to Extend Fact Discovery Cutoff Date, the fact discovery cutoff date has already been extended once with agreement by all parties, and the Court gave Defendant leave to take additional limited discovery after that date. The Court also stated in that Order that the Court was not inclined to grant any further continuances absent "strong good cause." See Dec. 18, 2008 Order at 2.

Defendant now seeks extension of the fact discovery cutoff date to February 27, 2009. Defendant primarily argues that an extension is necessary to take the depositions of Mr. Griffin, Ms. Campain and Ms. Neumann based on statements made by Plaintiff at his January 22, 2009

1 deposition. It appears, however, that these three individuals had important roles in the events that
2 gave rise to this lawsuit and that Defendant was aware of them well before the January 22, 2009
3 deposition of Plaintiff. As was the case when Defendant previously sought to extend the fact
4 discovery cutoff, it appears that the inability of Defendant to complete this discovery in a timely
5 manner was essentially due to Defendant's counsel's lack of diligence. However, neither party has
6 made initial disclosures so neither party is fully aware of the other's witness list. Moreover, the
7 Court notes that the parties had previously agreed to extend the discovery cutoff date to February 17,
8 2009.

9 Therefore, on balance, the Court grants in part Defendant's renewed request for an extension
10 of the discovery cutoff date. The discovery cutoff date is extended to permit Defendant to take one
11 additional deposition only. In all other respects, Defendant's renewed request for an extension is
12 denied. The deposition shall take place as soon as possible and at a time and place that is convenient
13 for both the witness and Plaintiff's counsel.

14 **IT IS SO ORDERED.**

15 Dated: February 10, 2009

Elizabeth D. Laporte

ELIZABETH D. LAPORTE
United States Magistrate Judge

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