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 9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION

13 ERIC SEDIE,)	No. C-08-4417 EDL
14 Plaintiff,)	STIPULATION AND [PROPOSED]
15 v.)	ORDER TO ADMIT DEPOSITION
16 UNITED STATES OF AMERICA,)	TESTIMONY OF AARON HAYASHI,
17 Defendant.)	M.D. DUE TO UNAVAILABILITY
)	DURING TRIAL

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 19 WHEREAS, the deposition of Aaron Hayashi, M.D. (“Dr. Hayashi”) took place on
 20 November 24, 2009 in San Jose, California, during which counsel for the defendant United
 21 States (“ Federal Defendant”) and counsel for plaintiff, Eric Sedie (“Plaintiff”) conducted an
 22 examination of Dr. Hayashi regarding issues in the above-captioned action;

23 WHEREAS, such deposition was transcribed by a certified court reporter;

24 WHEREAS, Dr. Hayashi will be on duty in a hospital in Martinez, California during the
 25 week of February 1, 2010 through February 5, 2010 from the hours of 8:30 a.m. until 5:00 p.m.,
 26 and it would pose a hardship on Dr. Hayashi to appear for trial due to this conflict;

27 WHEREAS, by and through their counsel, the parties, agreed to submit portions of Dr.
 28 Hayashi’s deposition testimony as given on November 24, 2009 in lieu of live testimony;

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WHEREAS, both parties have designated portions of the deposition transcript as attached hereto as exhibits A and B;

ACCORDINGLY, the parties by and through their undersigned counsel hereby stipulate that the deponent Dr. Hayashi is unavailable for trial within the meaning of rule 804(a) of the Federal Rules of Evidence, and that the parties may submit the attached excerpts of the testimony given at his deposition on November 24, 2009, in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

So Stipulated

DATED: January 28, 2010

Respectfully submitted,

JOSEPH P. RUSSONIELLO
United States Attorney

/s

MELISSA K. BROWN
Assistant United States Attorney

/s

Dated: January 28, 2010

JEREMY CLOYD
Attorney for Plaintiff

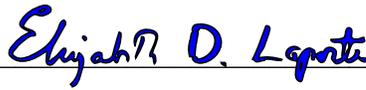
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[PROPOSED] ORDER

Pursuant to the stipulation of the parties, the Court will allow the parties to proffer portions of the deposition testimony of Aaron Hayashi, M.D. taken on November 24, 2009 that were submitted as exhibits A and B with the parties' Stipulation To Admit Deposition Testimony of Aaron Hayashi, M.D. Due to Unavailability During Trial for admission into evidence in lieu of the live testimony of Aaron Hayashi, M.D.

IT IS SO ORDERED

Dated: January 29, 2010


ELIZABETH D. LAPORTE
United States Magistrate Judge