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United States District Court
For the Northern District of California

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

GORDON ERSPAMER,

No. C-08-4692 MMC

Plaintiff,

**ORDER DENYING DEFENDANT’S
MOTION FOR RELIEF FROM NON-
DISPOSITIVE PRETRIAL ORDER**

v.

MORRISON & FOERSTER LLP LONG
TERM DISABILITY PLAN,

Defendant

_____ /

Before the Court is defendant Morrison & Foerster LLP Long Term Disability Plan’s “Motion for Relief from Non-Dispositive Pretrial Order of Magistrate Judge,” filed May 28, 2010, by which defendant objects to certain statements in Magistrate James Larson’s Order of May 18, 2010 (“Order”)

In said Order, Magistrate Judge Larson set a briefing schedule and hearing date for plaintiff Gordon Erspamer’s Motion to Quash or for a Protective Order, filed May 15, 2010. In so doing, Magistrate Judge Larson noted that defendant had propounded “numerous document requests and noticed multiple depositions,” which Magistrate Judge Larson described as “clearly excessive” and “unenforceable” in light of his interpretation of this Court’s Order of April 20, 2010. Defendant objects to the above-referenced commentary, on the ground such remarks constitute a premature determination of plaintiff’s motion prior

1 to affording defendant an opportunity to file its response thereto. The Court disagrees.

2 Read in context, the challenged statements in Magistrate Judge Larson's Order are
3 preliminary in nature, as plaintiff's motion has not been granted, either in whole or in part.

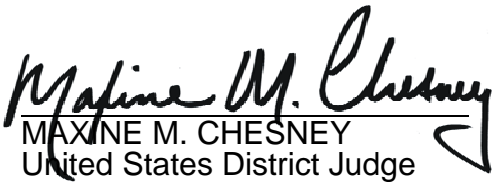
4 Indeed, there would have been no need to set a briefing schedule had Magistrate Judge
5 Larson intended by his inclusion of such comments to resolve plaintiff's motion. Further,
6 the inclusion thereof may assist the parties in resolving or limiting the instant discovery
7 disputes, whether through the meet and confer process or otherwise, and/or provide
8 guidance to defendant with respect to the showing it might wish to make in its opposition.

9 In sum, the Court finds the inclusion of the challenged content was neither clearly
10 erroneous nor contrary to law. See 28 U.S.C. § 636(b)(1)(A).

11 Accordingly, defendant's Motion for Relief is hereby DENIED.

12 **IT IS SO ORDERED.**

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14 Dated: June 8, 2010

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16 MAXINE M. CHESNEY
17 United States District Judge

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