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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 PHILLIP TEMPLE,

No. C 09-02124 SI

9 Plaintiff,

**ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL FURTHER
DEPOSITION TESTIMONY**

10 v.

11 GUARDSMARK, LLC,

(Docket No. 75)

12 Defendant.
13 _____/

14 Plaintiff has filed a motion to compel additional deposition testimony from Guardsmark's
15 Regional Manager, Mike East. Plaintiff deposed Mr. East on May 21, 2010. During the deposition,
16 counsel attempted to question Mr. East regarding whether Guardsmark security guards are authorized
17 and permitted to take rest breaks. The gist of the line of questioning now at issue is as follows.
18 Plaintiff's counsel asked Mr. East whether Guardsmark employees are permitted to take rest breaks and
19 "ignore the client work site for 10 minutes twice a day." Defense counsel objected to the question. Mr.
20 East answered that the guards "can take a 10-minute off-duty break," but stated, "[i]gnore, I don't know
21 what that's about." Plaintiff's counsel then repeated the same "ignore" question several more times, and
22 received the same answer from Mr. East. After this exchange played out for several more minutes with
23 intermittent objections from the defense, defense counsel finally stated, "The question is defective,
24 intentionally so, and ambiguous and compound. . . . And it has been asked and answered several times."
25 Plaintiff's counsel responded, "I'm going to get a court order to get an answer to this question."

26 In moving to compel Mr. East to answer the disputed question, plaintiff asserts that Mr. East was
27 "evading" the line of questioning. Plaintiff now explains that he was seeking an answer to the question
28 of whether security guards are "in fact relieved of all work duties during breaks." Plaintiff fails to

1 explain, however, why counsel did not reword his question to Mr. East, or even explain what he meant
2 by the vague term “ignore,” once it was clear that Mr. East did not understand the question. If counsel
3 wanted an answer to the question whether security guards are relieved of work duties during their
4 breaks, counsel should have phrased the question this way. Plaintiff is not entitled to compel any further
5 deposition testimony from Mr. East, and the motion to compel is DENIED.

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7 **IT IS SO ORDERED.**

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9 Dated: July 27, 2010



SUSAN ILLSTON
United States District Judge