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**United States District Court**  
For the Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JANE DOE, a minor, through KRISTEN D.,  
Guardian ad Litem,

Plaintiff,

v.

WILLITS UNIFIED SCHOOL DISTRICT,  
et al.,

Defendants.

No. C-09-03655-JSW (DMR)

**ORDER RE DEFENDANTS’  
APPLICATION TO ADVANCE  
HEARING DATE ON DEFENDANTS’  
MOTION TO COMPEL DEPOSITION  
OF PLAINTIFF**

On May 6, 2010, Defendants e-filed an *Ex Parte* Application to Advance the Hearing Date on Defendants’ Motion to Compel Deposition of Plaintiff. *See* Docket No. 65. Plaintiff did not file an opposition to Defendants’ Application. *See* Civ. L.R. 6-3 (c) (requiring any opposition to a motion to shorten time to be filed no later than four (4) days after receiving the motion). Having reviewed Defendants’ moving papers and the accompanying declaration of Marina B. Pitts, the Court DENIES Defendants’ Application to Advance the Hearing Date in part, and GRANTS it in part.

**I. BACKGROUND**

On April 1, 2010, the parties in this action submitted to Judge White a joint letter brief detailing their discovery dispute regarding the deposition of Plaintiff. On April 7, 2010, the discovery dispute was referred to this Court. On April 28, 2010, Defendants Willits Charter School

1 and Sally Rulison e-filed (1) a Motion to Compel Deposition of Plaintiff and (2) a Motion for  
2 Sanctions. Defendants noticed June 1, 2010 (34 days after the filing date) for a hearing on the  
3 motions. *See* Docket Nos. 53, 55. The following day, on April 29, 2010, Defendants re-noticed the  
4 motions for a hearing on June 10, 2010. *See* Docket Nos. 57, 59. The Court advised Defendants’  
5 counsel that (1) pursuant to the Court’s Standing Order, parties should confirm the Court’s  
6 availability on the Court’s on-line calendar prior to noticing a motion, and (2) June 10, 2010 had  
7 been previously marked as unavailable on the on-line calendar. On May 4, 2010, Defendants again  
8 re-noticed the motions for a hearing on June 24, 2010. *See* Docket Nos. 61, 63.

9 The last day for all discovery in this action is July 9, 2010. *See* Docket No. 17 (Judge  
10 White’s Scheduling Order, Dec. 7, 2009). Based on the impending discovery deadline, Defendants  
11 have moved for an order advancing the hearing date on the Motion to Compel Deposition from June  
12 24, 2010 to “no later than June 10, 2010 in order to allow the defendants time to complete the  
13 deposition process and adequately prepare any follow up discovery.” *See* Docket No. 65  
14 (Application re Motion to Compel Deposition at 3-4).

## 15 **II. DISCUSSION**

16 Under Civ.L.R. 6-3(a) and (d), the Court may grant a motion to hear a motion on shortened  
17 time if the moving party: (1) sets forth with particularity, the reasons for the requested shortening of  
18 time; (2) describes the efforts the party has made to obtain a stipulation to the time change; (3)  
19 identifies the substantial harm or prejudice that would occur if the Court did not change the time; (4)  
20 describes the moving party’s compliance with Civ.L.R. 37-1(a); (5) describes the nature of the  
21 underlying dispute that would be addressed in the motion and briefly summarizes the position each  
22 party had taken; (6) discloses all previous time modifications in the case, whether by stipulation or  
23 Court order; and (7) describes the effect the requested time modification would have on the schedule  
24 for the case.

25 Although Defendants state that their discovery motion must be heard “no later than June 10,  
26 2010 in order to allow the defendants time to complete the deposition process and adequately  
27 prepare any follow up discovery, in order to allow the timely preparation and filing of a dispositive  
28 motion,” *see* Docket No. 65 (Application re Motion to Compel Deposition at 3-4), the Court finds

1 that Defendants do not set forth with sufficient particularity the reasons for the requested shortening  
2 of time. Specifically, Defendants do not describe why a hearing on June 24, 2010 precludes the  
3 parties' compliance with the July 9, 2010 discovery cutoff; nor do Defendants explain the  
4 significance of June 10, 2010 as the last date for hearing that would allow compliance. Furthermore,  
5 Defendants do not describe their efforts to obtain a stipulation to the time change, as required by  
6 Civ.L.R. 6-3(a). Nonetheless, the Court underscores that because no opposition has been filed,  
7 Plaintiff appears to have no objection to a motion hearing earlier than the 35-day noticed motion  
8 required under Civ.L.R. 7-2. Moreover, in light of the July 9, 2010 discovery cutoff and the unusual  
9 circumstance of the Court's unavailability on two Civil Law and Motion dates during May and June,  
10 the Court finds that some shortening of time is appropriate.

11 **III. CONCLUSION**

12 For the foregoing reasons, the Court DENIES Defendants' Application to Advance the  
13 Hearing Date in part, and GRANTS it in part. The Court denies Defendants' request to set the  
14 hearing on the Motion to Compel Deposition no later than June 10, 2010. However, Defendants'  
15 Motion to Compel Deposition will be heard on **June 16, 2010**. Accordingly, the briefing schedule  
16 for Defendants' Motion to Compel Deposition of Plaintiff shall be as follows:

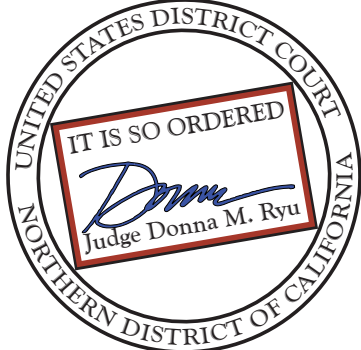
17 Plaintiff's opposition shall be filed by no later than **May 26, 2010**.

18 Defendants' reply to Plaintiff's opposition shall be filed by no later than **June 2, 2010**.

19 On **June 16, 2010**, the hearing on Defendants' Motion to Compel Deposition of Plaintiff will  
20 be held at **3:00 p.m.** in Courtroom 4, 3rd Floor, U.S. District Court, 1301 Clay Street, Oakland,  
21 California 94612.

22  
23 **IT IS SO ORDERED.**

24  
25 Dated: May 12, 2010



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27 **DONNA M. RYU**  
United States Magistrate Judge