

UNITED STATES DISTRICT COURT
Northern District of California

TABITHA TOTAH,

Plaintiff,

No. C 09-4051 MMC (MEJ)

v.

LUCASFILM ENTERTAINMENT CO.,

**ORDER RE: DISCOVERY DISPUTES
(DKT. ##49, 50)**

Defendant.

Before the Court are two joint discovery dispute letters, filed August 25, 2010. (Dkt. ##49, 50.) The first letter addresses a dispute regarding Plaintiff's Independent Medical Examination. ("Joint Letter 1," Dkt. #49.) The second letter addresses a dispute regarding the deposition of Howard Roffman. ("Joint Letter 2," Dkt. #50.). Upon careful review of the parties' positions, the Court ORDERS as follows.

A. Length of Plaintiff's IME (Joint Letter 1)

In Joint Letter 1, the parties dispute how long Defendant's forensic psychiatrist, Dr. Mark Levy, should have to conduct Plaintiff's Independent Medical Examination ("IME"). Defendant asserts that Plaintiff's allegations of severe, continuing emotional distress, entitle it "comprehensive, psychiatric medical examination, including a complete battery of psychological tests." (Joint Letter 1 at 2.) Defendant maintains that Dr. Levy typically requires two days for such testing: 4 to 6 hours on the first day for psychological testing and another 4 to 6 hours on the second day for a psychiatric interview/assessment. *Id.* At a minimum, Defendant requests one day of 8 hours: 4 hours in the morning and another 4 hours in the afternoon. *Id.*

In response, Plaintiff argues that Defendant's request is "both overly intrusive and unnecessary." *Id.* Plaintiff does not appear to object to an IME, just the amount of time. She requests that the Court permit either 4 hours on one day or one day with 3 hours in the morning and 3 hours in the afternoon.

Upon review of the parties' arguments, the Court finds that the length of the proposed exam is reasonable and appropriate given Plaintiff's emotional distress claims. Accordingly, the Court

1 GRANTS Defendant's request. The IME shall be limited to 8 hours, and Plaintiff shall choose
2 whether it is completed in one day or divided into two days of 4 hours.

3 **B. Deposition of Howard Roffman (Joint Letter 2)**

4 In Joint Letter 2, Plaintiff seeks to take a second day of deposition to complete her seven
5 hours of deposition of Howard Roffman, President of Licensing at Lucasfilm. (Joint Letter 2 at 2.)
6 Plaintiff has deposed Mr. Roffman for 2.5 hours already and requests an additional 4.5 hours.

7 In response, Defendant requests that the additional deposition time be limited to questions regarding
8 documents produced by Defendant subsequent to the day of Mr. Roffman's initial deposition. *Id.*

9 Plaintiff initially deposed Mr. Roffman on February 26, 2010, from 9:00 a.m. to 11:30 a.m.
10 *Id.* According to Defendant, at 11:30 a.m. that day, Plaintiff completed her questions, even though
11 Defendant advised her that Mr. Roffman was available until 12:30 p.m. *Id.* Plaintiff reserved her
12 right to resume the deposition at a later date, but Defendant stated on the record that the witness
13 would not be produced for a second day of deposition, except for questions about documents
14 produced to Plaintiff after the deposition. *Id.* Plaintiff subsequently noticed the continued
15 deposition in August for 4.5 hours. *Id.* at 3. Defendant replied that Mr. Roffman would be
16 available, but only to answer questions related to documents produced after his initial deposition.
17 *Id.*

18 Federal Rule of Civil Procedure 30(d)(1) limits the duration of a deposition to 1 day of 7
19 hours, unless otherwise stipulated or ordered by the court. Here, it is unclear why Mr. Roffman's
20 initial deposition was not scheduled for 7 hours. However, the Court finds it appropriate to permit
21 Plaintiff to depose him for the remaining 4.5 hours on any subject. Defendant has not established
22 why Plaintiff should not be permitted the full amount of time under Rule 30(d)(1). Accordingly, the
23 Court GRANTS Plaintiff's request to depose Mr. Roffman within the time limit of 3.5 hours on any
24 subject.

25 **IT IS SO ORDERED.**

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1 Dated: September 24 , 2010

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Maria-Elena James
Chief United States Magistrate Judge