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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELLEN HARDIN,
Plaintiff,

v.

MENDOCINO COAST DISTRICT
HOSPITAL, et al.,
Defendants.

Case No. 17-cv-05554-JST (TSH)

ORDER CONCERNING DEPOSITIONS

The Court had another call with the parties today about scheduling depositions. For the reasons stated on the record, the Court **ORDERS** that Amy McColley’s deposition shall take place on June 14, 2019 at 12:30 p.m. in San Francisco.

The situation with respect to Lynne Bradley’s deposition is less clear. Two days ago it was the Court’s understanding that Plaintiff alone had attempted to subpoena her. The Court observed that the subpoena was invalid because Bradley lives in Mexico. ECF No. 137. The Court noted that Bradley could make herself available for a deposition if she wanted to. *Id.* Subsequent to that hearing, it has now emerged that MCDH wants to depose Bradley whether or not Plaintiff does. Further, though MCDH has taken no steps to legally require Bradley to appear for a deposition, its attorneys are in contact with her, and she is willing to be deposed in San Francisco on July 1 or 2, dates that Plaintiff’s counsel is unavailable because of a scheduled medical procedure.

This is a completely different situation. It is one thing to tell the Plaintiff her subpoena is no good and that if she wants to depose Bradley she must either accept the dates the witness prefers or forego the deposition entirely – that is the consequence of an invalid subpoena. But it is another if MCDH can get a witness who is beyond the subpoena power of the Court to voluntarily appear for a deposition that it wants to take, and then to tell the Plaintiff that the only dates that

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will work are those when her counsel is unavailable. That's just unfair. The Court **ORDERS** the parties to meet and confer about alternative dates for Bradley's deposition. If there are none that will work before the close of fact discovery, the parties should consider submitting a stipulation and proposed order to the District Judge to allow this deposition to take place after the close of fact discovery.

IT IS SO ORDERED.

Dated: June 6, 2019


THOMAS S. HIXSON
United States Magistrate Judge