

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**
7 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN FRANCISCO DIVISION**
9

10 FRANCIE E. MOELLER, EDWARD
11 MUEGGE, KATHERINE CORBETT, and
12 CRAIG THOMAS YATES,

13 Plaintiffs,

14 v.

15 TACO BELL CORP.,

16 Defendant.
17

Case No. 02-cv-05849 PJH (NC)

**ORDER MODIFYING
DISCOVERY PROCEDURES
AND DENYING MOTION FOR
SANCTIONS**

Re: Docket Nos. 627, 631, 634, 641

18 In an attempt to address the parties' cross-complaints about the process for
19 scheduling depositions in this case, the Court ordered the parties to propose a new process
20 for noticing future depositions. Dkt. No. 631. The Court also ordered Plaintiffs' counsel
21 to provide to Taco Bell all dates on which they are available for depositions for the
22 remainder of 2011, and it ordered Taco Bell to do the same in addition to providing to
23 Plaintiffs the name of each witness Taco Bell intends to depose. *Id.* The parties
24 submitted a joint statement containing the requested information. Dkt. No. 634. Based
25 on this statement, the Court orders the following:
26
27
28

1 1. Process for Noticing Future Depositions

2 Depositions may be scheduled only for days on which both Plaintiffs' counsel and
3 Taco Bell's counsel are available. As to deposition notices for class members or
4 proposed class members, the noticing party must provide advance notice to opposing
5 counsel of the proposed deposition before serving a subpoena.

6 The parties must conduct any noticed deposition within thirty miles of the
7 deponent's home address, unless otherwise ordered by the Court.

8 Any party that instructs a witness not to appear at a properly noticed deposition
9 may be sanctioned by this Court.

10 2. Plaintiffs' List of Potential Trial Witnesses

11 Because the number of potential trial witnesses in this case is large, and because
12 the time for taking depositions is limited, Plaintiffs must file and serve an updated list of
13 expected trial witnesses by November 18, 2011.

14 3. Taco Bell's List of Deponents

15 No more than seven calendar days after Plaintiffs file their updated list of trial
16 witnesses, Taco Bell must provide to Plaintiffs a list of persons it intends to depose, and
17 the proposed dates and locations of the depositions.

18 4. Plaintiffs' Motion for Sanctions Against Taco Bell

19 Plaintiffs moved for sanctions against Taco Bell under 28 U.S.C. § 1927 and Civil
20 Local Rule 1-4. Dkt. No. 627. The Court granted in part Plaintiffs' motion on October 5,
21 2011, by granting Plaintiffs' request to quash a deposition noticed by Taco Bell, but it
22 reserved ruling on the remaining issues asserted in the motion, namely whether Taco Bell
23 should be sanctioned for allegedly violating Civil Local Rule 30-1 by noticing depositions
24 without first conferring with Plaintiffs about the scheduling of such depositions. Dkt. No.
25 641.

1
2 The Court finds that counsel for both parties contributed equally to the
3 disagreement about scheduling depositions. Plaintiffs' motion for sanctions with respect
4 to Taco Bell's alleged violation of Civil Local Rule 30-1 is therefore DENIED.

5 IT IS SO ORDERED.

6
7 DATED: November 9, 2011

8 
9 NATHANAEL M. COUSINS
United States Magistrate Judge