

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3

4 MARTIN MURRAY, on behalf of
5 himself and all others similarly
6 situated,

6 Plaintiff,

7 v.

8 SEARS, ROEBUCK AND CO., et al.,

9 Defendants.
10 _____/

No. C 09-5744 CW

ORDER GRANTING IN
PART PLAINTIFF'S
MOTION FOR
EXTENSION OF TIME
(Docket No. 162)

United States District Court
For the Northern District of California

11 On November 2, 2012, Plaintiff Martin Murray filed a motion
12 to extend the class certification fact discovery deadline and for
13 leave to exceed the number of depositions permitted under Federal
14 Rule of Civil Procedure 30. Plaintiff specifically asks to extend
15 the discovery deadline from November 12, 2012 to November 26,
16 2012, so that he can take depositions of five additional
17 witnesses. Defendants Sears, Roebuck and Co. and Electrolux Home
18 Products, Inc. oppose the motion. They argue that the extension
19 of discovery is unwarranted because (1) Plaintiff has already
20 taken or noticed thirteen depositions at this point and
21 (2) Plaintiff has complete access to all of the documents produced
22 in a similar case currently pending in the Northern District of
23 Illinois, mitigating his need for further discovery here. See
24 Thorogood v. Sears, No. 1:06-cv-1999.

25 After reviewing the parties' papers, the Court finds that
26 Plaintiff has justified an extension of the November 12 discovery
27 deadline in order to depose two witnesses -- specifically, one
28 Content Manager for Sears' online laundry products and one new

1 Rule 30(b)(6) witness for Electrolux. Plaintiff has justified its
2 need for these depositions by showing that Defendants' previous
3 Rule 30(b)(6) witnesses were not qualified to testify in depth
4 about Defendants' marketing practices or content relating to the
5 specific appliances at the center of this litigation.

6 Plaintiff has not, however, shown why he needs to depose the
7 other three witnesses he identified in his motion. These other
8 witnesses appear unlikely to provide anything more than
9 duplicative testimony and Plaintiff has not made a "particularized
10 showing" of his need for their depositions. See Authentec, Inc.
11 v. Atrua Technologies, Inc., 2008 WL 5120767, *1 (N.D. Cal.) ("A
12 party seeking to exceed the presumptive number of depositions must
13 make a particularized showing of the need for the additional
14 discovery.").

15 Accordingly, the Court grants Plaintiff leave to depose two
16 additional witnesses on the issue of class certification, as
17 outlined above. Plaintiff shall notice these depositions
18 forthwith and Defendants shall provide responsive witnesses to sit
19 for them. The deadline for class certification fact discovery is
20 extended from November 12, 2012 to November 21, 2012. There is no
21 need to extend the deadline beyond the Thanksgiving holiday as
22 Plaintiff has requested.

23 IT IS SO ORDERED.

24
25 Dated: 11/8/2012


26 CLAUDIA WILKEN
27 United States District Judge
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