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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TODD ASHKER and DANNY TROXELL,

Plaintiffs,

v.

EDMUND G. BROWN, JR., et al.,

Defendants.

No. 09-05796 CW

ORDER GRANTING
PLAINTIFFS'
RENEWED MOTION
FOR TAPED
DEPOSITIONS

Pro se Plaintiffs Todd Ashker and Danny Troxell, inmates at Pelican Bay State Prison (PBSP), renew their motion for taping the depositions of Defendant G.H. Wise and Defendants' agent, Devan Hawkes. On May 5, 2011, the Court denied Plaintiffs' original motion as premature because Defendants had not yet answered the complaint. On May 5, 2011, Defendants filed their answer and Plaintiffs have filed this renewed motion. Defendants have filed an opposition.

Federal Rule of Civil Procedure 30 governs notice and requirements for taking depositions. Rule 30(3)(A) provides:

The party who notices the deposition must state in the notice the method for recording the testimony. Unless the court orders otherwise, testimony may be recorded by

1 audio, audiovisual, or stenographic means. The noticing
2 party bears the recording costs. Any party may arrange
to transcribe a deposition.

3 Under Rule 30(3)(A), Plaintiffs may decide whether to record
4 deposition testimony by any of three methods listed therein and
5 Plaintiffs have chosen to record it by audio recorder. However,
6 Defendants insist that there is only one way for Plaintiffs to take
7 depositions, and that is using a stenographer.

8 Defendants argue that Plaintiffs have failed to provide any
9 evidence that they do not have access to a stenographer or that
10 they cannot afford one. However, Rule 30 provides that any one of
11 three recording methods is proper; there is no preference for a
12 stenographer or need for parties to prove they cannot access or
13 afford a stenographer in order to notice a deposition using one of
14 the other two recording methods.

15 Defendants argue that taking depositions by tape recorder
16 would impose significant expenses on them because they would have
17 to employ extra staff to transport Plaintiffs to and from the
18 depositions, provide security for the depositions, provide the
19 means of recording the depositions, transcribe the depositions and
20 incur the expense of defense counsel traveling to PBSP in Crescent
21 City. Defendants do not provide evidence that taking the
22 depositions by recorder would cost them more than by stenographer.
23 Using either recording method, the expenses for transportation,
24 security and transcribing should be the same. Furthermore,
25 Plaintiffs have suggested that the recording take place in the PBSP
26 Secured Housing Unit Parole Board Hearing Room, so that efforts to
27 transport Plaintiffs would be minimal. Plaintiffs state that they

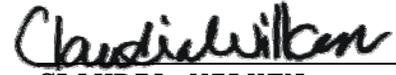
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1 depositions of Wise and Hawkes by audio recorder is granted.

2 IT IS SO ORDERED.

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4 Dated: 10/11/2011



CLAUDIA WILKEN
United States District Judge

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

4 TODD ASHKER et al,

Case Number: CV09-05796 CW

5 Plaintiff,

CERTIFICATE OF SERVICE

6 v.

7 ARNOLD SCHWARZENEGGER et al,

8 Defendant.

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,
10 Northern District of California.

11 That on October 11, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
14 in the Clerk's office.

15 Danny Troxell
16 Pelican Bay State Prison
17 B76578
18 P.O. Box 7500
19 D1-120
20 Crescent City, CA 95532

21 Todd Ashker C58191
22 Pelican Bay State Prison
23 P.O. Box 7500
24 D1-SHU
25 Crescent City, CA 95532

26 Dated: October 11, 2011

27 Richard W. Wiekling, Clerk
28 By: Nikki Riley, Deputy Clerk

United States District Court
For the Northern District of California