

United States District Court  
For the Northern District of California

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

UNITED STATES OF AMERICA and  
STATE OF CALIFORNIA ex rel. LOI  
TRINH and ED TA-CHIANG HSU,

Plaintiffs,

v.

NORTHEAST MEDICAL SERVICES, INC.,

Defendant.

No. C 10-1904 CW

ORDER DENYING  
MOTION FOR RELIEF  
FROM NON-  
DISPOSITIVE ORDER  
OF MAGISTRATE  
JUDGE (Docket No.  
133)

\_\_\_\_\_  
NORTH EAST MEDICAL SERVICES,  
INC.,

Plaintiff,

v.

CAL. DEP'T HEALTH CARE SERVICES,  
et al.,

Defendants.

No. C 10-2433 CW

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NORTHEAST MEDICAL SERVICES, INC.,

Plaintiff,

v.

CAL. DEP'T HEALTH CARE SERVICES,  
et al.,

Defendants.

No. C 12-2895 CW

\_\_\_\_\_  
LA CLINICA DE LA RAZA, INC.,

Plaintiff,

v.

CAL. DEP'T HEALTH CARE SERVICES,  
et al.,

Defendants.

No. C 10-4605 CW

1           On January 23, 2014, Northeast Medical Services, Inc. (NEMS)  
2 filed a motion for relief from Magistrate Judge Spero's January 9,  
3 2014 discovery order. After reviewing the discovery order and the  
4 joint discovery letter-brief submitted to Magistrate Judge Spero  
5 on December 10, 2013, the Court denies NEMS's motion.

6           First, Magistrate Judge Spero's decision to overrule NEMS's  
7 general objections to the Governments' discovery motions is  
8 supported by the local rules and, therefore, not contrary to law.  
9 Civil Local Rule 37-3 plainly allows parties to file motions to  
10 compel up to seven days after the close of discovery. The cases  
11 NEMS cites from outside of this district are inapposite.

12           Second, Magistrate Judge Spero's decision to order NEMS to  
13 submit to a Rule 30(b)(6) deposition is not clearly erroneous or  
14 contrary to law. NEMS has yet to produce a witness to be deposed  
15 on all of the subjects outlined in the Governments' deposition  
16 notice and these subjects are relevant to the Governments' case.  
17 Producing a witness for this deposition will not be unduly  
18 burdensome for NEMS, especially now that summary judgment briefing  
19 has concluded.

20           Finally, Magistrate Judge Spero's decision to quash NEMS's  
21 requests to depose Cindy Mann and Jim McCrae -- both high-level  
22 federal officials with limited knowledge of the specific facts at  
23 issue in this case -- is amply supported by law. The Governments  
24 cited numerous authorities in the joint letter-brief for the  
25 proposition that "top executive department officials should not,  
26 absent extraordinary circumstances, be called to testify regarding  
27 their reasons for taking official actions." Simplex Time Recorder  
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Co. v. Secretary of Labor, 766 F.2d 575, 586 (D.C. Cir. 1985).  
NEMS has not cited even a single case to counter that proposition.

CONCLUSION

For the reasons set forth above, NEMS's motion for relief from Magistrate Judge Spero's discovery order (Docket No. 133 in Case No. 10-1904) is DENIED. The Governments' request for leave to file a response brief (Docket No. 137 in Case No. 10-1904) is DENIED as moot.

IT IS SO ORDERED.

Dated: 2/4/2014

  
CLAUDIA WILKEN  
United States District Judge