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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**

5
6 **CHRISTOPHER SLAIGHT, ET AL.,**

7 Plaintiffs,

8 vs.

9 **TATA CONSULTANCY SERVICES, LTD,**

10 Defendant.

CASE NO. 15-cv-01696-YGR

**PRETRIAL ORDER NO. 5 RE: PLAINTIFFS’
MOTION TO PERMIT CONTEMPORANEOUS
TESTIMONY FROM A REMOTE LOCATION
UNDER RULE 43(A)**

Re: Dkt. No. 497

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12 The Court has reviewed plaintiffs’ motion to permit contemporaneous testimony from a
13 remote location pursuant to Rule 43(a). (Dkt. No. 497 (“Motion”).) As noted during the October
14 12, 2018 pretrial conference, this motion now only relates to Amit Jindal.¹ Jindal is TCS’s Head
15 of Immigration and works in TCS’s Rockville, Maryland office. (*Id.* at 7.) Plaintiffs would like to
16 question Jindal regarding “the number of expats that travel each year to the U.S. to staff positions
17 and associated filings/plans needed to enable expats to work in the U.S.” as well as audits by
18 PricewaterhouseCoopers and Ernst & Young. (*Id.*)

19 Pursuant to Rule 43(a), “[f]or good cause in compelling circumstances and with
20 appropriate safeguards, the court may permit testimony in open court by contemporaneous
21 transmission from a different location.” Fed. R. Civ. P. 43(a). Five elements factor into whether
22 good cause exists to permit live videoconference testimony: “(1) the control exerted over the
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25 ¹ Plaintiffs’ motion seeks to compel testimony via teleconference of six Tata Consultancy
26 Services, Ltd. (“TCS”) employees – Surya Kant, Narasimhan Srinivasan, Balaji Ganapathy,
27 Ashok Seetharaman, Vignesh Rangasamy, and Amit Jindal. (Motion.) However, as noted during
28 the parties’ pretrial conference on October 12, 2018, only Amit Jindal remains a subject of the
motion. TCS is planning to call Kant, Srinivasan, Ganapathy, and Seetharaman, as well as
Rangasamy’s supervisor, Geeta Gwalani, to testify at trial. Thus, and as also noted during the
conference, plaintiffs have agreed to withdraw the motion as it applies to Kant, Srinivasan,
Ganapathy, Seetharaman, and Rangasamy. Accordingly, the plaintiffs’ Rule 43(a) motion remains
only as to Jindal.


1 witness by the defendant; (2) the complex, multiparty, multi-state nature of the litigation; (3) the
2 apparent tactical advantage, as opposed to any real inconvenience to the witness, that the
3 defendant is seeking by not producing the witness voluntarily; (4) the lack of any true prejudice to
4 the defendant; and (5) the flexibility needed to manage a complex multi-district litigation.” 9A
5 Wright & Miler, Federal Practice & Procedure § 2414; *see also Draper v. Rosario*, 836 F.3d 1072,
6 1082-83 (9th Cir. 2016).

7 Although TCS employs, and therefore exerts some control, over Jindal and this suit is a
8 multiparty, multi-state, class action, in light of the availability of witnesses Kant, Srinivasan, and
9 Ganapathy, whom plaintiffs intend to ask about the PricewaterhouseCoopers and Ernst & Young
10 audit reports (Motion at 5-7), and the Court’s order granting in part defendant’s motion to exclude
11 at trial evidence of visa fraud, the Court finds that plaintiffs have not shown good cause in
12 compelling circumstances to compel remote testimony of Jindal. Accordingly, the Court **DENIES**
13 **WITHOUT PREJUDICE** plaintiffs’ motion to permit remote contemporaneous testimony.

14 This Order terminates Docket Number 497.

15 **IT IS SO ORDERED.**

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17 Dated: October 17, 2018


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE