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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
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12 ADVANCED MICROTHERM, INC., et al.,
13 Plaintiffs,
14 v.
15 NORMAN WRIGHT MECHANICAL
16 EQUIP. CORP., et al.,
17 Defendants.

Case No.: C 04-2266 JW (PVT)

**FURTHER INTERIM ORDER RE
PLAINTIFFS' MOTION FOR ORDER
REQUIRING WILLIAM SPENCER AND F.W.
SPENCER TO APPEAR FOR DEPOSITION
AND DEFENDANT F.W. SPENCER'S
MOTION FOR PROTECTIVE ORDER; AND
ORDER CONTINUING HEARING ON
MOTIONS**

18 Presently pending before the court are two related motions regarding the depositions of
19 William Spencer and Defendant F.W. Spencer & Son, Inc. ("F.W. Spencer"), and document requests
20 to F.W. Spencer. The court previously issued an interim order directing the parties to meet and
21 confer regarding dates certain for these two depositions, and directing Plaintiffs and Defendant F.W.
22 Spencer to file, no later than August 14, 2009, their respective proposals for the deposition dates if
23 no agreement could be reached. On August 17, 2009, both parties belatedly filed their respective
24 proposals for the deposition dates. From the declarations submitted, it appears that Plaintiffs and
25 Defendant F.W. Spencer tentatively agreed to September 4, 2009 and October 30, 2009 for the
26 depositions, with Defendant F.W. Spencer reserving its right to object to certain conditions Plaintiffs
27 seek to impose.

28 On August 17, 2009, counsel for Plaintiffs and Defendant F.W. Spencer contacted chambers

1 to request that the hearing on these motions set for August 18, 2009 be continued in light of progress
2 being made through their meet and confer efforts. The court thus took the hearing off calendar
3 subject to it being rescheduled by the parties. On August 18, 2009, the parties filed a stipulation and
4 proposed order continuing the hearing to September 8, 2009.

5 Having reviewed the papers submitted by the parties, the court finds it appropriate to issue
6 this further interim order. Based on the briefs and arguments presented,

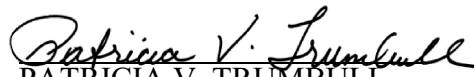
7 IT IS HEREBY ORDERED that William Spencer shall appear for deposition on September
8 4, 2009.

9 IT IS FURTHER ORDERED that Defendant F.W. Spencer shall appear for its Rule 30(b)(6)
10 deposition on October 30, 2009. F.W. Spencer has represented that William Spencer will appear on
11 its behalf for this deposition. The court hereby orders that, absent further order of the court, William
12 Spencer shall appear on behalf of F.W. Spencer for the Rule 30(b)(6) deposition. Plaintiff may use
13 the opportunity to question Mr. Spencer about any documents F.W. Spencer produces after the
14 September 4, 2009 deposition, regardless of whether the questions fall within the subject matters
15 included in the Rule 30(b)(6) deposition notice. The subject matter specified in a Rule 30(b)(6)
16 deposition notice determines the scope of preparation the designated witness must do; questions
17 outside the subject matter specified in the notice are allowed within the scope of discovery set forth
18 in Rule 26(b)(1). *See Detoy v. City and County of San Francisco*, 196 F.R.D. 362, 366-67 (N.D.Cal.
19 2000).

20 IT IS FURTHER ORDERED that, absent further order of the court, the presumptive limit of
21 seven hours applies to each of these depositions.

22 IT IS FURTHER ORDERED that the hearing on these motions is continued to 10:00 a.m. on
23 September 8, 2009, with regard to the remaining issues not resolved by this order.

24 Dated: 8/19/09

25 
26 PATRICIA V. TRUMBULL
27 United States Magistrate Judge
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