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28E-FILED on 12/18/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NEIL B. GOLDBERG,

Plaintiff,

v.

JAMES CAMERON, GALE ANN HURD, et
al.

Defendants.

No. C-05-03534 RMW

ORDER CONTINUING HEARING ON
DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT ON CONDITION OF FEES

[Re Docket Nos. 65, 69, 84]


The court continues defendants James Cameron and Gale Ann Hurd's motions for summary judgment to March 19, 2009 on the condition that plaintiff Neil Goldberg compensate defendants for a portion of their attorneys fees and costs incurred by having to appear on their motion. There has been significant delay in this case. Defendants reasonably waited before filing motions for summary judgment. Plaintiff did not get counsel or file an opposition until just before the hearing. Based on the case history and what was said at the hearing, defendants had a good faith basis for requesting the court to go forward with the hearing and grant summary judgment.

Therefore, as a condition of continuing the summary judgment motions until March 19, 2009, plaintiff Neil Goldberg must compensate defendants \$500 dollars each to offset some of their

1 attorneys fees and costs incurred in attending and preparing for the hearing. The court does not
2 suggest that \$500 is the total amount defendants incurred in attorneys fees and costs, but finds that
3 some partial compensation is here appropriate.

4 The court expects the parties to agree on any discovery needed to respond to the motions. If
5 they cannot agree, plaintiff must file a request with the court setting forth the discovery necessary to
6 respond to the motion for summary judgment. Defendants shall respond to that request within five
7 days.

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10 DATED: 12/18/08



RONALD M. WHYTE
United States District Judge

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1 **Notice of this document has been sent to:**

2 **Plaintiff:**

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10 Counsel are responsible for distributing copies of this document to co-counsel that have not
11 registered for e-filing under the court's CM/ECF program.

12 **Dated:** 12/18/08

13 JAS
14 **Chambers of Judge Whyte**