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28***E-FILED 01-12-2010***

NOT FOR CITATION
 IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

LEONARDO ESPINOZA and SERGIO
 ROQUE,

No. C08-01522 JW (HRL)

Plaintiffs,

v.

**ORDER (1) DENYING AS MOOT
 DEFENDANTS' MOTION FOR ORDER
 SHORTENING TIME AND (2) DENYING
 DEFENDANTS' MOTION TO COMPEL
 AND MOTION FOR SANCTIONS**

C&C SECURITY PATROL, INC.
 HERMENEGILDO COUGH, MARCEL
 LOPEZ, GILBERT MARTINEZ,

[Docket Nos. 77, 79, 80]

Defendants.

Defendants move for an order compelling plaintiffs to produce documents and to pay attorney's fees and expenses defendants incurred in connection with these motions. Defendants also request that the matter be heard on shortened time. Although Fed. R. Civ. P. 30(b)(2) contemplates that Fed. R. Civ. P. 34 requests for production may be served in conjunction with deposition notices, discovery in this matter closed months ago on October 19, 2009. Reportedly, the presiding judge will hold a pretrial conference on February 22, 2010, and trial is set to begin on March 10, 2010. Nothing in defendants' prior (belated) motion to compel plaintiffs' depositions suggested that defendants intended to propound an additional round of document requests at this late stage of the litigation. (See Docket Nos. 63, 75). Nor did this court's December 14, 2009 authorize defendants to do so. This court takes a dim view of defendants' service of untimely document requests when no such discovery was


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permitted.

Accordingly, defendants' motion to compel and motion for sanctions are denied. Their motion for an order shortening time is denied as moot.

SO ORDERED.

Dated: January 12, 2010



HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

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5:08-cv-01522-JW Notice has been electronically mailed to:
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Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the court's CM/ECF program.