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28E-FILED on 3/15/10

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

METTEYYA BRAHMANA,

Plaintiff,

v.

PHILLIP CHARLES LEMBO, CYBERDATA
CORPORATION, NUMONIX, INC.,
CONQUEST TECHNOLOGY LIMITED, and
CAMERON BARFIELD,

Defendants.

No. C-09-00106 RMW

ORDER GRANTING MOTION TO
CONTINUE TRIAL DATE**[Re: Docket No. 146]**

On January 15, 2010, the court granted in part and denied in part plaintiff's motion for leave to file his Third Amended Complaint. In that order, the court modified its earlier scheduling order to provide defendants with more time to respond to the new complaint. Defendants now move to continue the trial date from July 6, 2010 to a convenient date after August 23, 2010.

Defendants seek to continue the trial date because James Cook, lead counsel for defendants, is scheduled to be in Europe for a family vacation beginning on July 15, 2010. Plaintiff opposes postponing the trial date, alleging that prospective employers are hesitant to hire him due to this pending action. Both parties are willing to stipulate to a trial date of June 7, 2010.

The court, however, finds that setting trial for June 7, 2010 is unrealistic in light of the state of the pleadings. Numerous issues have been raised with respect to plaintiff's Fourth Amended Complaint ("FAC"). Some of the issues raised by defendants in opposing the FAC have not been raised before and may have merit, such that the court may need to give plaintiff an opportunity to


ORDER GRANTING MOTION TO CONTINUE TRIAL DATE—No. C-09-00106 RMW
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1 amend. Defendants have indicated that they intend to file a motion for summary judgment. In order
2 to allow defendants to respond to any further amendments to the complaint, the date for hearing on
3 dispositive motions would need to be advanced. Yet the current date for hearing on dispositive
4 motions is already only three weeks prior to June 7, 2010. Moreover, there may be a need to hold an
5 evidentiary hearing on the question of jurisdiction over the Title VII claims.

6 While the court recognizes plaintiff's interest in resolving the case quickly, his amendments
7 to his pleadings have been responsible in part for the delays in getting this case to trial. The court
8 therefore amends its previous scheduling order as follows:

9	7/2/10	Hearing on dispositive motions
10	8/6/10	Joint pretrial statement
11	8/12/10	Pretrial conference
12	8/23/10	Jury trial ¹

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DATED: 3/15/10 
RONALD M. WHYTE
United States District Judge

28 ¹ If the parties would like more certainty regarding the August 23, 2010 trial date, they may want to consider stipulating to a magistrate judge for the trial.

