

United States District Court
For the Northern District of California

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E-FILED 05-02-2011

NOT FOR CITATION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

HAIPING SU,
Plaintiff,
v.

No. C09-02838 JW (HRL)

UNITED STATES OF AMERICA; NATIONAL
AERONAUTICS AND SPACE
ADMINISTRATION; CHRISTOPHER
SCOLESE; CHARLES F. BOLDEN, JR.;
SIMON PETER WORDEN; ROBERT DOLCI;
REGINALD WADDELL; and DOES 1-100,
Defendants.

**ORDER GRANTING DEFENDANTS’
MOTION FOR PROTECTIVE ORDER
RE THE DEPOSITION OF WENDE
HOWER**
[Re: Docket No. 146]

Defendants move for a protective order re the deposition of Wendé Hower. Plaintiff opposes the motion. The matter is deemed appropriate for determination without oral argument. Civ. L.R. 7-1(b). Upon consideration of the moving and responding papers, this court grants the motion.

Wendé Hower is identified as the person who manages the process by which NASA issues security badges for all employees, contractors, and visitors. In essence, plaintiff wants to depose her about NASA’s badging process and decisions generally, as well as NASA’s badging process and decisions as to plaintiff.

Judge Ware previously granted summary judgment in defendants’ favor on plaintiff’s Administrative Procedures Act (APA) claim. (Docket No. 122). In that order, the court found

1 that “the administrative record strongly supports Defendants’ contention that the decision to
2 debar Plaintiff was premised on the FBI and NASA’s joint investigation, which was
3 independent of the standard background check associated with the badging process.” (Id. at 8).
4 Su now contends that, through discovery, he has amassed information showing that, contrary to
5 the court’s summary judgment ruling, NASA’s badging process and decisions as to him may be
6 intertwined with the FBI-NASA investigation that led to the decision to remove him from
7 NASA’s facilities. Plaintiff believes that Hower has information that will show how
8 intertwined those investigations were.

9 But, the fact remains that Judge Ware’s summary judgment ruling stands. And,
10 plaintiff’s only claims for relief are for alleged violations of his privacy arising out of the
11 decision to remove him from NASA’s facilities. As such, this court finds that the testimony
12 sought is neither relevant nor reasonably calculated to lead to the discovery of admissible
13 evidence and that the burden and expense of the discovery sought outweighs its likely benefit.
14 FED. R. CIV. P. 26(b). Defendants’ motion for protective order therefore is granted. If plaintiff
15 obtains relief resulting in a live claim as to which Hower’s testimony is relevant, then this
16 court’s ruling is without prejudice to plaintiff to seek Hower’s deposition.

17 SO ORDERED.

18 Dated: May 2, 2011

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21 HOWARD R. LLOYD
22 UNITED STATES MAGISTRATE JUDGE
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