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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BOBBY SHAWN JANOE,	)	Civil No. 06-1511-JM(WVG)
	)	
Plaintiff,	)	ORDER DENYING PLAINTIFF'S
	)	EX PARTE APPLICATION FOR COURT
v.	)	ORDER TO PRODUCE MISSING PAGES
	)	FROM DEPOSITION (DOC. # 91)
DEE STONE, et al.,	)	
	)	ORDER GRANTING PLAINTIFF'S
Defendants.	)	EX PARTE APPLICATION FOR
	)	CONTINUANCE OF TIME TO FILE
	)	OPPOSITION TO DEFENDANTS'
	)	MOTION FOR SUMMARY JUDGMENT
	)	(DOC. # 92)
	)	
<hr style="width: 45%; margin-left: 0;"/>	)	ORDER VACATING PRETRIAL DATES

On December 23, 2009, Plaintiff Bobby Shawn Janoe (hereafter "Plaintiff") filed an Ex Parte Application For Court Order To Produce Missing Pages From Deposition (hereafter "Motion Regarding Deposition"). On January 5, 2010, Defendants filed an Opposition to the Motion Regarding Deposition.

On January 4, 2010, Plaintiff also filed an Ex Parte Application For Continuance of Time To File Opposition Brief To Defendants' Motion For Summary Judgment. Defendants do not oppose the Motion.

1           The Court, having reviewed Plaintiff's Ex Parte Applications,  
2 Defendants' Opposition to the Motion Regarding Deposition, and GOOD  
3 CAUSE APPEARING, HEREBY ORDERS:

4 Motion Regarding Deposition

5           Plaintiff states that included with Defendants' Motion for  
6 Summary Judgment (filed on December 9, 2009), are selected pages of  
7 his deposition. He contends that Defendants should provide him with  
8 copies of the "missing pages" of the deposition which Defendants did  
9 not provide to the Court or to him.<sup>1/</sup> Plaintiff believes that he  
10 needs the "missing pages" of his deposition in order to oppose  
11 Defendants' Motion for Summary Judgment.

12           Defendants argue that they are not obligated to send copies  
13 of the "missing pages" of Plaintiff's deposition to Plaintiff.  
14 Defendants assert that if Plaintiff wants copies of the "missing  
15 pages," he can contact the court reporter who recorded the deposi-  
16 tion and purchase from the court reporter his entire deposition  
17 and/or the pages of the deposition that he seeks.

18           Fed. R. Civ. P. 32(a)(6) states:

19           Using Part of Deposition. If a party offers in evi-  
20 dence only part of a deposition, an adverse party may  
21 require the offeror to introduce other parts that in  
22 fairness should be considered with the part intro-  
23 duced, and any party may itself, introduce any other  
24 parts.

25           Plaintiff bears the burden of demonstrating to the Court why  
26 he needs the missing pages of his deposition. See fn.1 Here,  
27 Plaintiff fails to show why "in fairness (the 'missing pages' of his  
28 deposition) should be considered with the part (of his deposition)

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<sup>1/</sup> Specifically, Plaintiff references pages 5-40, 43-60, 64-78, 82, 87  
and 94-95 of his deposition as the "missing pages."

1 introduced" by Defendants in the Motion for Summary Judgment. Fed.  
2 R. Civ. P. 32(a)(6).

3 As a result, Plaintiff's Motion Regarding Deposition is  
4 DENIED without prejudice.

5 Ex Parte Application For Continuance Of Time To File Opposition To  
6 Defendants' Motion for Summary Judgment

7 Plaintiff argues that he needs additional time to file an  
8 opposition to Defendants' Motion for Summary Judgment because he is  
9 waiting for copies of pages of his deposition as noted above, and  
10 that he has been unable to research relevant case law cited in  
11 Defendants' Motion for Summary Judgment. Defendants do not oppose  
12 Plaintiff's request for extension of time to file an opposition to  
13 their Motion for Summary Judgment. Defendants' counsel has informed  
14 the Court that he has provided Plaintiff with the case law that  
15 Plaintiff has been unable to research.

16 Since the date Plaintiff was required to file an opposition  
17 to Defendants' Motion for Summary Judgment passed while the motions  
18 discussed in this Order were pending, the Court ORDERS:

19 1. The date by which Plaintiff shall file an Opposition to  
20 Defendants' Motion for Summary Judgment is extended to February 19,  
21 2010.<sup>2/</sup>

22 2. The date by which Defendants shall file a Reply to  
23 Plaintiff's Opposition is extended to March 1, 2010.

24 3. The hearing on Defendants' Motion for Summary Judgment,

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25 <sup>2/</sup> If Plaintiff is unable to make the requisite showing that the  
26 omitted portions of his deposition should "in fairness," be  
27 considered with those portions of his deposition already provided to  
28 the Court, he should make the necessary arrangements to obtain his  
deposition (or portions thereof) from the court reporter who  
recorded the deposition. If Plaintiff chooses to make the  
arrangements noted above, he shall do so sufficiently in advance of  
February 19, 2010 so as to allow him to file a timely opposition to  
Defendant's Motion for Summary Judgment. Requests for further delay  
will not be favorably considered.

1 set for January 26, 2010, is VACATED.

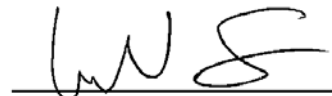
2 4. All other dates noted in the Case Management Order, dated  
3 March 24, 2009, including the Pretrial Conference and Trial dates,  
4 are VACATED.

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6 DATED: January 19, 2010

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Hon. William V. Gallo  
U.S. Magistrate Judge

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