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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

| | | |
|-----------------------------------|---|-------------------------------------|
| PAUL BASHKIN, |) | No. 08-CV-1450-AJB(WVG) |
| |) | |
| Plaintiff, |) | ORDER DENYING PLAINTIFF'S EX |
| |) | PARTE MOTION FOR ADDITIONAL |
| v. |) | LIMITED DISCOVERY |
| |) | |
| SAN DIEGO COUNTY, <i>et al.</i> , |) | [DOC. NO. 92] |
| |) | |
| Defendants. |) | |
| |) | |
| _____ |) | |

Plaintiff, proceeding *in pro per*, moves the Court for an order to re-open discovery on a limited basis so that he may explore five enumerated areas. For the reasons stated below, Plaintiff's motion is DENIED.

I. BACKGROUND

Filed on August 8, 2008, this case has involved a long series of hard-fought discovery disputes, with both sides at times behaving below the standard which this Court expects. Although the deadline to conduct all discovery passed on December 7, 2009, (Doc. No. 16 at 1), these disputes nonetheless persisted and culminated in the issuance of a 61-page Order on January 13, 2011, which the Court expected would be the end of the disputes. (See Doc. No. 83.) But Plaintiff persists.

1 Plaintiff's present motion comes late in the case, with the
2 final pretrial conference set for May 6, 2011--barely over one month
3 from the date he filed this motion. (Doc. No. 91.)

4 **III. LEGAL STANDARD**

5 Federal Rule of Civil Procedure 16 provides a stringent
6 standard whereby the party who seeks to amend the Court's scheduling
7 order must show "good cause" why the Court should set aside or
8 extend a discovery deadline. See Fed. R. Civ. P. 16(b)(4). The
9 scheduling order may only be amended with the Court's consent. Id.

10 Under Rule 16(b)'s good cause standard, the Court's primary
11 focus is on the movant's diligence in seeking the amendment.
12 Johnson v. Mammoth Recreations, 975 F.2d 604, 609 (9th Cir. 1992).
13 "Good cause" exists if a party can prove the schedule "cannot
14 reasonably be met despite the diligence of the party seeking the
15 extension." Id. (citing Fed. R. Civ. P. 16 advisory committee's
16 notes (1983 amendment)). "[C]arelessness is not compatible with a
17 finding of diligence and offers no reason for a grant of relief.
18 Although the existence or degree of prejudice to the party opposing
19 the modification might supply additional reasons to deny a motion,
20 the focus of the inquiry is upon the moving party's reasons for
21 seeking modification." Id. (citations omitted). If the party
22 seeking modification was not diligent in his or her pretrial
23 preparations, the inquiry should end there and the measure of relief
24 sought from the Court should not be granted. Zivkovic v. S. Cal.
25 Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002). The party seeking
26 to continue or extend the deadlines bears the burden of proving good
27 cause. See id.; Johnson, 975 F.2d at 608.

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1 **III. RULINGS**

2 **A. Special Interrogatory On Plaintiff's Second Claim**

3 Plaintiff first seeks to propound one special interrogatory
4 to Defendant Kluge. (Doc. No. 92-2 at 20.) That interrogatory
5 relates to Plaintiff's second claim for violation of 28 U.S.C.
6 Section 1985. As Plaintiff correctly recounts, Defendants won
7 summary judgment on this claim in early 2010, and Plaintiff was
8 allowed to amend his Complaint to reinstate this claim in late 2010.
9 The claim's presence in this action became final on January 17,
10 2011, when Defendants' second motion to dismiss was denied. In the
11 meantime, Plaintiff explains, he was unable to propound discovery on
12 this claim because it had been dismissed from the suit at the time
13 when he propounded interrogatories to Kluge.^{1/} However, as explained
14 below, the Court denies Plaintiff's request for leave to propound
15 the proposed interrogatory.

16 **1. The Potential For Significant Delay**

17 The first two factors that inform the Court's ruling include
18 the fact that this case is swiftly approaching its 3-year anniver-
19 sary, and allowing further discovery will impact Judge Battaglia's
20 final pretrial conference date. The Court has had ample experience
21 with how discovery in this case has proceeded, which experience
22 informs the Court on how future discovery will proceed. Based on
23 the Court's past experience with both sides in this action, the
24 Court is certain that allowing the requested discovery at this late
25 stage will significantly delay this case. Based on the parties'
26 proven history, Plaintiff will propound his interrogatory, Defen-

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28 ^{1/} The Court previously allowed Plaintiff to propound limited
interrogatories to Kluge in lieu of continuing Kluge's deposition.
(Doc. No. 59 at 2.)

1 dants will provide either a half-answer or an adequate answer,
2 Plaintiff will pick apart every minute detail of Defendants'
3 response and file an outraged discovery dispute even if the response
4 is wholly adequate, and the Court will referee a dispute process
5 that will likely take months. All of this will then be followed by
6 motions for reconsideration and follow-up disputes. As a result,
7 the pretrial conference and ensuing final resolution of this case
8 will very likely be pushed into next year.

9 However, the Court emphasizes that this delay is not the main
10 driving force behind its ruling. The overwhelming bases for the
11 Courts ruling are (1) the nature of the proposed interrogatory and
12 (2) Plaintiff's inability to meet his burden under Rule 16(b).

13 **2. Nature of the Proposed Interrogatory**

14 The Court has reviewed Plaintiff's proposed interrogatory and
15 concludes that, as crafted, it will be of little to no additional
16 utility in this case given the nature of both the interrogatory and
17 the Answer. Plaintiff seeks a wide range of information relating to
18 the Answer's denial of any material allegation or assertion of an
19 affirmative defense. (Doc. No. 92-2 at 20.) However, the short
20 Answer contains only general denials and standard affirmative
21 defenses that are equally applicable to all of Plaintiff's claim,
22 not just his second claim, and are the type of standard defenses
23 that are ordinarily intended to preserve issues for a motion to
24 dismiss or for summary judgment.

25 The Answer contains only six affirmative defenses, all of
26 which are standard, routinely-pled defenses, and none are directed
27 at any specific claim. These affirmative defenses include those
28 that are ordinarily resolved before trial (e.g., First: "fails to

1 allege facts sufficient to state a claim," Fourth: "the action is
2 barred by the statute of limitations," and Fifth: Defendants "are
3 entitled to immunity"), and further discovery on these defenses will
4 not advance this case at this stage. The Second and Third Affirma-
5 tive Defenses are inapposite because they are alleged by the County
6 only, not Kluge, who is the party to whom the proposed interrogatory
7 is directed. The Sixth Affirmative Defense ("Defendants alleges
8 [sic] that they acted in good faith") does not apply to Plaintiff's
9 second claim in light of the Answer's general denial in paragraph 3
10 of every fact alleged in Plaintiff's second claim. Finally, the
11 only instance where the Answer specifically addresses Plaintiff's
12 second claim is in paragraph 3, which contains only general denials
13 of the facts alleged in the second claim.

14 The proposed interrogatory thus has very limited utility in
15 light of the nature of the information sought. Moreover, Plain-
16 tiff's request for discovery on his second claim occupies only 12
17 lines of his *ex parte* motion and does not explain why or how the
18 interrogatory is necessary. See Qualls v. Blue Cross of Cal., Inc.,
19 22 F.3d 839, 844 (9th Cir. 1994) (In the context of a summary
20 judgment motion: "We will only find that the district court abused
21 its discretion if the movant diligently pursued its previous
22 discovery opportunities, and if the movant can show how allowing
23 additional discovery would have precluded summary judgment.")
24 (emphasis added). The above discussion is a significant factor in
25 the Court's ruling.

26 **3. Plaintiff Has Not Met His Burden to Show "Good Cause"**

27 Another significant factor in the Court's ruling is the lack
28 of a showing of diligence. Applying Rule 16(b)'s good cause

1 standard, Plaintiff has not demonstrated that he has diligently
2 sought to propound this single interrogatory to Kluge and has not
3 explained the delay.

4 The Court understands the chain of events that previously
5 precluded Plaintiff from propounding this interrogatory. However,
6 Plaintiff should have been certain that his second claim was firmly
7 in this case when Judge Hayes denied Defendants' motion to dismiss
8 on January 17, 2011. Plaintiff should have immediately sought leave
9 to propound the interrogatory rather than wait more than two months,
10 and a month from the final pretrial conference, to do so. In
11 aggravation of this delay, Plaintiff does not explain why he waited
12 to seek leave. In sum, (1) delay exists and (2) no reason for the
13 delay is given. Together, these two facts add up to Plaintiff's
14 failure to meet his burden under Rule 16(b).

15 Based on the totality of the foregoing considerations, the
16 Court denies Plaintiff's request to propound the proposed interroga-
17 tory.

18 **B. Request to Serve "CAD Disposition" Interrogatory To San Diego**
19 **County**

20 The "CAD Disposition" dispute centers around Plaintiff's
21 desire to pin down the exact number of characters to which a Deputy
22 Sheriff is limited when he enters notes on a specific incident into
23 his patrol-vehicle-mounted computer. Plaintiff theorizes that
24 Defendants' contention, that their actions against him were
25 justified because he refused to leave Barona Casino, is a post hoc
26 fabrication that can be disproven by reference to the notes Deputy
27 Kluge entered into his patrol vehicle's computer. Specifically,
28 Kluge's notes apparently made no mention that Plaintiff refused to

1 leave the casino. It follows, Plaintiff argues, that the lack of
2 any mention of his failure to leave Barona is evidence of Defen-
3 dants' post-hoc, fabricated defense.

4 Plaintiff first sought to discover the exact number of
5 characters Kluge could enter into his computer by propounding
6 discovery to Deputy Kluge, asking for the exact character limit. On
7 November 10, 2010, after some back and forth, Kluge finally
8 responded that he knew there was some sort of character limit but he
9 did not know the exact character limit. (Doc. No. 80-1 at 11-12,
10 15.)^{2/} In its January 13, 2011, Order, the Court concluded that
11 Kluge's response was responsive and Kluge was not the proper party
12 to respond to this interrogatory. (Doc. No. 83 at 16.) "I don't
13 know" is a perfectly valid response, and a party cannot be compelled
14 to answer a question to which he does not know the answer. The
15 Court also concluded that Kluge was not the correct party to respond
16 to this interrogatory because, to the extent that Plaintiff wanted
17 the exact character limitation, Kluge was not best-suited to respond
18 because he was merely the end-user of the CAD program, not the
19 program's inventor, programmer, or an IT professional. (Doc. No. 83
20 at 16.) Indeed Plaintiff himself recognized that Kluge "could have
21 easily obtained that information through defendant San Diego County,
22 Kluge's employer and a co-defendant in this lawsuit." (Id. (quoting
23 Plaintiff's argument).) However, if San Diego County ultimately had
24 the information Plaintiff sought, why was Plaintiff trying to force
25 Kluge to provide information that the County had? The interrogatory
26 should have been propounded to San Diego County *ab initio*.

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28 ^{2/} All page citations to documents on the Court's docket refer to the
Clerk of Court's renumbering of the document, not the document's
original pagination.

1 Now, nearly two months after the Court's January 2011 Order,
2 and a month before the final pretrial conference, Plaintiff wishes
3 to propound to San Diego County an interrogatory that asks for the
4 exact character limit to which Kluge was limited when he made his
5 CAD incident notes. Plaintiff seeks the same information from San
6 Diego County that Kluge could not provide. He argues that Kluge led
7 him to believe that he was the correct party by agreeing to respond
8 to the interrogatory and stringing him along.

9 However, regardless whether Kluge in fact strung him along,
10 the fact remains that Plaintiff could have simultaneously propounded
11 the same interrogatory to both Kluge and San Diego County when he
12 had the chance to do so. Instead, it appears that Plaintiff chose
13 to propounded it only to Kluge. There is no indication that
14 Plaintiff ever propounded this interrogatory onto San Diego County
15 in the past or that anything prevented him from doing so. Whether
16 Plaintiff did not propound this interrogatory to San Diego County
17 because he believed Kluge was the right party to answer this
18 interrogatory is irrelevant. Identical interrogatories are
19 routinely propounded to multiple opposing parties in litigation. If
20 this issue is as important as Plaintiff claims, he should have
21 propounded the interrogatory to San Diego County to extract as much
22 information as he possibly could from all defendants. If, as it
23 appears, he did not do so, that was his choice alone.

24 The Court finds that Plaintiff has not been diligent in
25 pursuing this discovery, has not explained a credible basis for his
26 lack of diligence, and as a result denies his request to propound
27 this interrogatory to San Diego County. In sum, Kluge has answered
28 this interrogatory to the extent he could, and San Diego County will

1 not be compelled to respond to this interrogatory on the eve of
2 trial when Plaintiff could have sought San Diego County's response
3 long ago.

4 **C. Requests Related to Barona Photograph and Expulsion Letter**

5 Plaintiff next seeks leave to serve a document subpoena onto
6 a third party, Barona Resort & Casino. (Doc. No 92-2 at 30.) He
7 also seeks to propound a special interrogatory about some of the
8 same documents to San Diego County. (Id. at 24:15-24) He seeks
9 documents and information regarding two items: (1) a photograph
10 that depicts a sign in the room Plaintiff was held and (2) an
11 expulsion letter that was allegedly given to him at the time of the
12 underlying incident. Plaintiff asserts that these documents
13 establish Defendants' conspiracy to suborn perjury. However,
14 Plaintiff does not explain why he seeks these documents now, as it
15 appears Plaintiff knew about them long ago.

16 **1. The Photograph**

17 Plaintiff wishes to discover more information about a
18 photograph that Defendants claim depicts a sign on a wall of the
19 room Plaintiff was held in on the night of the underlying incident.
20 (Id. at 24:15-24; 30.) The sign reads: "THIS ROOM IS BEING
21 MONITORED BY AUDIO SURVEILLANCE." (Doc. No. 51-1 at 22.) A caption
22 under the photograph reads: "Notice in room where Bashkin was
23 housed." (Id.) The photograph itself is not at issue because
24 Defendants have produced it to Plaintiff. What Plaintiff seeks is
25 detailed information about the photograph's origin: when it was
26 obtained, who took it, when it was taken, why it was taken, who
27 affixed the caption, *et cetera*. (Doc. No. 92-2 at 24.) He wants
28 this information because he contends that the information is

1 "overwhelming evidence of Kluge's perjury (in his deposition [in
2 September 2009], he testified that he had been in that security
3 office 'many times' before), but also damning evidence that Kluge
4 conspired with Barona to destroy the tapes of the [i]ncident, given
5 that Kluge's only defense to that spoliation-of-evidence charge is
6 his professed ignorance of that sign." (Doc. No. 92-1 at 8.)

7 Plaintiff avers that Defendants have referenced the above-
8 described photograph in their initial disclosures and in Kluge's
9 internal affairs file. Moreover, the photograph was produced to
10 Plaintiff. While Plaintiff cites these examples to show that
11 Kluge's story has changed, now contending that he does not have
12 knowledge of this sign, these examples rather establish that
13 Plaintiff has known about the existence of the photograph for a very
14 long time. Indeed, Plaintiff himself included this photograph as an
15 exhibit to his March 4, 2010, reply to Defendant's summary judgment
16 motion. (Id.) However, glaringly absent from the instant motion is
17 any explanation that establishes "good cause" under Rule 16, namely
18 that Plaintiff was diligent in seeking this discovery from Barona.
19 For example, there is no indication that Plaintiff has ever tried to
20 serve such a subpoena in the past, sought leave from the Court to
21 serve it, or that he was prevented in any way from doing either.
22 Plaintiff could have sought this information from Barona after
23 Kluge's deposition in September 2009. He could have done so after
24 Defendants' initial disclosures. He could have even done so at any
25 point in 2010. Plaintiff has known for some time that Defendants
26 claim this sign is located at Barona.

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1 The Court's ruling is further informed by the late stage in
2 these proceedings as explained above. Ultimately, Plaintiff has not
3 met his burden under Rule 16(b).

4 **2. Expulsion Letter**

5 Likewise, it appears that Plaintiff has known about the
6 expulsion letter that was allegedly given to him for some time now.
7 He states that Defendants have referenced it in their initial
8 disclosures, produced it to him, and used it in court filings.
9 Plaintiff does not seek production of the letter itself, but rather
10 wishes to obtain background information that will ostensibly prove
11 that the letter is a post hoc fabrication. He claims that the
12 letter was forged after the night of the incident, was never given
13 to Plaintiff, and used to suborn perjury. Even Plaintiff is
14 correct,^{3/} he provides no justification for waiting until the eve of
15 trial to seek this discovery. Plaintiff's request is denied for the
16 same reasons stated immediately above.

17 The Court further denies Plaintiff's request for the
18 remaining documents in his proposed subpoena to Barona. (Doc. No.
19 92-2 at 30.) Plaintiff could have inquired about these subject
20 areas long ago as well.

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25 ^{3/} The Court has no opinion whatsoever on this matter and the
26 possibility of its truth has no bearing on the Court's decision
27 because such considerations do not have a place in the Rule 16(b)
28 good cause analysis under the circumstances here. While it is
conceivable that these facts could be relevant in other cases, for
example where a party discovers new facts at a late stage in the
proceedings, it appears Plaintiff has known about these facts for a
long time. In light of Plaintiff's long-standing knowledge, the
Court's focus is on his diligence. Had Plaintiff discovered this
letter a few weeks ago, the Courts analysis might have been
different.

1 **D. Witness Statements Made to Sheriff's Internal Affairs**

2 Plaintiff demands that Defendants produce hard-copy versions
3 of witness statements given by unknown persons to the Sheriff's
4 Internal Affairs Unit. In past meet and confer efforts, Defendants
5 apparently agreed to produce summaries of the witness statements as
6 well as the actual statements on a compact disc ("CD"). Plaintiff
7 apparently received the CD but avers that "it cannot be accessed" by
8 him but initially did not explain why he could not access it (e.g.,
9 because he does not own a computer, the CD is corrupted, the files
10 on the CD are in a format that will not open on Plaintiff's
11 computer, etc.). Plaintiff now demands paper copies of whatever is
12 on the CD.

13 **1. The Court Ordered Further Briefing**

14 Upon reviewing Plaintiff's motion, the Court ordered that
15 Defendants specifically respond to various questions the Court had
16 about the CD. (See Doc. No. 95 (responding to Court's Order, Doc.
17 No. 94).) The Court also asked Plaintiff to explain why he could
18 not access the CD. (See Doc. No. 97 (same).) Defendants responded
19 that the witness statements were audio recordings and were produced
20 to Plaintiff in .wav format, which is a common, widely-used audio
21 format that can be played by a wide variety of free audio players.
22 For his part, Plaintiff explained: "Because of irreparable problems
23 with my computer that would not allow me to download any [audio
24 player] program, Chapin agreed to convert the interviews onto a CD
25 that would play on my portable CD player." (Doc. No. 97 at 2
26 (emphasis added).) As Plaintiff further explains, Defense counsel
27 apparently converted only Plaintiff's own interview with Internal
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1 Affairs, but did not convert the remaining nine witness or party
2 interviews.

3 **2. Ruling**

4 Defendants have more than complied with their obligations
5 under the Federal Rules of Civil Procedure. To the extent that
6 Plaintiff complains that he cannot access the CD, his own explana-
7 tion shows that the problem lies with his own computer equipment,
8 not with the CD Defendants produced. However, problems with
9 Plaintiff's computer are his alone and do not invoke any obligation
10 on Defendants' part to help him cure those problems. There is no
11 indication that the CD is corrupted in any way such that Plaintiff's
12 inability to access it was caused by Defendants. Further, public
13 computers are readily available at any public library, and Plaintiff
14 could have attempted, and still can attempt, to access the CD there.
15 And although it appears that Defendants may have agreed to convert
16 the interviews to audio files that would play on Plaintiff's
17 portable CD player, they certainly were not obligated to do so.
18 Turning over the files in .wav format satisfied their discovery
19 obligations *ab initio*.

20 Therefore, Plaintiff's request for transcription of the
21 audio-recorded interviews is also not well-taken. If Plaintiff did
22 not originally request that the interviews be produced in a specific
23 format, Defendants may produce the electronically-stored audio files
24 as they have been maintained. Fed. R. Civ. P. 34(b)(2)(E); see also
25 id., Advisory Committee Notes to 2006 Amendment, Subdivision (b).
26 As there is no indication that Plaintiff originally requested hard
27 copies of the electronically-stored interviews, the Court will not
28 now compel Defendants to transcribe any interviews specifically for

1 Plaintiff in addition to production of the original audio files
2 themselves. By all accounts, up to this point, Plaintiff has been
3 satisfied with production of the interviews in electronic format.
4 By his own account, after he could not access the original CD, he
5 was satisfied with production of converted audio files that would
6 allow him to listen to the interviews on a portable CD player.^{4/}
7 Only recently did he request that Defendants produce transcribed
8 hard copies of the interviews.

9 The foregoing notwithstanding, to the extent that Defendants
10 have in the past made transcripts of any Internal Affairs inter-
11 views, those transcripts are within the broad range of discoverable
12 materials and must be produced if they have not already been
13 produced. See Fed. R. Civ. P. 34(a)(1)(A). Defendants are
14 therefore ordered to produce any Internal Affairs interview
15 transcripts, but only to the extent that they currently exist and
16 then only to the extent that any transcripts have not already been
17 produced to date. To the extent that transcripts do not currently
18 exist, Defendants shall not be compelled to transcribe any inter-
19 views for Plaintiff. Defendants are not responsible for Plaintiff's
20 inability to access electronic documents that are produced in a
21 common format that makes such files accessible through widely-
22 available computer programs.

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24 ^{4/} Because Plaintiff's current request is not for additional converted
25 audio files, but for transcribed hard copies of the electronic
26 files, the Court does not address whether Defendants should produce
27 converted audio files. Plaintiff has not presented that issue to
28 the Court. However, if Plaintiff presents that issue in the future,
the Court is extremely unlikely to resolve it in his favor because,
again, he has not brought it to the Court's attention in a timely
manner (*i.e.*, in the present motion or previously), and it is simply
too late to do so given that final pretrial conference is to occur
in less than three weeks. Moreover, the Court would deny the
request for the additional reason, as set forth herein, that
Defendants fulfilled their discovery obligations when they produced
the interviews in the .wav format.

1 Finally, the Court denies Plaintiff's demand that the
2 Internal Affairs witness statements be verified by the witnesses.
3 As the Court understands Plaintiff's demand, he wishes that the
4 original witness verify his or her Internal Affairs statement even
5 if that statement was not originally signed. However, the produc-
6 tion of documents under Federal Rule of Civil Procedure 34 does not
7 require verification in the same manner that interrogatory responses
8 do. Compare Fed. R. Civ. P. 33(b)(5) (requiring verification by the
9 actual responding party), with Fed. R. Civ. P. 34 (no verification
10 requirement); see also William W Schwarzer *et al.*, California
11 Practice Guide: Federal Civil Procedure Before Trial § 11:1924 (The
12 Rutter Group 2011) ("Verification not required: The response need
13 not be signed 'under oath' by the party to whom the request is
14 directed. However, like all pleadings, the party's attorney must
15 sign it, certifying that it is made in good faith."). Documents
16 produced under Rule 34 are subject only to the general signature
17 requirement in Federal Rule of Civil Procedure 26(g). Subject to
18 the exception discussed below, Plaintiff is not entitled to verified
19 responses to document requests in the same manner he is so entitled
20 in the context of interrogatories.

21 The foregoing notwithstanding, if the witness statements were
22 originally signed by the witnesses, Plaintiff is clearly entitled to
23 copies of the signatures as they appear on the original documents.
24 In other words, if the statements were originally signed, those
25 signatures are part of the document itself, which must be produced
26 as it is ordinarily kept in the course of business. Fed. R. Civ. P.
27 34(b)(2)(E). Here, however, Defendants have indicated that the
28 witness statements are unsigned audio recordings, not written

1 statements. Therefore, since the source audio files were not
2 originally signed, the Court denies Plaintiff's demand for a
3 verified response beyond what the Federal Rules of Civil Procedure
4 require.

5 **E. Production of Documents Referenced In Kluge's Response to**
6 **Special Interrogatory 2**

7 Finally, Plaintiff points to Kluge's use of the word
8 "material" in his response to special interrogatory and requests
9 that Defendants be compelled to produce documents that this word
10 references. (Doc. No. 92-1 at 10.) As the Court understands
11 Plaintiff's request, "material" refers to those documents enumerated
12 in Kluge's response to Plaintiff's request for production of
13 documents ("RFP") number 16. (See id. at 11. 6-10.) The Court
14 requested that Defendants state whether the enumerated documents in
15 RFP 16 are also responsive to the word "material," and Defendants
16 responded that they are responsive, (Doc. No. 95 at 2). The Court
17 also asked whether the enumerated documents have been produced, and
18 Defendants responded that any documents that exist have been
19 produced, (id.). The Court accepts Defendants' representations,
20 which have been signed as required by Federal Rule of Civil
21 Procedure 11(b), and declines to order any further response.

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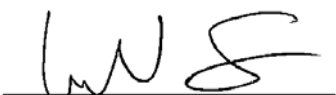
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IV. CONCLUSION

Plaintiff's request is DENIED except as to any Internal Affairs interview transcripts that presently exist and then only to the extent that those transcripts have not been produced to date. The parties shall prepare for the pretrial conference as ordered by Judge Battaglia. No more cutting bait; it's high time to fish. IT IS SO ORDERED.

DATED: April 19, 2011



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