UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SUSAN V. KLAT,

Plaintiff,
v.

MITCHELL REPAIR INFORMATION
COMPANY, LLC and SNAP-ON, INC.,

CASE NO. 08 CV 1907 JM (CAB)

## ORDER ADOPTING REPORT AND RECOMMENDATIONS

Doc. No. 36

On June 4, 2009, Magistrate Judge Cathy Ann Bencivengo issued a Report and Recommendations suggesting that this court dismiss the above-captioned matter with prejudice due to Plaintiff's violations of court orders compelling her to submit to a deposition. (Doc. No. 36.) Plaintiff filed objections to the Report on June 17, 2009 (Doc. No. 37), and Defendants provided a Reply on June 22, 2009 (Doc. No. 38.)

Defendants.

The court reviews a magistrate judge's R&R according to the standards set forth in Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636. The court "shall make a de novo determination of those portions of the report . . . to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); <u>United States v. Raddatz</u>, 447 U.S. 667, 673-74 (1980).

In her objections, Plaintiff reiterates the same arguments she has advanced previously. For example, she alleges Defendants have failed to respond to her discovery requests and are attempting

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Plaintiff, these are valid reasons to refuse to submit to a live deposition. Instead, Plaintiff has attempted to dictate the conditions of the deposition by offering to answer interrogatories or submit to a telephone interview. These arguments have been dismissed by this court and the Magistrate Judge on several prior occasions. This court sees no reason to believe Defendants wish to use the deposition as a tool of harassment. Barring such a concern, Defendants do not need to provide any "reasonable showing" or justification for pursuing their discovery rights under Fed. R. Civ. P. 30.

The court has provided Plaintiff with ample opportunity to comply with its orders and, as described in the Report, has been exceedingly accommodating of Plaintiff's concerns about her safety and the scope of deposition questions. Nevertheless, Plaintiff has willfully refused to comply with the court's orders. Plaintiff was clearly warned that her failure to comply would likely result in dismissal of her case.

to harass her through unnecessary attempts to obtain information they already have. According to

Therefore, having carefully considered the thorough and thoughtful R&R, the record before the court, Petitioner's objections to the R&R, and the applicable authorities, the court **ADOPTS** the R&R in its entirety. (Doc. No. 36.) Accordingly, the action is hereby **DISMISSED WITH PREJUDICE.** The Clerk of Court is instructed to close the case file.

IT IS SO ORDERED.

DATED: July 13, 2009

Hon. Jeffrey T.Mille

20 United States District Judge

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T. Thiele