

1 most of the key topics. Defendants deposed Roger Clark on May 4, 2010, and said they could not
2 complete that deposition in 7 hours because there were numerous occasions where a question had to be
3 repeated and/or clarified to get a direct answer; Plaintiffs' counsel made numerous objections and
4 instructions not to answer, as well as engaged in lengthy debate with defense counsel regarding the
5 questioning; there were nine breaks, including a lunch break; Defendants still had over 40 documents
6 marked for exhibit that they had not covered with Mr. Clark (they had pre-marked approximately 60
7 exhibits); none of Mr. Clark's documents had been produced before the deposition, including electronic
8 documents that he relied on; and not all Defendants' counsel got to question Mr. Clark in detail.
9 Defendants attempted to meet and confer with Plaintiffs' counsel regarding the re-opening of the Clark
10 deposition. Instead of seeking a full additional day, as a compromise they offered to depose Mr. Clark
11 for only an additional 3.5 hours. Plaintiffs' counsel did not meet and confer on the subject and refused
12 to agree to any additional time to finish the deposition.

13 In opposition, Plaintiffs argue that the case is not complex and Mr. Clark's opinions are straight-
14 forward; the fact that questions were repeated during the deposition could just as likely bear on
15 Defendants' ability to pose questions as opposed to Clark's ability to answer them; some of the
16 documents that Defendants say Mr. Clark did not provide actually do not exist; and Plaintiffs already
17 allowed an additional half hour of deposition. Further, Plaintiffs argue that the refusal to agree to the
18 proposal was not a refusal to meet and confer. Rather, Plaintiffs' counsel communicated among
19 themselves to decide there was no good cause to continue examining Mr. Clark.

20 **Order.**

21 The court has reviewed and considered all papers and evidence submitted in support of and in
22 opposition to this motion. The court finds that Plaintiffs' counsel unreasonably withheld consent to
23 Defendants' offer of an additional 3.5 hours to continue the deposition of Roger Clark. For good cause
24 shown, the court **GRANTS** Defendants' motion and **ORDERS**:

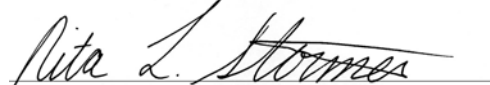
- 25 1. Defendants shall have an additional seven (7) hours to depose Roger Clark. To the extent
26 any of that time has already been exhausted, that exhausted time shall count against the
27 additional 7 hours ordered by this court (i.e. if Defendants have deposed Mr. Clark for a
28 total of 7.5 hours, then 6.5 hours remain available for the deposition);

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- 2. Roger Clark's deposition shall be completed before **June 25, 2010**; and
- 3. Plaintiffs shall pay the costs for the Mr. Clark's time and the court reporter for the continued deposition.

IT IS SO ORDERED.

DATED: June 11, 2010



Hon. Nita L. Stormes
U.S. Magistrate Judge
United States District Court