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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SHALIECIA WILLIAMS, et al.,  
Plaintiffs,  
v.  
CAMDEN USA INC., et al.,  
Defendants.

Case No.: 3:19-cv-691-AJB-AHG

**ORDER RESOLVING JOINT  
MOTION FOR DETERMINATION  
OF DISCOVERY DISPUTE AND  
DENYING PLAINTIFF’S MOTION  
FOR PROTECTIVE ORDER**

**[ECF No. 47]**

1 Before the Court is Plaintiff Shaliecia Williams (“Plaintiff”) and Defendant Camden  
2 USA Inc.’s (“Defendant”) Joint Motion for Determination of Discovery Dispute. ECF No.  
3 47. Plaintiff seeks an order from the Court permitting Plaintiff’s deposition to proceed via  
4 videoconference, to which Defendant objects. *Id.* For the reasons set forth below,  
5 Plaintiff’s motion for protective order is **DENIED**.

## 6 I. BACKGROUND

7 On March 1, 2021, Plaintiff filed the operative amended complaint in this matter,  
8 alleging negligence and violations of the Fair Housing Act, California Fair Employment  
9 and Housing Act, and California Civil Code § 1942.5(a). ECF No. 32. She seeks monetary,  
10 declaratory, and injunctive relief against Defendant, the owner of an apartment complex,  
11 for discriminating against Plaintiff and her minor daughter on the basis of race. *Id.* at ¶ 1.  
12 Plaintiff recounts multiple incidents, alleging that Defendant treated her differently than  
13 others, made discriminatory remarks to her, unjustly towed her vehicle, rummaged through  
14 her apartment without consent, pressured her to move out, accused her of incidents that  
15 never occurred, said derogatory things to repair workers about her, and terminated her lease  
16 without cause. *Id.* at ¶¶ 13, 14, 16, 17, 19, 22, 26, 27, 30. Due to Defendant’s conduct,  
17 Plaintiff alleges suffering “emotional distress and physical injury, humiliation and mental  
18 anguish, physical distress, impairment of health, fear, stress, including bodily injury such  
19 as stomach aches; knots in stomach; head aches; high blood pressure; shingles, sleep loss;  
20 feelings of depression, discouragement, dry throat, rise in body temperature, anger, and  
21 nervousness; trouble sleeping; and reliving the experience.” *Id.* at ¶ 43; *see id.* at ¶ 33.

22 On June 15, 2021, pursuant to the Court’s Chambers Rules, the parties notified the  
23 Court that they disagreed about whether Plaintiff must appear in person for her deposition.  
24 Email to Chambers (June 15, 2021 at 11:40 a.m.); *see* Chmb.R. at 2. The Court held a  
25 telephonic discovery conference on June 17, 2021. ECF No. 44. The Court found it  
26 appropriate to issue a briefing schedule. ECF No. 45. The parties timely filed their Joint  
27 Motion for Determination of Discovery Dispute on July 2, 2021. ECF No. 47. This order  
28 follows.

1           **II. PARTIES' POSITIONS**

2           The instant motion relates to Defendant's noticed deposition of Plaintiff, scheduled  
3 for June 28, 2021.<sup>1</sup> Email to Chambers (June 15, 2021 at 11:40 a.m.). Defendant seeks to  
4 conduct the deposition in person, while Plaintiff seeks to conduct the deposition via  
5 videoconference. ECF No. 47.

6           Plaintiff argues that she should not be required to attend an in-person deposition  
7 because of her current psychological state. ECF No. 47 at 2. Plaintiff receives Eye  
8 Movement Desensitization and Reprocessing for her Post Traumatic Stress Disorder  
9 ("PTSD"), a treatment reserved for patients who suffer abnormal levels of fear and anxiety.  
10 *Id.*<sup>2</sup> Plaintiff's panic attacks cause her body to shut down, leaving her incapacitated for  
11 several days, and have sent her to the hospital. *Id.*; ECF No. 47-1 at 2. Plaintiff is "deeply  
12 afraid of having to give an in-person deposition" and "do[es] not have the mental or  
13 emotional ability to sit for an in-person deposition, as the thought of such creates extremely  
14 severe anxiety[.]" ECF No. 47-1 at 2. Dr. Greenfield contends that Plaintiff "would likely  
15 pass out and/or have a panic attack under her current state if she were required to attend  
16 her deposition in-person." ECF No. 47 at 2. Thus, Plaintiff requests that she be permitted  
17 to attend her deposition via videoconference. *Id.* at 3.

18           Defendant argues<sup>3</sup> that counsel "was unable to find a single instance wherein a Court  
19 ordered a remote deposition based on the emotional stress a party opponent claims he or  
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21 <sup>1</sup> Cognizant that the final Joint Motion for Determination of Discovery Dispute was due by  
22 July 2, 2021, and the deposition at issue was scheduled for June 28, 2020, the Court ordered  
23 that "the deposition[] shall be put on hold until the Court rules on the motion." ECF No.  
24 45 at 2.

25 <sup>2</sup> Although Plaintiff cites to a declaration of Brandon Greenfield, M.D., no declaration was  
26 filed with the instant motion. However, the Court will incorporate by reference the  
27 arguments attributed to Dr. Greenfield, and the missing declaration does not negatively  
28 impact the Court's analysis.

<sup>3</sup> Although the undersigned expresses no opinion on the merits of whether Plaintiff is  
entitled to emotional distress damages, the Court briefly summarizes Defendant's position

1 she may encounter if required to appear for examination in person. Nor does Plaintiff  
2 provide such legal authority in support of her current Motion.” ECF No. 47 at 5. Defendant  
3 also questions “why a virtual cross-examination session would be any better than one  
4 conducted in person[,]” since the deposition itself would be the likely stress-inducer, not  
5 the location of the deposition. *Id.* Defendant represents that it has taken steps to alleviate  
6 stressors that may trigger Plaintiff’s anxiety during the in-person deposition, such as  
7 conducting the deposition in a quiet conference room; allowing as many breaks as Plaintiff  
8 needs to feel comfortable, in a private conference room; and eliminating Defendant’s  
9 representatives from the deposition by having only counsel and the court reporter attend.  
10 *Id.* at 6. Defendant’s counsel represents that “she is not an ‘aggressive’ examiner by nature  
11 and [] lack[s] intent to interact with [Plaintiff] in a hostile or otherwise accusatory way.”  
12 *Id.* at 6.; *see* ECF No. 47-3 at 2 (“I’m friendly and polite and have no intent on being in  
13 any way aggressive or hostile with [Plaintiff]. And, at 5’6”, I’m certainly not physically  
14 intimidat[ing].”). Defendant’s counsel also reiterates her strong preference for taking party  
15 opponents’ depositions in person. ECF No. 47-3 at 3. For example, on several occasions  
16 over the last 15 months, she “discovered others in the deponent’s immediate presence  
17 providing both verbal and non-verbal cues” and “learned the deponent had a second  
18 computer screen wherein []she was reading other material during the examination.” *Id.*

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21 in the instant motion for context. Defendant challenges the veracity of Plaintiff’s PTSD  
22 claims and the likelihood that she will suffer a panic attack if the deposition is held in  
23 person. *See, e.g.*, ECF No. 47 at 4 (“The records do not reflect a single visit to the hospital  
24 associated with Defendant’s alleged conduct. ... And, while Plaintiff’s brief attributes a  
25 diagnosis of ‘severe PTSD’ to declarant Brandon Greenfield, M.D., notes from Plaintiff’s  
26 [] visit with Dr. Greenfield reflect a diagnosis of ‘Moderate’ anxiety and depression, not  
27 ‘severe PTSD.’”); *id.* at 5 (“Plaintiff’s Motion is supported by no persuasive or otherwise  
28 admissible evidence supporting a ‘likelihood’ Ms. Williams will either suffer a panic attack  
or pass out as a result of Plaintiff’s counsel’s in-person examination.”); ECF No. 47-7  
(declaration of Ellen Stein, Ph.D.). However, the Court takes Plaintiff’s claims in the  
instant motion at face value and need not address challenges to their legitimacy in its good  
cause analysis.

1 Additionally, Defendant argues that taking Plaintiff’s deposition via videoconference  
2 significantly limits counsel’s ability to observe Plaintiff’s demeanor and credibility,  
3 making settlement much less likely, since counsel cannot assess Plaintiff’s strength or  
4 weakness as a trial witness. *See id.* at 4.

### 5 III. LEGAL STANDARD

6 Rule 30 of the Federal Rules of Civil Procedure sets forth the procedures for  
7 depositions. As a general rule, the deposition of a party may be set wherever the deposing  
8 party designates, subject to the power of the court to grant a protective order. *Lord v.*  
9 *Flanagan*, No. 13cv26-BU-DLC-JCL, 2014 WL 51655, at \*2 (D. Mont. Jan. 7, 2014); *see*  
10 *S.E.C. v. Banc de Binary*, No. 13cv993-RCJ-VCF, 2014 WL 1030862, at \*3 (D. Nev. Mar.  
11 14, 2014) (noting that Rule 30(b)(1) requires “[a] party who wants to depose a person by  
12 oral questions ... must state the time and place of the deposition,” and explaining that  
13 “[g]enerally, this means that the examining party may unilaterally choose a deposition’s  
14 location”) (ellipses in original). “[T]he court has a wide discretion in selecting the place of  
15 examination.” *Lord*, 2014 WL 51655, at \*2 (quoting 8A C. WRIGHT & A. MILLER,  
16 FEDERAL PRACTICE AND PROCEDURE § 2112 (3d ed. 2010)); *see also Hyde & Drath v.*  
17 *Baker*, 24 F.3d 1162, 1166 (9th Cir. 1994) (“A district court has wide discretion to establish  
18 the time and place of depositions.”); *cf. Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir.  
19 2002) (explaining that district courts have broad discretion to manage discovery). Under  
20 Rule 30, “[t]he parties may stipulate—or the court may on motion order—that a deposition  
21 be taken by telephone or other remote means,” such as video conferencing. FED. R. CIV. P.  
22 30(b)(4); *see Banc de Binary*, 2014 WL 1030862, at \*10 (‘other remote means’ includes  
23 videoconferencing).

24 Rule 26(c)(1), in turn, governs protective orders. A court may grant a protective  
25 order “to regulate the terms, conditions, time or place of discovery.” *Cadent Ltd. v. 3M*  
26 *Unitek Corp.*, 232 F.R.D. 625, 629 (C.D. Cal. 2005) (quoting *Pro Billiards Tour Ass’n,*  
27 *Inc. v R.J. Reynolds Tobacco Co.*, 187 F.R.D. 229, 230 (M.D.N.C. 1999)). “The court may,  
28 for good cause, issue an order to protect a party or person from annoyance, embarrassment,

1 oppression, or undue burden or expense[.]” FED. R. CIV. P. 26(c)(1). In order to make the  
2 requisite showing of good cause, “the party seeking protection bears the burden of showing  
3 specific prejudice or harm will result if no protective order is granted.” *Phillips ex rel.*  
4 *Estates of Byrd v. General Motors Corp.*, 307 F.3d 1206, 1210–11 (9th Cir. 2002);  
5 *WebSideStory, Inc. v. NetRatings, Inc.*, No. 06cv408-WQH-AJB, 2007 WL 1120567, at  
6 \*1–\*2 (S.D. Cal. Mar. 22, 2007) (“To establish good cause, the moving party must make  
7 a clear showing of a particular and specific need for the order.”). The court has broad  
8 discretion in deciding “when a protective order is appropriate and what degree of protection  
9 is required.” *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 36 (1984); *see Phillips*, 307 F.3d  
10 at 1211–12.

#### 11 **IV. DISCUSSION**

12 The Court does not find good cause to support conducting Plaintiff’s deposition via  
13 videoconference. The Court does not question the veracity of Plaintiff’s claims of PTSD  
14 and anxiety surrounding the in-person deposition, but finds that Plaintiff has not met her  
15 burden to obtain protective order.

16 For example, Plaintiff has not refuted Defendant’s concerns regarding disadvantages  
17 of videoconference depositions of key witnesses, such as the possibility of someone off-  
18 camera providing verbal and non-verbal cues to the deponent, the possibility of referring  
19 to other materials during the deposition, and limitations on counsel’s ability to assess  
20 demeanor and credibility. *See* ECF No. 47-3 at 3–4. The Court finds Defendant’s argument  
21 persuasive, and other courts in this circuit have addressed similar issues and have likewise  
22 denied requests for videoconference depositions of key witnesses. *Gersh v. Anglin*, No.  
23 CV-17-50-M-DCL-JCL, 2019 U.S. Dist. LEXIS 162473, at \*4–\*5 (D. Mont. Apr. 5, 2019)  
24 (denying request for defendant’s deposition to proceed by videoconference, because “[a]s  
25 the named defendant, Anglin will also likely serve as a key witness and his credibility will  
26 presumably be a central issue. Plaintiff cites several cases recognizing that a deposition by  
27 remote means may be insufficient where, as here, the deponent is a key witness whose  
28 testimony and credibility are central to the case. [] This Court agrees that [p]laintiff would

1 be prejudiced if Anglin is not required to appear for an in-person deposition.”); *Natural-*  
2 *Immunogenics Corp. v. Newport Trial Grp.*, No. 15cv2034-JVS-JCGx, 2017 WL  
3 10562990, at \*6 (C.D. Cal. Aug. 14, 2017) (denying motion for protective order permitting  
4 depositions to proceed by videoconference, in part because “the Quintos are key witnesses  
5 in this case. They are [plaintiff]’s principals; they decided to bring this litigation, and they  
6 have been actively involved in making litigation decisions, as their counsel have  
7 represented. Thus, it is fair to say that their testimony will be controversial, and the tenor  
8 of the interactions between the parties and counsel during the depositions may be tense.  
9 Videoconference depositions are not suitable for such controversial situations,” since  
10 counsel would be unable to ascertain if anyone is listening in or coaching the witness); *see*  
11 *cf. Egan v. Royal Kona Resort*, No. 17-322-DKW-KJM, 2018 WL 1528779, at \*2 (D. Haw.  
12 Mar. 28, 2018) (“Although the Court will always encourage parties to consider remote  
13 depositions—particularly if the depositions do not involve key witnesses—the Court  
14 agrees with Royal Kona’s concerns about the practical limitations on such depositions.  
15 Here, where the depositions concern the named Plaintiffs who will be key trial witnesses,  
16 the Court agrees that forcing video or telephonic depositions would unfairly prejudice  
17 Royal Kona’s case evaluation and preparation.”); *United States v. Approximately \$57,378*  
18 *in U.S. Currency*, No. C-08-5023-MMC-BZ, 2010 U.S. Dist. LEXIS 121022, at \*3–\*4  
19 (N.D. Cal. Oct. 27, 2010) (denying request for defendant’s deposition to proceed by  
20 videoconference, because “a deposition by telephone or video conference would be  
21 prejudicial to the Government’s case. This is primarily because the Government will use  
22 Sims’ deposition to examine her credibility. To do this, the Government needs an in-person  
23 opportunity to observe Sims’ demeanor, ask follow-up questions, and confront Sims with  
24 prior inconsistent statements she has made.”); *Clinton v. Cal. Dep’t of Corr.*, No. CIV-S-  
25 05-1600-LKK-CMK-P, 2008 WL 5068586, at \*2 (E.D. Cal. Nov. 25, 2008) (declining to  
26 order remote deposition of plaintiff because a remote deposition would “place [defendant]  
27 at a disadvantage by not allowing defense counsel to adequately observe plaintiff’s  
28 demeanor to prepare for trial”).

1           Moreover, Plaintiff does not address why existing safeguards are insufficient. For  
2 example, depositions are limited to one day of seven hours. FED. R. CIV. P. 30(d)(1). During  
3 the deposition, examining counsel is expected to refrain from questioning that creates  
4 “unreasonable annoyance, embarrassment or oppression.” FED. R. CIV. P. 30(d)(3)(A); *see*  
5 *also Scott-Iverson v. Indep. Health Ass’n*, No. 13cv451-V-F, 2017 WL 35453, at \*4  
6 (W.D.N.Y. Jan. 4, 2017) (collecting cases regarding abusive conduct of examining  
7 counsel). Further, this district’s Local Civil Rules establish a code of conduct, requiring  
8 “lawyers to treat adverse witnesses [and] litigants ... with courtesy, fairness, and respect.”  
9 CivLR 2.1(a)(3)(b). Also, “lawyers [must] conduct themselves in the discovery process as  
10 if a judicial officer were present.” CivLR 2.1(a)(3)(c). The undersigned’s Chambers Rules  
11 also outline procedures to follow if a dispute arises during a deposition. Chmb.R. at 4.  
12 Should Defendant’s counsel’s questioning become aggressive, the parties may call  
13 Chambers at 619-557-6162. *Id.* The Court finds that adequate safeguards<sup>4</sup> exist, which  
14 eliminate the need for a videoconference deposition.

15           The Court acknowledges Plaintiff’s fear and anxiety regarding her in-person  
16 deposition. *See* ECF No. 47-1 at 2. However, the Court finds that Plaintiff did not  
17 sufficiently allege a “particular and specific need” for a videoconference deposition, as  
18 required to obtain a protective order—e.g., it is not clear why her fears only involve in-  
19 person depositions and not videoconference depositions. *See WebSideStory*, 2007 WL  
20 1120567, at \*1–\*2 (“To establish good cause, the moving party must make a clear showing  
21 of a particular and specific need for the order.”). Additionally, since the Court finds  
22 Defendant’s arguments regarding disadvantages of videoconference depositions of key  
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25 <sup>4</sup> In addition, here, Plaintiff’s deposition will be conducted in a quiet conference room; only  
26 counsel and a court reporter will be in the room, i.e., Defendant’s representatives will not  
27 be present at the deposition; and Plaintiff will have as many breaks as she needs to feel  
28 comfortable, in a private conference room. ECF No. 47 at 6. Defendant’s counsel has  
represented to the Court that she “ha[s] no intent on being in any way aggressive or hostile  
with [Plaintiff].” ECF No. 47-3 at 2.

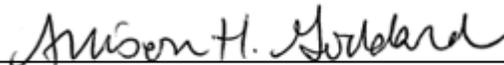
1 witnesses persuasive, and because the Court finds there are sufficient safeguards in place  
2 to mitigate Plaintiff's concerns, the Court does not find good cause to order a  
3 videoconference deposition.

4 **V. CONCLUSION**

5 For the reasons set forth above, the Court **DENIES** Plaintiff's motion for protective  
6 order (ECF No. 47) and **ORDERS** that Plaintiff's deposition proceed in person.

7 **IT IS SO ORDERED.**  
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10 Dated: July 16, 2021

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13 Honorable Allison H. Goddard  
14 United States Magistrate Judge  
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