

AKERMAN LLP

601 WEST FIFTH STREET, SUITE 300
LOS ANGELES, CALIFORNIA 90071
TEL.: (213) 688-9500 – FAX: (213) 627-6342

1 **AKERMAN LLP**
2 ELLEN S. ROBBINS (SBN 298044)
3 ALICIA Y. HOU (SBN 254157)
4 601 West Fifth Street, Suite 300
5 Los Angeles, California 90071
6 Telephone: (213) 688-9500
7 Facsimile: (213) 627-6342
8 Email: alicia.hou@akerman.com
9 Email: ellen.robbins@akerman.com

10 LAWRENCE D. SILVERMAN (admitted *pro hac vice*)
11 98 Southeast Seventh Street, Suite 1100
12 Miami, FL 33131
13 Telephone: (305) 374-5600
14 Facsimile: (305) 374-5095
15 Email: lawrence.silverman@akerman.com

16 ADRIENNE SCHEFFEY (admitted *pro hac vice*)
17 1900 Sixteenth Street, Suite 1700
18 Denver, Colorado 80202
19 Telephone: (303) 260-7712
20 Facsimile: (303) 260-7714
21 Email: colin.barnacle@akerman.com
22 Email: adrienne.scheffey@akerman.com

23 Attorneys for Defendant
24 THE GEO GROUP, INC.

25 **UNITED STATES DISTRICT COURT**
26 **CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION**

27 RAUL NOVOA, JAIME CAMPOS
28 FUENTES, ABDIAZIZ KARIM, and
RAMON MANCIA, individually and on
behalf of all others similarly situated

Plaintiff,

vs.

THE GEO GROUP, INC.,

Defendant.

Case No. 5:17-cv-02514-JGB-SHKx

**DEFENDANT THE GEO GROUP,
INC.’S OPPOSITION TO
PLAINTIFFS’ EX PARTE
APPLICATION TO EXCEED
DEPOSITION LIMIT**

1 THE GEO GROUP, INC.,
2 Counter-Claimant,
3 vs.

TAC Filed: September 16, 2019
SAC Filed: December 24, 2018
FAC Filed: July 6, 2018
Complaint Filed: December 19, 2017
Trial Date: February 2, 2021

4 RAUL NOVOA, JAIME CAMPOS
5 FUENTES, ABDIAZIZ KARIM, and
6 RAMON MANCIA, individually and on
behalf of all others similarly situated,
Counter-Defendant.

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1 Defendant The GEO Group, Inc. ("GEO") hereby opposes Plaintiffs' *Ex Parte*
2 Application to Exceed Deposition Limit ("Application") as set forth below.

3 I. BACKGROUND

4 On July 17, 2020, the parties agreed to increase the deposition limit in this case
5 to fifteen depositions per party. (ECF 280.) Plaintiffs have taken fourteen
6 depositions, and now seek to further increase the limit to accommodate *twelve*
7 *additional depositions*. (Declaration of Ellen S. Robbins (**Robbins Decl.**) ¶ 3.) On
8 September 4, 2020, GEO served its Third Supplement to Initial Disclosures (Robbins
9 Decl. ¶ 4), a mere two days after Plaintiffs served their Tenth Supplement to Initial
10 Disclosures (Robbins Decl. ¶ 5), in which GEO identified eleven additional
11 individuals who worked at the various GEO detention facilities, which witnesses were
12 identified in response to Plaintiffs' disclosure on August 17, 2020 of an expert witness
13 who was going to opine on GEO's compliance with the PBNDS. At no time prior to
14 the September 14, 2020 discovery cutoff did Plaintiffs request to depose any of these
15 individuals. (Robbins Decl., ¶ 6.)

16 On October 7, 2020, Plaintiffs filed a Motion to Strike GEO's Third Supplement
17 to Initial Disclosures ("Motion to Strike"), arguing that these witnesses should be
18 precluded from testifying at trial since Plaintiffs were purportedly prejudiced by not
19 having the opportunity to take their depositions.¹ (ECF 344.) Since the filing of the
20 Motion to Strike, the Court extended the discovery cutoff to November 23, 2020.
21 (ECF 354.)

22 Plaintiffs requested that GEO provide deposition dates for these individuals for
23 the first time on October 20, 2020, and GEO is working on obtaining deposition dates.
24 (Robbins Decl., ¶ 7.) On that same date, Plaintiffs requested that GEO agree to permit
25 Plaintiffs additional depositions beyond the 15 deposition limit to accommodate the
26

27 ¹ In addition to the fact that at no time prior to the close of discovery did Plaintiffs request the depositions of these
28 individuals, plaintiffs opposed GEO's efforts to extend the fact discovery cutoff, which has since been extended by the
Court until November 23, 2020. GEO's position with respect to the Motion to Strike is set forth more fully in GEO's
Opposition to Plaintiffs' Motion to Strike Third Supplement to Initial Disclosures. (ECF 357.)

1 depositions of these individuals. (Robbins Decl., ¶ 8.) GEO agreed to do so, but
 2 requested that in exchange Plaintiffs agree to produce one of their identified
 3 witnesses, Fernando Munoz Aguilera, for deposition.² (*Id.*) GEO also requested that
 4 Plaintiffs withdraw their Motion to Strike since they were now going to have the
 5 opportunity to depose the individuals identified in the Third Supplement. (*Id.*)
 6 Initially, GEO suggested that the parties limit the length of each deposition to
 7 accommodate the limited time remaining in discovery and acknowledging that each of
 8 the witnesses' information is limited to a single claim at issue. Plaintiffs summarily
 9 stated this was not acceptable. (*Id.*) Accepting Plaintiffs' position, GEO agreed to
 10 provide the witnesses for the full time permitted under the Federal Rules. (*Id.*)
 11 However, Plaintiffs refused to agree to produce Mr. Aguilera or to withdraw their
 12 Motion to Strike. (Robbins Decl., ¶ 9.) As a result, the parties were not able to agree
 13 on a Stipulation,³ and Plaintiffs filed this Application.

14 II. ARGUMENT

15 Plaintiffs mischaracterize GEO's position when they state, "GEO would not
 16 agree to a stipulation without imposing unrelated and unnecessary conditions,
 17 including that Plaintiffs withdraw their pending Motion to Strike GEO's Third
 18 Supplement to Initial Disclosures." (ECF 360 at 2:20-22.) As explained further
 19 below, GEO did not impose "unrelated and unnecessary conditions," in exchange to
 20 stipulate to further depositions, but instead requested that Plaintiffs agree to
 21 reasonable propositions in the furtherance of judicial economy.

22 GEO requests the Court deny Plaintiffs' *Ex Parte* application, which places **no**
 23 **limit** on the number of depositions Plaintiffs may take, by limiting the number of
 24 depositions the Plaintiffs may take to the eleven witnesses identified in GEO's Third

25 _____
 26 ² GEO has requested Plaintiffs produce Mr. Aguilera previously in this litigation, but Plaintiffs previously stated it was
 GEO's obligation to get permission from ICE to make him available for his deposition. (Robbins Dec., ¶ 10.) This is not
 so. Plaintiffs must produce Mr. Aguilera for a deposition as he is their witness.

27 ³ The first time that the parties had a substantive discussion and conferral regarding this issue was at 10:30 a.m. Pacific
 time on October 23, 2020. (Robbins Decl., ¶ 11.) At the conclusion of that call, Plaintiffs advised that they would
 28 proceed with the Application unless GEO agreed to their version of the Stipulation by noon Pacific time -i.e.,
 approximately one hour after the call concluded. (*Id.*)

1 Supplemental Disclosures, conditioned upon the Court’s denial of Plaintiffs’ Motion
2 to Strike. In addition, GEO requests that the Court place reasonable time limits on the
3 depositions given the limited time remaining in discovery, limiting any depositions to
4 no more than five hours each.

5 **1. GEO Agreed to Produce the Additional Witnesses for Deposition**

6 GEO has already agreed to produce for deposition the 11⁴ additional witnesses
7 identified in GEO’s Third Supplemental Initial Disclosures. GEO has also advised
8 Plaintiffs several times it is working to obtain dates from the witnesses to be deposed
9 prior to the November 23, 2020, discovery cutoff. Plaintiffs’ suggestions to the
10 contrary are false.

11 **2. GEO’s Agreement Renders Plaintiffs’ Motion to Strike Moot**

12 Plaintiffs’ pending Motion to Strike GEO’s Third Supplemental Disclosures
13 complains that Plaintiffs were prejudiced by GEO’s “late” disclosure because they
14 were not given an opportunity to depose the subject witnesses. In light of GEO’s
15 agreement to produce the additional witnesses, Plaintiffs’ Motion is moot. GEO
16 requested Plaintiffs withdraw their pending Motion in consideration of GEO
17 stipulating that Plaintiffs can take more than double the amount of depositions that are
18 permitted under the Fed. R. Civ. P., but Plaintiffs refused without any reasonable
19 basis.⁵

20 **3. GEO’s Request for Deposition of Plaintiffs’ Witness**

21 During the stipulation conferral process, given that GEO was agreeing to
22 produce the 11 witnesses identified in the Third Supplement, GEO reasonably
23

24
25 ⁴ Ronald Warren, who was listed in GEO's Third Supplement to Initial Disclosures, is now in a different position at
26 GEO. (Robbins Decl., ¶ 12). Accordingly, GEO offered to substitute the deposition of his replacement, Daniel
27 Greenawalt, but Plaintiffs rejected this proposal and demanded to take the depositions of both individuals. (*Id.*)

28 ⁵ Plaintiffs argue they will not withdraw the Motion because “GEO has not provided deposition dates or documents for
the Witnesses Plaintiffs seek to depose.” (ECF 360 2:22-24.) Again, GEO has advised Plaintiffs it is diligently
obtaining dates for each of the 12 witnesses. Further, GEO has produced all responsive documents to Plaintiffs’ RFPs
and there is no basis for GEO to conduct further searches in response to Plaintiffs’ arbitrary demand. Indeed, Plaintiffs’
Motion to Strike does not even address any alleged deficiencies in GEO's document production, nor, significantly, were
any deficiencies relating to these individuals identified in plaintiffs' discovery motion filed September 30, 2020.

1 requested Plaintiffs include in the stipulation a provision agreeing to produce for
2 deposition *one* of their identified witnesses, Fernando Munoz Aguilera, who had not
3 been produced for deposition before the prior discovery cutoff despite GEO's timely
4 request. Plaintiffs refused. Plaintiffs' argument that GEO's request for Plaintiffs to
5 produce Mr. Aguilera is an "unrelated and unnecessary condition" is misplaced.

6 **III. CONCLUSION**

7 In light of the foregoing, GEO respectfully requests that this Court deny
8 Plaintiffs' *Ex Parte* Application, which does not place *any* limits on the additional
9 depositions that Plaintiffs may take, and instead permit Plaintiffs to take only the
10 depositions of the 11 additional witnesses identified in GEO's Third Supplement to
11 Initial Disclosures, conditioned upon the Court's denial of Plaintiffs' Motion to Strike.
12 In addition, GEO requests that the Court place reasonable time limits on the
13 depositions given the limited time remaining in discovery, limiting any depositions to
14 no more than five hours each.

15
16 Dated: October 26, 2020

AKERMAN LLP

17 By: /s/ Ellen S. Robbins
18 Ellen S. Robbins
19 Alicia Y. Hou
20 Adrienne Scheffey
21 Attorneys for Defendant
22 THE GEO GROUP, INC.
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