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**IN THE UNITED STATES DISTRICT COURT**

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**FOR THE DISTRICT OF ARIZONA**

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Mastro's Restaurants LLC,

)

CV 11-01996-PHX-PGR

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Plaintiff,

)

11

v.

)

**ORDER**

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The Dominick Group LLC, et al.,

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Defendants.

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Before the Court is Defendants' Motion to Compel, filed March 16, 2012. (Doc. 56.)

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Defendants contend that MR has failed to comply with its discovery obligations by

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withholding all nonpublic information, failing to supplement its responses, withholding

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emails and other electronic information, refusing to provide information concerning the Asset

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Purchase Agreement ("APA"), and objecting to requests for admissions concerning MR's

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CEO, Thomas Heymann. On April 2, 2012, MR filed a response in opposition. (Doc. 58.)

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Defendants filed a reply on April 12. (Doc. 63.) On April 13, MR served its First

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Supplemental Objections and Responses to Defendants' First Set of Interrogatories, and its

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First Supplemental Responses and Objections to Defendants' First Requests for Admissions.

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(Doc. 66.)

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In its response, MR asserts that the Motion to Compel does not comply with Local

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Rule of Civil Procedure 7.2(j), which requires, as a condition for the filing of a discovery

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motion, "personal consultation with the other party and a sincere effort to resolve the

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1 matter.”<sup>1</sup> (Doc. 58 at 1.) As set forth in the Declaration of Andrea L. Marconi, filed with  
2 Defendants’ Motion to Compel, the parties have exchanged letters and emails. (Doc. 57; *see*  
3 Doc. 63 at 9–12.) However, “[p]ersonal consultation requires face-to-face communication,  
4 or at least telephone communication. Letters, faxes, and e-mails are insufficient.” *Hart v.*  
5 *Agnos*, CV-77-0479-PHX-NVW, 2008 WL 2008966, \*7 (D.Ariz. April 25, 2008); *see Soto*  
6 *v. City of Concord*, 162 F.R.D. 603, 623 (N.D.Cal. 1995) (“Sending a letter to the opposing  
7 party demanding compliance with a discovery request is not what this Court regards as an  
8 earnest attempt to ‘meet and confer’ on the issues.”).

9 Because personal consultation as contemplated under Rule 7.2(j) has not yet occurred,  
10 and in the light of the discovery served by MR on April 13, 2012,

11 IT IS HEREBY ORDERED that the parties engage in face-to-face or telephone  
12 consultation concerning the status of the discovery requests contained in Defendants’ Motion  
13 to Compel and file a status report on those issues no later than April 27, 2012. The parties  
14 shall be prepared to discuss the issues at the May 2, 2012, oral argument.

15 DATED this 16<sup>th</sup> day of April, 2012.

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18 Paul G. Rosenblatt  
19 United States District Judge  
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27 <sup>1</sup> MR also argued that the Motion to Compel did not comply with Local Rule 37.1(a),  
28 which prescribes the format of such motions. However, Defendants have now complied with  
the Rule by filing a separate statement in support of their motion. (Doc. 64.)