

PRIORITY SEND

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. CV 04-08425-VAP (Ex)

Date: April 6, 2010

Title: LOG CABIN REPUBLICANS, a non-profit corporation -v- UNITED STATES OF AMERICA and DONALD H. RUMSFELD, SECRETARY OF DEFENSE, in his official capacity

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PRESENT: HONORABLE VIRGINIA A. PHILLIPS, U.S. DISTRICT JUDGE

Marva Dillard
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR
PLAINTIFFS:

ATTORNEYS PRESENT FOR
DEFENDANTS:

None

None

PROCEEDINGS: MINUTE ORDER DENYING DEFENDANTS' MOTION FOR REVIEW OF MAGISTRATE JUDGE'S DISCOVERY RULING (IN CHAMBERS) [Motion filed March 26, 2010] (IN CHAMBERS)

I. BACKGROUND

On March 8, 2010, Plaintiff Log Cabin Republicans filed an Ex Parte Application for an Order that Certain Requests for Admissions ("RFAs") be Deemed Admitted or for Further Responses (Doc. No. 119). Defendants filed Opposition to the Application, (Doc. No. 120), and the matter was heard, along with other discovery motions, before U.S. Magistrate Judge Charles Eick on March 15, 2010.

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Judge Eick issued an order on March 16, 2010, granting the motion in part and denying it in part ("the March 16, 2010 Order"). Defendants now seek review of that Order to the extent it compels "Defendant USA [to] unqualifiedly admit or deny Requests for Admission Nos. 3, 4 [and] 5" (Doc. No. 127.) Plaintiff filed Opposition on March 30, 2010 (Doc. No. 137), and Defendants filed a Reply on April 1, 2010. (Doc. No. 139.) This matter is appropriate for resolution without hearing. See Fed. R. Civ. P. 78; Local Rule 7-15.

II. LEGAL STANDARD

A party objecting to a Magistrate Judge's ruling on a pretrial motion may, within ten days of entry of the order, file a motion seeking review by the assigned District Judge, designating the specific portions of the ruling objected to and stating the grounds for the objection. A party objecting to a Magistrate Judge's Order must show it to be "clearly erroneous or contrary to law." Fed.R.Civ.P. 72(a); 28 U.S.C. § 636(b)(1)(A).

III. DISCUSSION

Defendants contend that "in the unique circumstances of this case," they cannot in good faith respond to the three RFAs as ordered by the Magistrate Judge, i.e., they cannot respond with an unqualified admission or denial. (Mot. at 2.) They rely on Fed. R. Civ. P. 36(a)(4) as support for their position they should be permitted to provide a qualified response to the RFAs.

Rule 36(a)(4) provides in relevant part as follows:

If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or deny only a part of a matter, the

answer must specify the part admitted and qualify or deny the rest.

The Magistrate Judge considered Defendants' argument that the RFAs in

question here could not be answered by an unqualified admission or denial, and rejected it. Defendants have failed to demonstrate the ruling was "clearly erroneous or contrary to law."

Defendants rely on Marchand v. Mercy Med. Ctr., 22 F.3d 933 (9th Cir. 1994), in vain. There, the Circuit affirmed the trial court's order that a physician defendant pay the patient plaintiff's reasonable costs incurred because the defendant unjustifiably denied the plaintiff's RFA regarding causation. In doing so, it soundly rejected the defendant's argument that his objection to the wording of the RFA constituted a "good reason" for failing to admit, noting with displeasure that "Counsel routinely object to discovery requests. . . And to aid the quest for relevant information parties should not seek to evade disclosure by quibbling and objection. They should admit to the fullest extent possible and explain in detail why other portions of a request may not be admissible." Id. at 938.

The RFAs at issue here are not lengthy, ambiguous or compound. Defendants offer neither legal authority nor any other basis to satisfy the legal standard for reversing the Magistrate Judge's order that Defendants shall provide unqualified responses to them.

Accordingly, the Court DENIES Defendants' Motion.

IT IS SO ORDERED.

cc: U.S. Magistrate Judge Eick