

1 on October 11, 2017, defendants have “failed to provide any responsive documents or responses
2 while refusing to meet and confer and merely alleging time and again to Plaintiff’s counsel that
3 they would produce them ‘soon’ and failing to do so.” (App. at 4; Mot. at 4-5; Mot. Cisko Decl. ¶¶
4 8-15). On November 6, 2017, defendants’ counsel represented to plaintiff’s counsel that
5 defendants’ response to plaintiff’s counsel’s November 1, 2017, email would “be ready in another
6 day or two,” but no further response from defendants has been forthcoming. (Mot. Cisko Decl. ¶¶
7 16, 17). Neither have defendants “produced a single document pursuant to Plaintiff’s discovery
8 requests and Defendants own admitted Rule 26 disclosures.” (App. at 7; Mot. Cisko Decl. ¶ 8).
9 Plaintiff seeks to have the Motion heard on shortened time because of defendants’ “blatant
10 disregard of proper discovery protocol” (App. Cisko Decl. ¶ 11) and if plaintiff were to file a properly
11 noticed motion to compel, the earliest date for the hearing would be January 8, 2018, the
12 discovery cut-off date.¹ (App. at 2). Plaintiff also seeks monetary sanctions in the amount of
13 approximately \$9,500. (Mot. at 2, 8-9; Mot. Cisko Decl. ¶ 5).

14 Plaintiff’s counsel states that on December 1, 2017, he notified defendants’ counsel of
15 plaintiff’s intent to submit an *ex parte* Application for an order to hear the Motion on shortened
16 time, and defendants’ counsel indicated that “he will be producing the documents and responses
17 shortly but will wish to oppose this *ex parte* application.” (Mot. Cisko Decl. ¶ 19).

18 Based on plaintiff’s representation that defendants have failed to produce *any documents*
19 *in this action*, especially in light of the issuance of a Protective Order nearly two months ago and
20 the rapidly-approaching discovery cut-off date, **no later than 12:00 noon on December 5, 2017**,
21 defendants are ordered to show cause:

- 22 (1) why plaintiff’s Application to have the Motion heard on shortened time should not be
23 granted;

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26 _____
27 ¹ The Court notes that pursuant to the District Judge’s Order Setting Rule 16(b)/26(f)
28 Scheduling Conference, the discovery cut-off date “means the final day for completion of
non-expert discovery, including resolution of all discovery motions.”

- 1 (2) why, despite their promises to do so, no documents have been produced responsive
2 to Requests for Production numbers 3-7, 12-17, 23-31, 33-40, 42-54, 56-58, 61-65,
3 66-78, and why supplemental responses to Interrogatory numbers 4-8 have not
4 been provided; and
5 (3) why plaintiff's request for sanctions should not be granted.

6 **It is so ordered.**

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8 DATED: December 4, 2017

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10 PAUL L. ABRAMS
11 UNITED STATES MAGISTRATE JUDGE
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