

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

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| Case No. | ED CV 15-702-VAP (SPx) | Date | February 29, 2016 |
| Title | Solaiman Saifi, et al. v. Calnet, Inc, et al. | | |

Present: The Honorable Sheri Pym, United States Magistrate Judge

Kimberly Carter

None

None

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

None Present

None Present

Proceedings: **(In Chambers) Order to Show Cause Why Motion Should Not Be Denied as Moot and Untimely [42]**

On January 15, 2016, plaintiff filed a Motion to Compel. Docket no. 42. Plaintiff noticed the motion for hearing on February 23, 2016; however, the court has since taken the hearing off calendar. The motion was not filed in the form of a joint stipulation as required by Local Rule 37-2; but it was accompanied by a declaration stating defense counsel had failed to provide their portion of the joint stipulation in a timely manner in accordance with L.R. 37-2.2, thus permitting plaintiff to file a motion without a joint stipulation, with Local Rules 6-1, 7-9, and 7-10 governing. *See* L.R. 37-2.4

In the motion, plaintiff seeks an order compelling defendant Calnet, Inc. to produce documents responsive to certain document requests. On February 2, 2016, defendant Calnet filed an opposition to plaintiff's motion, contending plaintiff failed to respond to defendant's request for an extension of time to file its portion of the joint stipulation and several requests to further meet on the disputed discovery issues. Defendant claims plaintiff has violated the spirit of Local Rule 37-1, that most of the concerns raised in plaintiff's motion have been resolved, and the only two remaining genuine disputes may be resolved through further meeting and conferring.

Specifically, according to defendant the only remaining issues are the proposed email search terms and disclosure of the roster of potential class members. Defendant presents persuasive arguments supporting its contention that the terms proposed by plaintiff are overbroad and that plaintiff has failed to participate in the required meet and confer in an effort to appropriately tailor these terms. Defendant also voices reasonable privacy concerns related to disclosures of personal information of individuals not yet parties to this action. But plaintiff's argument that defendant's intent to release

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documents is not equivalent to actual compliance with delivery of discovery is equally compelling.

Before addressing the merits of the Motion to Compel, however, the court questions whether it may appropriately reach the merits, for two reasons. First, the class certification discovery cut-off was January 25, 2016, as set forth in the June 29, 2015 Civil Trial Scheduling Order. The same order provides that the discovery cut-off is “the last day for hearing any discovery motion.” Although the discovery at issue also appears to pertain to the merits, since this is the class certification phase of the case, it appears the Motion to Compel – filed only ten days before the cut-off, and with a hearing noticed after the cut-off – is untimely.

Second, even if the Motion to Compel is timely, on February 26, 2016, the court granted the motion in the related case of *Atiqi, et al. v. Acclaim Technical Services, et al.*, ED CV 14-628-VAP (SPx), to consolidate the *Atiqi* case with this and other related cases. In light of the consolidation, it is unclear what, if any, discovery issues remain unresolved, the appropriate cut-off date for the discovery previously propounded, or if plaintiff now intends to move forward with a *Belaire-West* opt-out notice.

Accordingly, plaintiff is hereby ordered to show cause, on or before **March 7, 2016**, why the Motion to Compel should not be denied as moot and untimely. If plaintiff withdraws the motion on or before March 7, 2016, the order to show cause will be discharged. If counsel for the parties believe it would be helpful to have a telephonic conference to discuss this matter, they may contact the magistrate judge’s courtroom deputy to schedule one.