

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	ED CV 16-2369-AB (SPx)	Date	January 18, 2018
Title	Live Face on Web LLC v. Radio Demographics, Inc, et al.		

Present: The Honorable	Sheri Pym, United States Magistrate Judge
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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 for Failure to Comply with Local Rule 37 and as Untimely, and Directing the Parties to Meet and Confer**

On January 16, 2018, plaintiff filed a motion to compel defendant Radio Demographics, Inc. to appear for deposition, and filed an ex parte application to hear the motion on shortened time. The motion was not filed in the form of a joint stipulation as required for all discovery motions by Local Rule 37-2. Further, the motion was not accompanied by a declaration establishing that opposing counsel failed to confer or cooperate in the preparation of a joint stipulation. Thus it appears that under Local Rule 37-4, the court should not consider the motion and instead deny it without prejudice.

Additionally, although plaintiff applies to have the motion heard on shortened time on February 6, 2018, that is after the February 5, 2018 discovery cutoff. The June 8, 2017 Order re Jury Trial in this case explicitly requires that all discovery motions be heard by that date. Accordingly, this magistrate judge lacks authority to hear the motion on February 6 or a later date. Additionally, even if heard on February 5, the Order re Jury Trial requires that discovery motions be calendared sufficiently in advance of the cutoff to permit responses to be obtained by the cutoff if the motion is granted. For these reasons too, it appears the court should deny the motion as untimely.

Accordingly, plaintiff is hereby ordered to show cause, on or before January 22, 2018, why the motion to compel should not be denied under Local Rule 37-4 and as untimely. If plaintiff withdraws the motion on or before January 22, 2018, the order to show cause will be discharged.

In the meantime, the court directs the parties to promptly meet and confer further to

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see if they can agree on a deposition date, as this appears to be a matter the parties should be able to resolve. Although the instant motion appears to be procedurally improper at this time, it is possible plaintiff would be able to show good cause for the court to extend the discovery cutoff to hear the motion and permit the deposition to occur. As such, it may be in both sides' interest to resolve this matter.