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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SABAS ARRENDONDO, et al.,)	1:09cv01247 LJO DLB
)	
Plaintiff,)	ORDER REGARDING PLAINTIFFS'
)	MOTION FOR SANCTIONS
v.)	
)	(Document 43)
DELANO FARMS CO., et al.,)	
)	
Defendants.)	

On July 16, 2010, Plaintiffs filed the instant motion for discovery sanctions. The motion was heard on July 30, 2010, before the Honorable Dennis L. Beck, United States Magistrate Judge. Jessica Arciniega and Thomas Lynch appeared on behalf of Plaintiffs Sabas Arrendondo, Jose Cuevas, Hilario Gomez, Irma Landeros and Rosalba Landeros, individually and on behalf of all others similarly situated. Michael Johnson appeared on behalf of Defendants Delano Farms Co., Cal-Pacific Farm Management, L.P., and T&R Bangi's Agricultural Services, Inc.

BACKGROUND

On July 17, 2009, five Named Plaintiffs filed this action alleging causes of action under both federal and state law (Migrant and Seasonal Agricultural Worker Protection Act, California Labor Code and California Unfair Competition Law) based on allegations that they were not compensated for all time worked. Plaintiffs are seasonal, agricultural workers who worked in agricultural fields and packing sheds owned by Defendant Delano Farms. Defendants Cal-

1 Pacific Farm Management and T&R Bangi are farm labor contractors working with Delano
2 Farms to provide its labor force.

3 Plaintiffs' deadline to file a motion for class certification is August 10, 2010, though the
4 parties are expected to submit a stipulation to extend the date.

5 On June 2, 2010, the Court granted in part and denied in part Plaintiffs' motion to compel
6 production of documents. Among other things, Defendants were ordered to produce time records
7 and wage information for all potential class members. The Court stated, "To the extent that the
8 requested information is stored on a computer, Defendants SHALL produce the information for
9 all covered employees. As to Defendant Delano Farms, this request includes invoices, as well."

10 Defendants provided supplemental responses on July 2, 2010. The responses consisted of
11 9 CD-ROMs containing Microsoft Excel Spreadsheets and scans of handwritten employee time
12 cards.

13 Plaintiffs filed the instant motion for sanctions on July 16, 2010. Defendants filed their
14 opposition on July 23, 2010, and Plaintiffs filed their reply on July 28, 2010.

15 DISCUSSION

16 Based on their belief that Defendants failed to comply with the June 2 order, Plaintiffs
17 seek monetary and terminating sanctions pursuant to Federal Rule of Civil Procedure 37. At the
18 hearing, the parties were able to agree on a supplemental production, as set forth below. The
19 Court will therefore reserve ruling on the issue of sanctions until the completion of the
20 supplemental production.

21 A. Electronic Production of Employee Records

22 The bulk of Plaintiffs' discovery complaints arise from Defendants' production of
23 employee records in the form of Excel spreadsheets. Defendants exported information from
24 Datatech, their payroll software, to the spreadsheets and contend that the information appears as
25 kept in its native form. While Defendants also contend that the information is fully searchable,
26 Plaintiffs have identified numerous issues with the form of the production.

27 Plaintiffs now have the Datatech software and Defendants have agreed to export relevant
28 data from Datatech and produce it to Plaintiffs on a hard drive. Defendants estimated that ten

1 percent of the employees referenced in Datatech are not covered employees and they will
2 therefore delete such employees prior to production.

3 B. Handwritten Payroll Records

4 Defendants produced scans of handwritten time cards in the manner in which they were
5 stored. Plaintiffs argue, however, that they are not able to identify for which Defendant the
6 employee worked. At the hearing, Defendants stated that Defendants Cal-Pacific and T&R
7 Bangi are the only employers and agreed to provide an explanation in a supplemental response.

8 Plaintiffs also questioned whether Defendants utilized a software program for creating
9 time cards because at least one of the time cards produced appears to have been created
10 electronically. Although Defendants believed that all of the time cards were handwritten, they
11 have agreed to inquire whether there an electronic time keeping system was in use and whether
12 other electronic time cards exist. The parties are reminded to discuss the native format of the
13 information and any systems used, as well as the format of production, prior to supplementing
14 the response.

15 C. Invoices

16 Plaintiffs raise a similar issue as to the invoices produced by Defendants. Plaintiffs
17 believe that the invoices, which were kept in binders and scanned for production, were created
18 electronically. Defendants have represented to the Court, both in their briefing and during oral
19 argument, that invoices are not electronically stored.

20 D. Information Relating to Document Compilation and Retention

21 Defendants have represented that they do not have any responsive documents.

22 E. Additional Witnesses

23 Finally, Plaintiffs contend that Defendants have belatedly produced an additional 280
24 witnesses despite their representation at the prior hearing that the 11 witnesses already identified
25 were likely the only witnesses. At the hearing, Defendants explained that the additional
26 witnesses were produced to update the list with names produced in response to a document
27 request. The list, however, is incomplete. Defendants agreed to provide additional information,
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1 such as where, when and in what capacity the witness worked, for the witnesses who are likely to
2 be involved in the class certification process.

3 **ORDER**

4 As discussed at the hearing, the parties SHALL meet and confer to develop a time line for
5 the supplemental production. The Court will not rule on the issue of sanctions at this time and
6 Plaintiffs' may renew the request for sanctions, if necessary, after the supplemental production.

7
8 IT IS SO ORDERED.

9 **Dated: August 3, 2010**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE