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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DEMETRIO QUINTERO,)	1:11-cv-00839 AWI GSA
Plaintiff,)	ORDER GRANTING DEFENDANT’S MOTION TO COMPEL DISCOVERY AND AWARD OF SANCTIONS
v.)	
MARIPOSA COUNTY SCHOOL DISTRICT, et al.)	
Defendants.)	(Document 31)

RELEVANT PROCEDURAL BACKGROUND

Plaintiff Demetrio Quintero filed his original complaint on May 23, 2011. (Doc. 2.) Following screening procedures by the Court, on December 1, 2011, Plaintiff filed his second amended complaint (“SAC”). (Doc. 9.) In an order dated December 9, 2011, the Court clarified that Plaintiff’s SAC was proceeding on its single viable claim, to wit: a violation of section 2000d of Title 42 of the United States Code¹ (and clarifying that his causes of action pertaining

¹“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C.A. § 2000d.

1 to sections 1981, 1983, 1985 and 1985 of that same code, as well as the state law claims, had
2 been dismissed previously). (Doc. 11.)

3 On February 23, 2011, Defendant Mariposa County United School District ("MCUSD")
4 filed a motion to dismiss. (Doc. 14.) Plaintiff filed an opposition on March 12, 2012 (Doc. 20)
5 and Defendant filed its reply on March 21, 2012 (Doc. 23). On May 24, 2012, this Court issued
6 its order denying MCUSD's motion. (Doc. 25.)

7 An initial scheduling conference was held June 4, 2012, and a scheduling order issued the
8 following day, setting forth the relevant deadlines and pertinent dates applicable to this matter.
9 (*See* Docs. 27 & 28.)

10 On August 28, 2012, MCUSD filed a motion compel discovery. (Doc. 31.) Plaintiff filed
11 an opposition to the motion on September 10, 2012 (Doc. 32), and MCUSD filed its reply on
12 September 21, 2012 (Doc. 33). At the hearing on the motion heard September 25, 2012, Mr.
13 Quintero personally appeared on his own behalf; defense counsel Lara Marabito personally
14 appeared on behalf of MCUSD. (Doc. 36.)

15 DISCUSSION

16 *Applicable Legal Standards*

17 The purpose of discovery is to make trial "less a game of blind man's bluff and more a
18 fair contest with the basic issues and facts disclosed to the fullest practicable extent possible."
19 *United States v. Procter & Gamble*, 356 U.S. 677, 683 (1958). Discovery will also serve to
20 narrow and clarify the issues in dispute. *Hickman v. Taylor*, 329 U.S. 495, 501 (1947).

21 Rule 26 of the Federal Rules of Civil Procedure establishes the scope of discovery and
22 states in pertinent part:

23 Parties may obtain discovery regarding any matter, not privileged, that is
24 relevant to the claim or defense of any party, including the existence, description,
25 nature, custody, condition, and location of any books, documents, or other
26 tangible things and the identity and location of persons having knowledge of any
27 discoverable matter. For good cause, the court may order discovery of any matter
28 relevant to the subject matter involved in the action. Relevant information need
not be admissible at trial if the discovery appears reasonably calculated to lead to
the discovery of admissible evidence.

1 "The party who resists discovery has the burden to show that discovery should not be
2 allowed, and has the burden of clarifying, explaining, and supporting its objections." *Oakes v.*
3 *Halvorsen Marine Ltd.*, 179 F.R.D 281, 283 (C.D. Cal. 1998); *Nestle Foods Corp. v. Aetna*
4 *Casualty & Surety Co.*, 135 F.R.D. 101, 104 (D. N.J. 1990).

5 ***Analysis***

6 MCUSD seeks an order compelling Plaintiff to respond to its Request for Production of
7 Documents ("RPD"), Set One. At the time MCUSD filed its motion, Plaintiff had failed to
8 respond to the discovery request in any way and his responses were more than thirty days
9 delinquent.

10 More particularly, MCUSD asserted it served its RPD on June 12, 2012, requiring a
11 response no later than July 16, 2012. In the absence of any response, on July 17, 2012, MCUSD
12 initiated meet and confer efforts; however, despite Plaintiff's repeated promises to produce
13 responsive documents, he did not do so.

14 MCUSD also seeks sanctions from Plaintiff for his failure to produce any responses. At
15 the time the motion was filed, MCUSD had incurred costs of \$1,850 in legal fees related to the
16 motion. It anticipated an additional \$1,250 would be incurred reviewing and responding to any
17 opposition and appearing at the hearing on the motion.²

18 In opposition to the motion, Plaintiff asserts he has "already fully complied" with the
19 request. While Plaintiff did in fact provide MCUSD with a pleading entitled, "Production of
20 Documents, Set One," he has not produced any *document* responsive to the request. Rather,
21 Plaintiff treated the RPD as if it were an interrogatory by providing a written response to the
22 request. Significantly also, Plaintiff's response is dated September 10, 2012, nearly sixty days
23 late, and *after* MCUSD filed its motion.
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27 ²In its reply, MCUSD sought sanctions totaling \$3,100 related to the motion.

1 Further, even were Plaintiff's pleading responsive to MCUSD's request, due to its
2 untimeliness, Plaintiff is not entitled to any objection. Fed. R. Civ. P. 37(b)(2)(A)(ii). Therefore,
3 to the degree his pleading objects to any request, Plaintiff is not entitled to assert any such
4 objection.

5 Additionally, the pleading Plaintiff provided to MCUSD is not signed. Pursuant to Rule
6 26(g), "unless a signature is promptly supplied," the Court must strike the response.

7 Plaintiff seems to be under the impression that because he has fallen on hard times
8 economically, this should excuse his failure to timely comply with MCUSD's request. While the
9 Court certainly sympathizes with Plaintiff's position, Plaintiff is reminded that he chose to bring
10 this litigation against MCUSD and to represent himself. In that regard, Plaintiff has previously
11 been warned that he must comply with the Federal Rules of Civil Procedure, the Local Rules, and
12 this Court's orders. Notably too, MCUSD is not *required* to grant Plaintiff an extension of time.
13 In fact, if Defendant refused to extend the deadline for a response to its RPD, Plaintiff should
14 have sought an extension from the Court, by way of a noticed motion, *before the deadline*
15 *passed*.

16 Next, in response to a specific request by MCUSD to provide documents that evidence
17 "medical treatment [he] received as a result of the damages" alleged - which include humiliation
18 and embarrassment - Plaintiff contends in his opposition that "Medical records are personal."
19 Nevertheless, by placing his mental state at issue, specifically contending he endured humiliation
20 and embarrassment, thus such documentation must be produced.

21 Finally, the Court notes that is review of MCUSD's discovery request determined the
22 request is relevant to Plaintiff's claims, as well as to MCUSD's defenses, and thus is proper.

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1 **CONCLUSION AND ORDER**

2 In light of the foregoing, together with the rulings stated on the record during the
3 proceedings held September 28, 2012, the Court ORDERS as follows:

- 4 1. MCUSD’s motion to compel Plaintiff’s response to its Request for Production of
5 Document, Set One, is GRANTED. Plaintiff SHALL produce documents
6 responsive to the request no later than 5:00 p.m. on October 10, 2012;
- 7 2. Plaintiff’s pleading entitled “Production of Documents, Set One” dated September
8 10, 2012, is STRICKEN as non-responsive and unsigned; and,
- 9 3. Plaintiff SHALL pay monetary sanctions in the sum of \$350.00 to Defendant
10 MCUSD no later than November 30, 2012.

11
12 IT IS SO ORDERED.

13 **Dated: October 9, 2012**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE