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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

MICHAEL C. MOORE,	)	1: 11-CV-1414 AWI-GSA
	)	
Plaintiff,	)	
	)	
v.	)	ORDER GRANTING DEFENDANTS' MOTION TO COMPEL
	)	
CITY OF CERES, et. al.,	)	
	)	
Defendants.	)	
	)	(Document 19)

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**I. INTRODUCTION**

On May 8, 2012, Defendants, City of Ceres, Deputy Chief of Police Mike Borges, and K. Kitcher, et. al. (hereinafter "Defendants") filed a Motion to Compel based on Michael Moore's (hereinafter, "Plaintiff") failure to provide initial disclosures. (Doc. 19). Plaintiff did not file an opposition to the motion. The matter is set for hearing on May 25, 2010 at 9:30 am.<sup>1</sup> The Court finds that the matter is suitable for decision without oral argument pursuant to Local Rule 230(c) and (g) and the hearing is vacated. Upon consideration of the pleadings, Defendants' Motion to Compel is GRANTED.

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<sup>1</sup> Pursuant to Local Rule 251(e) when there has been a complete and total failure to respond to a discovery request or order, the aggrieved party may bring a motion for relief withing fourteen (14) days notice. The responding party shall file a response to the motion not later than seven (7) days before the hearing date. The moving party may file and serve a reply thereto not less than two (2) court days before the hearing date. Accordingly, Defendant's motion was properly noticed.

1 **II. PROCEDURAL HISTORY**

2 On July 22, 2011, Plaintiff filed this action against Defendants in the Stanislaus County  
3 Superior Court of California (Case No. 667705). Defendants removed this action on August 22,  
4 2009. In the complaint, Plaintiff alleges violations of his constitutional rights pursuant to 42  
5 U.S.C. Sec. 1983.

6 On February 23, 2012, this Court issued a scheduling order requiring that the parties  
7 exchange initial disclosures by March 22, 2012. (Doc. 18). The Court also set the non-expert  
8 discovery deadline for March 18, 2013. Defendants filed the instant Motion to Compel on May 8,  
9 2012, so the motion is timely filed.

10 **III. THE MOTION TO COMPEL**

11 Defendant contends that Plaintiff has not served his initial disclosures despite the fact that  
12 initial disclosures were due March 22, 2012. On April 24, 2012, Defendants' counsel sent  
13 Plaintiff's counsel a letter notifying him of the lack of compliance and requested that the initial  
14 disclosures be made no later than April 30, 2012. Declaration of John Whitefleet, Esq. dated  
15 March 22, 2010 at ¶¶ 4-6 and attached Exhibit A (Doc. 19-2). On May 22, 2012, Defendants  
16 notified the Court that no initial disclosures were made. (Doc. 23). Defendants requests that the  
17 Court order that Plaintiff produce his initial disclosures within ten days, and also that Plaintiff pay  
18 Defendants' attorneys fees for the filing of this motion in the amount of \$472.50.

19 **IV. DISCUSSION**

20 Fed. R. Civ. P 26(a)(1)(A)(i)-(iv) requires that parties provide initial disclosures regarding  
21 litigation. Fed. R. Civ. P 26(a)(1)(A)(i)-(iv). When a party fails to do so, the court may order  
22 payment of reasonable expenses including attorney's fees caused by the failure. Fed. R. Civ. P. 37  
23 (c). Here, Plaintiff has failed to provide initial disclosures as ordered and has not responded to  
24 Defendants' motion. Accordingly, Defendants request that Plaintiff be ordered to produce his  
25 initial disclosures is granted. Additionally, the Court has reviewed Defendants' request for  
26 attorneys fees and finds that this request is reasonable.

27 ///

1 **V. CONCLUSION**

2 Based on the above, Defendants' Motion to Compel is GRANTED :

- 3 1. Plaintiff is ORDERED to serve his initial disclosures on Defendants within ten
- 4 (10) days after service of this order;
- 5 2. Plaintiff is ORDERED to pay Defendants a total of \$472.50.00 within thirty (30)
- 6 days after service of this order; and
- 7 3. Failure to comply with this order may result in the imposition of additional
- 8 sanctions including, but not limited to, additional monetary sanctions, the
- 9 exclusion of evidence at the time of trial, or dismissal of this case.

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IT IS SO ORDERED.

**Dated: May 22, 2012**

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE