



1 In opposition, Defendants indicate that at the time Plaintiff filed his motion to compel their  
2 responses to his discovery request had not yet come due, and Defendants provided a timely response  
3 to Plaintiff's request on March 4, 2015.

4 **I.**

5 **DISCUSSION**

6 **I. Motion to Compel**

7 Under Rule 26 of the Federal Rules of Civil Procedure, "[p]arties may obtain discovery  
8 regarding any non-privileged matter that is relevant to any party's claim or defense." Fed. R. Civ. P.  
9 26(b). Under Rule 37 of the Federal Rules of Civil Procedure, "[a] party seeking discovery may move  
10 for an order compelling an answer, designation, production, or inspection. . . . if a party fails to answer  
11 an interrogatory submitted under Rule 33[.]" Fed. R. Civ. P. 37(a)(3)(iii).

12 Pursuant to the Court's January 9, 2015, discovery and scheduling order, discovery may be  
13 conducted until September 9, 2015. (ECF No. 53.) The order also specified that the due date for  
14 discovery responses was forty-five days after the discovery request is served and Federal Rule of Civil  
15 Procedure 6(d) provides for three additional days for mailing. As previously stated, Plaintiff serviced  
16 his request for production of documents on January 19, 2015, and Defendants' responses were not due  
17 until March 8, 2015. Defendants provided a response to Plaintiff's requests on March 4, 2015. Thus,  
18 Plaintiff's motion to compel, filed February 22, 2015, is PREMATURE and shall be DENIED.

19 **II. Reasonable Expenses Incurred in Opposing Motion to Compel**

20 In opposing Plaintiff's motion to compel, Defendants seek the reasonable expenses incurred in  
21 opposing the motion. Plaintiff opposes Defendants' request for expenses.

22 If a motion to compel is denied, the Court must, after giving an opportunity to be heard, require  
23 the movant to pay the party who opposed the motion the reasonable expenses incurred in opposing the  
24 motion, including attorney's fees. Fed. R. Civ. P. 37(a)(5)(B). The Court may not order the payment  
25 of expenses if the motion was substantially justified or other circumstances make an award of  
26 expenses unjust. Id.

27 The Court declines to impose sanctions. In the Ninth Circuit, sanctions are appropriate only in  
28 "extreme circumstances" and where the violation is "due to willfulness, bad faith, or fault of the

1 party.” Fair Housing of Marin v. Combs, 285 F.3d 899, 905 (9th Cir. 2002) (quoting United States v.  
2 Kahaluu Constr. Co., Inc., 857 F.2d 600, 603 (9th Cir. 1988) (citations omitted)). Here, the Court  
3 finds no willfulness, bad faith, or fault on Plaintiff’s part sufficiently grievous to justify an award of  
4 expenses. Given that Plaintiff is proceeding pro se (and in forma pauperis), the Court will not order  
5 Plaintiff to pay Defendants expenses incurred by opposing Plaintiff’s motion. However, Plaintiff is  
6 cautioned that the filing of frivolous motions can and may result in the imposition of the reasonable  
7 expenses incurred by Defendants in opposing said motion.

8 **II.**

9 **ORDER**

10 Based on the foregoing, it is HEREBY ORDERED that:

- 11 1. Plaintiff’s motion to compel is DENIED; and  
12 2. Defendants’ request to impose sanctions by way of reimbursement of expenses is  
13 DENIED.

14  
15 IT IS SO ORDERED.

16 Dated: May 13, 2015



17 UNITED STATES MAGISTRATE JUDGE