

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

LANDMARK EQUITY FUND II, LLC, Plaintiff, v. JULIO ARIAS, et al., Defendants.))))))))))))	Case No.: 1:15-cv-00202 - JLT ORDER DENYING REQUEST FOR INFORMAL TELEPHONIC CONFERENCE
--	--	--

Plaintiff’s counsel has requested the Court conduct another informal telephonic conference regarding a dispute over a deposition notice issued by plaintiffs to the person most knowledgeable at FCI Lender Services. Counsel complains that defendants’ attorney failed to clear the date with him and unilaterally scheduled it. Plaintiff’s counsel complains also that opposing counsel issued subpoenas for records and did not first confer with him about “these matters, including scheduling them.”

As to the FCI deposition, though unilaterally scheduling depositions lacks courtesy, there is no requirement that the attorney setting a deposition coordinate the date with opposing counsel.¹ If plaintiff has a legal basis to object to the setting of the deposition, it may lodge the objection and immediately seek a protective order. However, merely because the opposing attorney “unilaterally”

¹ Despite counsel’s characterization of the prior informal telephonic conference, from the Court’s perspective, that conference was in no way intended to address the issue of unilaterally scheduling depositions.

1 scheduled the deposition does not justify such a motion. On the other hand, the Court is dismayed but
2 what appears to be unwillingness by both counsel to work together to move this case to conclusion.
3 The Court **strongly admonishes them to stop this conduct** and for them to commit to working
4 cooperatively going forward. Toward this end, if counsel agree, the Court will entertain a stipulation
5 to allow the FCI deposition to occur during the same time period as those set in April, despite the
6 March 15, 2016 discovery deadline.

7 As to the subpoenas for records, the Court is at a loss to understanding what conference
8 plaintiff's counsel believes was required and does not grasp the need to coordinate the document
9 production date with counsel's calendar. Defendants are fully entitled to seek records and are required
10 to list a date by which the custodian must produce the records to the copy service. Attorneys will not
11 appear on that date. Thus, it is not clear to the Court exactly what is Plaintiff's concern. What is clear
12 to the Court is that Mr. Wersant has not discussed the matter with opposing counsel. Before seeking
13 any conference with the Court, the attorneys are **required** to meet and confer and **only if** they cannot
14 resolve their differences after attempting in good faith to do so, may they seek the Court's
15 intervention.

16 The Court is available to discuss legitimate discovery disputes that are supported by legal
17 authority. It has absolutely no time to address disputes that are not. Thus, the request for an informal
18 telephonic conference to discuss the matter of the FCI deposition or the records subpoenas is
19 **DENIED.**

20
21 IT IS SO ORDERED.

22 Dated: **March 2, 2016**

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE