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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA
and the STATE OF CALIFORNIA, *ex rel.*
NICOLE O'NEILL,

Plaintiffs/Relator,

v.

SOMNIA, INC., *et al.*,

Defendants.

Case No. 1:15-cv-00433-DAD-EPG

ORDER DISCHARGING ORDER TO
SHOW CAUSE AND DIRECTING
RELATOR/PLAINTIFF TO FILE MOTION
TO COMPEL

(ECF No.121)

On January 25, 2019, the Court set a Telephonic Status Conference for March 12, 2019, at 9:30 a.m. (ECF No. 112.) Relator/Plaintiff Nicolle O'Neill did not appear for the conference, did not file a request for a continuance of the conference, and did not otherwise notify the Court that she would not be able to attend the conference. (ECF No. 120.) The Court therefore issued an order requiring Relator/Plaintiff to show cause why sanctions should not be issued for her failure to attend a court conference. (ECF No. 121.) Relator/Plaintiff filed a response to the order to show cause on March 15, 2019. (ECF No. 122.)

In the response, Relator/Plaintiff's counsel explains that he did not appear at the court conference because he had entered the conference on his office's calendaring system on the correct date but at the incorrect time of 10:00 a.m., rather than the correct time of 9:30 a.m., and that his error was not detected by his paralegal. (ECF No. 122 at 4-5; *see id.* at 5-6.) Counsel

1 takes full responsibility for the error and resulting failure to appear at the March 5, 2019, 9:30
2 a.m. court conference. (*Id.* at 4-5.) Counsel also explains that he learned, at approximately 9:45
3 a.m. on March 5, 2019, that the conference was scheduled for 9:30 a.m. rather than 10:00 a.m.
4 He called the Court's conference line to make a telephonic appearance, but the conference had
5 already ended. (*Id.* at 5.)

6 In light of counsel's explanation, the Court DISCHARGES the order to show cause.
7 However, the Court cautions that it does not take lightly the failure of counsel to appear at a
8 court conference or hearing and DIRECTS counsel to take appropriate steps to ensure that his
9 office has in place procedures that ensure error-free calendaring.

10 The Court's review of the joint status report, as well as Plaintiff's response to the order to
11 show cause, demonstrates that Plaintiff has a ripe discovery dispute that requires a formal
12 motion and hearing. Rather than reset the status conference, the Court further DIRECTS
13 Relator/Plaintiff to proceed with the filing of a motion to compel and to contact the Court's
14 courtroom deputy for a hearing date on the motion. The Court will discuss the need for a further
15 status conference at the hearing on the motion to compel.

16
17 IT IS SO ORDERED.

18 Dated: March 25, 2019

18 /s/ Eric P. Grogan
19 UNITED STATES MAGISTRATE JUDGE