

1 to pay the court reporter for a copy of the transcript and wishes the electronic copy, so he can
2 avoid paying the fee.

3 At this time, the Court cannot know which of these versions is correct but noted at the
4 conference and does so again here, that there is no indication that the defendant has failed in any
5 respect related to the transcripts, and it appears the Court lacks jurisdiction over the court reporter.
6 Finally, if, in fact, this is an effort to avoid paying the court reporter for his/her work, the Court
7 will have little sympathy to a motion to force the reporter to do anything absent payment of the fee.
8 Because the facts are disputed, however, the plaintiff may file his motion to compel related to the
9 actions of the court reporter. Such a motion will be entertained **only** upon a showing that the Court
10 has jurisdiction over the court reporter **and** that this is not an effort to deny payment to the court
11 reporter.

12 As to the second issue, Mr. Knickerbocker complains that the defense's expert has failed to
13 provide documents, such as the documents upon which the expert relied and copies of articles
14 written by the expert, along with his report. Notably, Fed.R.Civ.P 26 (a)(2)(B) speaks only to
15 "exhibits" upon which the expert will rely when describing the documents the expert must produce
16 along with the report. Fed.R.Civ.P.(a)(2)(B)(iii). Mr. Frueh reported that the expert will not rely
17 upon any exhibits and, consequently, the expert did not produce the exhibits. Thus, the plaintiff has
18 not shown that the expert's report fails to comply with the Rule and the claim that a discovery
19 "dispute" exists, is unfounded.

20 Finally, during the conference, Mr. Knickerbocker complained that the defendants failed to
21 respond to discovery propounded sometime in the fall of 2018. This verbal complaint was the first
22 time he had mentioned this to Mr. Frueh. Thus, the Court declined to address this situation. If
23 there is a true dispute, Mr. Knickerbocker SHALL engage in a meaningful meet-and-confer
24 conference with his opponent.

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1 If this fails to satisfy the plaintiff, counsel SHALL seek an informal conference with the
2 Court at which the Court will determine whether to authorize the plaintiff to file a motion to
3 compel.²
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5 IT IS SO ORDERED.

6 Dated: April 24, 2019

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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² In making these statements, the Court makes no comment as to the timeliness of such a motion but expresses concern that Mr. Knickerbocker admitted the responses were due in October 2018.