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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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DALE M. WALLIS, D.V.M., JAMES
L. WALLIS, and HYGIEIA
BIOLOGICAL LABORATORIES, INC.,
a California Corporation,

NO. CIV. 08-02558 WBS GGH

Plaintiffs,

v.

ORDER RE: SANCTIONS

CENTENNIAL INSURANCE COMPANY,
INC., a New York corporation,
ATLANTIC MUTUAL INSURANCE,
CO., INC., a New York
corporation,

Defendants,

AND RELATED COUNTERCLAIMS AND
THIRD-PARTY COMPLAINT.

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In their response to this court's Order to Show Cause
of July 7, 2009, counsel for defendants submitted a letter
requesting that the court waive the sanctions and explaining that
they "inadvertently failed to include a corporate disclosure"
with defendants' Status Report. (Docket No. 55.) Counsel
attempt to justify their noncompliance by explaining that

1 defendants' Status Report was prepared with reference to
2 plaintiffs' earlier-filed Status Report, which omitted the
3 corporate disclosures. Counsel further explain that they were
4 "remiss in not confirming that [they] had complied with all
5 portions of the Court's Order Setting Status, and inadvertently
6 failed to include a corporate disclosure as part of [the] Status
7 Report." In filing a supplemental report after the status
8 conference was continued, counsel used the initial Status Report
9 as a template and consequently "repeat[ed] the inadvertent
10 mistake."

11 This attempt to excuse noncompliance with the court's
12 Order as simple inadvertence or negligence does not show good
13 cause why the court should not impose sanctions. First, under
14 the circumstances, counsel's noncompliance with the court's
15 October 28 Order exceeded mere negligence. Rather than heeding
16 the court's warning regarding sanctions and verifying that
17 defendants' Status Report complied with the court's explicit
18 directions, counsel for defendants simply mimicked the
19 presentation of information in plaintiffs' deficient Status
20 Report. Counsel then again failed to confirm that they had
21 complied with the October 28 Order when they filed defendants'
22 updated Status Report some months later.

23 Second, even if the failure to file defendants'
24 corporate disclosures resulted from mere negligence, such
25 characterization does not preclude the imposition of sanctions.
26 A district court has the authority under Federal Rule of Civil
27 Procedure 16(f) to impose sanctions for even unintentional or
28 negligent noncompliance with the court's pretrial orders. See,

1 e.g., Lucas Auto. Eng'g, Inc. v. Bridgestone/Firestone, Inc., 275
2 F.3d 762, 769 (9th Cir. 2001) (upholding Rule 16 sanctions
3 imposed on a party for unintentionally failing to attend a
4 scheduled mediation due to an incapacitating headache); Ayers v.
5 City of Richmond, 895 F.2d 1267, 1270 (9th Cir. 1990) (upholding
6 a district court's sanctions under Rule 16(f) where counsel
7 failed to appear for a settlement conference because the date
8 "slipped by him"); Mt. Shasta Title & Escrow Co. v. Pennbrook
9 Homes, No. 07-963, 2007 WL 4210478, at *2 (E.D. Cal. Nov. 28,
10 2007) (Burrell, J.) (sanctioning counsel \$200 for mistakenly
11 filing an inaccurate status report indicating that a party had
12 been served); see also William W. Schwarzer et al., Practice
13 Guide: Federal Civil Procedure Before Trial 15:81 (Nat'l ed.
14 2009) ("It need not be shown that the party to be sanctioned was
15 acting recklessly or in bad faith. Negligent failure to comply
16 with Rule 16 justifies imposition of appropriate sanctions.").

17 Accordingly, defendants have failed to show good cause
18 why the court should not impose sanctions for the failure to file
19 corporate disclosures as required by the court's October 28
20 Order. Further, because counsel for defendants have explained
21 that counsel's failure to verify the terms of the October 28
22 Order--rather than any omission the part of their corporate
23 clients--was the cause of defendants' noncompliance, payment
24 shall be borne by counsel rather than their clients.

25 IT IS THEREFORE ORDERED that, within seven days of the
26 date of this Order, counsel for defendants shall send payment in

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1 the amount of \$300, as sanctions, to the Clerk of the Court or
2 request that the matter be scheduled for a formal hearing.

3 DATED: July 16, 2009

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5 WILLIAM B. SHUBB

6 UNITED STATES DISTRICT JUDGE

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