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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BEST BUY STORES, L.P., a Virginia
Limited Partnership,

Plaintiff,

No. 2:10-cv-00389 WBS KJN

v.

MANTECA LIFESTYLE CENTER,
LLC,

Defendant.

ORDER

On April 24, 2012, defendant filed a motion to compel a further deposition of plaintiff and responses to requests for production, which relate to recent closures of certain Best Buy Stores (Dkt. No. 164). For the reasons stated below, the undersigned denies defendant's motion to compel without prejudice and vacates the May 10, 2012 hearing date noticed by defendant.¹

As an initial matter, the undersigned drops defendant's motion to compel from the court's May 10, 2012 civil law and motion calendar because defendant defectively noticed its motion. Specifically, defendant only provided 16 days of notice despite the fact that Local

¹ This case was referred to the undersigned pursuant to Eastern District of California Local Rule 302(c)(1) and 28 U.S.C. § 636(b)(1).

1 Rule 251(a) requires “at least 21 days” of notice. Defendant has not argued that its motion falls
2 within an exception to the 21-day notice requirement provided in Local Rule 251(e).

3 Additionally, the undersigned denies defendant’s motion to compel without
4 prejudice because defendant essentially admits that it did not meet and confer with plaintiff
5 before filing its motion. Local Rule 251(b) provides that discovery motions will not be heard
6 unless “the parties have conferred and attempted to resolve their differences,” and that “[c]ounsel
7 for all interested parties shall confer in advance of the filing of the motion or in advance of the
8 hearing of the motion in a good faith effort to resolve the differences that are the subject of the
9 motion.” Defendant asserts, with no reliance on documents or a declaration, that plaintiff
10 “rejected any attempt by [defendant] to re-open or extend discovery to obtain [the] information”
11 that is the subject of this discovery dispute. (Mot. to Compel at 3.) Instead of meeting and
12 conferring in good faith in advance of filing the present motion, defendant “filed this motion . . .
13 simultaneously with propounding discovery in an effort to expedite the resolution of this
14 discovery dispute.” (*Id.*) Defendant offers the following as its unsubstantiated basis for side-
15 stepping the court’s Local Rules: “Because [plaintiff] already has announced its refusal to
16 respond to any discovery by [defendant] on its store closures, and given that trial is scheduled to
17 begin June 12, 2012, [defendant] did not engage in the futile act of propounding discovery,
18 waiting 30 days, and then filing this motion.” (*Id.*) Although defendant would like to have its
19 motion heard on its own preferred schedule, the Local Rules, and not defendant’s preference,
20 govern the filing of motions in this court. The undersigned notes that defendant did not follow
21 the approach authorized by Local Rule 251(a), which permits parties to have a discovery dispute
22 heard on seven days of notice. See Local Rule 251(a) (“If the notice of motion and motion are
23 filed concurrently with the Joint Statement, the motion shall be placed on the next regularly
24 scheduled calendar for the Magistrate Judge or Judge hearing the motion at least seven (7) days
25 thereafter.”).

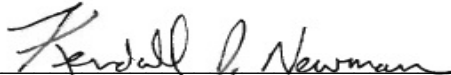
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Accordingly, IT IS HEREBY ORDERED that defendant's motion to compel (Dkt. No. 164) is denied without prejudice.

IT IS SO ORDERED.

DATED: April 25, 2012


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE