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

10 JOSEPH TAURIAC,

11 Plaintiff,

No. CIV S-10-0417 WBS EFB (TEMP)

12 vs.

13 SAM ROSAS, et al.,

14 Defendants.

ORDER

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16 Presently set for hearing on July 6, 2011 before the undersigned is defendants' motion to
17 compel further responses to interrogatories and production of documents. Because oral
18 argument is not of material assistance, this matter is submitted on the briefs. E.D. Cal. L.R.
19 230(g). Upon review of the documents in support and opposition, and good cause appearing,
20 THE COURT FINDS AS FOLLOWS:

21 Defendants served the discovery in dispute on the pending motion on March 3, 2011. On
22 April 13, 2011,¹ responses to the discovery were served on defendants; however, those responses
23 were incomplete. Defense counsel thereafter attempted to meet and confer, both by telephonic
24 and written communication, with plaintiff's counsel regarding the deficiencies in the discovery

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26 ¹ On that same day, plaintiff's present counsel was substituted in as plaintiff's counsel of record. Dckt. No. 23.

1 responses. No response was made by plaintiff's counsel to these attempts to meet and confer.
2 On June 1, 2011,² defendants filed the instant motion to compel and a fully briefed memorandum
3 in support of the motion. Dckt. Nos. 27, 28. On June 22, 2011, plaintiff provided supplemental
4 responses and on June 28, 2011, verifications to the supplemental responses were verified. On
5 June 29, 2010, the parties filed a Rule 251 statement in which plaintiff confirms that
6 supplemental responses were provided which set forth the information available to plaintiff.
7 Dckt. No. 38-1.

8 Defendants have now withdrawn the substantive aspects of the motion to compel but seek
9 reasonable expenses in the amount of \$893.75. Under Federal Rule of Civil Procedure
10 37(a)(5)(A), an award of expenses is warranted in light of the failure of plaintiff to provide
11 complete responses to the discovery until after the filing of the motion to compel.

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. The hearing date of July 6, 2011 is vacated; and

14 2. Defendant's request for expenses contained within their motion to compel, Dckt. No.
15 27, is granted. Reasonable expenses are awarded to defendants against plaintiff in the amount of
16 \$893.75.

17 DATED: June 30, 2011.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

25 ² By order filed April 29, 2011, the discovery cut-off in this matter is August 16, 2011.
26 Dckt. No. 25.