

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

G.M., a minor, by and through)	
his Guardian ad Litem, KEVIN)	2:10-cv-00944-GEB-GGH
MARCHESE, an individual, and)	
LYNDI MARCHESE, an individual,)	
)	<u>ORDER</u>
Plaintiff,)	
)	
v.)	
)	
DRY CREEK JOINT ELEMENTARY)	
SCHOOL DISTRICT,)	
)	
Defendant.)	
_____)	

Defendant filed an Objection to Plaintiff's expert witnesses disclosure, to which Plaintiff filed a Response. Defendant subsequently noticed the objection for hearing. Defendant argues that "[the] disclosure was filed late [on October 3, 2011] and is devoid of the statutorily required [expert reports or summaries of the experts' expected opinions and testimony]." (Def.'s Objection 2:1-2.) Defendant requests that "the Court reject [Plaintiff's] filing or alternatively, that the Court require [Plaintiff] to file a corrected disclosure." (Id. 2:4-5.)

Plaintiff argues the disclosure was timely, since he served Defendant with his Initial Expert Witness Disclosure via email on September 30, 2011. (Pl.'s Resp. 2:3-23; id. at Ex. 1 (email from Plaintiff to Defendant disclosing expert witness list).) Defendant does

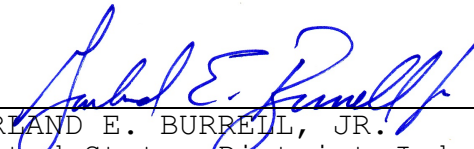
1 not deny that it timely received the email from Plaintiff. Defendant has
2 not provided authority supporting its position that the expert witness
3 disclosure was required to be filed with the Court.

4 Plaintiff argues his expert witness disclosure complies with
5 Rule 26(a)(2), since he included the following information with the
6 disclosure:

7 The foregoing experts have been previously
8 disclosed with complete curriculum vitae provided
9 and testimony in the underlying administrative
action's Evidence Packet, section 90, previously
exchanged with Defendant.

10 (Pl.'s Resp. 3:22-25.) Plaintiff also argues Defendant "[is] fully aware
11 of what the anticipated testimony is—each of these experts have offered
12 declarations/opinion in this case before in the lower courts and each
13 party has referred to these experts multiple times throughout the
14 briefing." (Pl.'s Resp. 4:2-5.) Defendant does not dispute that it has
15 the aforementioned information about the expert witnesses, and has not
16 filed a reply brief. In light of the present record, it has not been
17 shown that the objection should be sustained. Therefore the objection is
18 overruled.

19 Dated: December 13, 2011

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22 GARLAND E. BURRELL, JR.
United States District Judge
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