

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRYON ANDERSON,
Plaintiff,
v.
MCM CONSTRUCTION, INC.,
Defendant.

No. 2:10-cv-2833 LKK GGH PS

ORDER

Before the court is a filing by plaintiff wherein he states that he “would like to file a motion to compel.” (ECF No. 45.) He has noticed the matter for hearing on October 3, 2013. Defendant has filed an opposition and objections to the “motion.” If plaintiff’s filing is indeed construed as a motion to compel, it does not set forth the grounds for the motion. He claims only that evidence provided at a deposition was falsified and that he has requested information regarding his claims but received nothing. In a separately improperly noticed motion, (ECF No. 42), he adds that he has asked repeatedly for a deposition, to no avail. Plaintiff does not set forth the discovery that he has propounded on defendant to which defendant has not responded, or stated whose deposition he noticed or whether he noticed any deposition. Before a party may move to compel, he has to have requested discovery directly from the opponent, in a manner permitted by the Federal Rules of Civil Procedure, and the discovery produced has to have been either deficient or non-existent in some way. See Fed. R. Civ. P. 26 et seq.

1 Plaintiff is informed that pursuant to the Local Rules of this district, he is required to
2 confer with defendant prior to the hearing in a good faith effort to resolve the discovery dispute,
3 and then set forth any remaining disputed issues in a Joint Statement. E. D. Local Rule 251. The
4 issues remaining in dispute must be specifically set forth and plaintiff must state which discovery
5 responses are deficient and how they are deficient. If plaintiff does not comply with the Federal
6 and Local Rules, his motion will be denied.

7 Accordingly, IT IS ORDERED that:

8 1. The hearing date for plaintiff's motion to compel, filed September 6, 2013, is vacated
9 from the calendar for October 3, 2013.

10 2. The parties shall meet and confer on October 3, 2013 at 10:00 a.m., at a mutually
11 agreeable location, and shall file a Joint Statement by October 10, 2013. Upon review of the joint
12 statement, the court will determine whether a hearing is necessary.

13 Dated: September 24, 2013

14 /s/ Gregory G. Hollows

15 UNITED STATES MAGISTRATE JUDGE

16 GGH:076/Anderson2833.vac
17
18
19
20
21
22
23
24
25
26
27
28