

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
EASTERN DISTRICT OF CALIFORNIA

MORGAN HILL CONCERNED
PARENTS ASSOCIATION, an
unincorporated association, and
CONCERNED PARENTS
ASSOCIATION, an unincorporated
association,

Plaintiffs,

v.

CALIFORNIA DEPARTMENT OF
EDUCATION and DOES 1 through 5,

Defendants.

No. 2:11-CV-03471-KJM-AC

ORDER RE ORDER TO SHOW CAUSE

In light of the court’s prior orders requiring the parties to engage in meet and confer sessions about the protective order and the parties’ failure to comply with those orders, the court, on April 2, 2014, issued an Order to Show Cause (“OSC”) directed at both sides to show why counsel for plaintiffs and defendant should not be monetarily sanctioned for failure to meet and confer about the protective order. (ECF 52.)

Counsel for plaintiffs and defendant have filed their timely responses. (ECF 53 & ECF 54.)

In essence, counsel for defendant states that “[i]t was due to the lateness of plaintiffs’ submission of a modified proposed protective order that resulted in the failure to meet

1 and confer.” (ECF 53 at.) Specifically, counsel for defendant states that “over a week before the
2 March 13, 2014 deadline, defendant reminded plaintiffs of the meet and confer obligations
3 regarding the proposed protective order . . . and requested the revised proposed protective order
4 as soon as practicable” (*Id.*) Further, “[b]ecause plaintiffs did not provide defendant with
5 the proposed modified protective order until little more than 48 hours before the deadline and
6 because defense counsel was out of the office on March 12, 2014, defendant did not have an
7 opportunity to meet and confer with plaintiffs” (*Id.*)

8 Counsel for plaintiff responds: “I do not believe that I should be sanctioned for a
9 circumstance over which I never had any meaningful control.” (ECF 54 at 2.) Plaintiffs’ counsel
10 confirms that “[p]laintiffs provided [defendant] with a copy of the revised protective order on
11 March 11, 2014.” (*Id.* at 6.) “Plaintiffs revised the order as directed by the [c]ourt, and made no
12 other changes to the protective order as it was originally presented to [defendant] seven months
13 earlier.” (*Id.*) However, plaintiffs did not receive any response from defendant “as of the
14 morning of March 13, 2014.” (*Id.*)

15 The court finds the parties’ explanations wanting. While it appears plaintiffs’
16 counsel did not provide defense counsel much time to review the modified protective order, the
17 issues implicated by the modification had been identified by the court and the modifications
18 themselves were relatively minor. It is not clear from the defendant’s filing that defense counsel
19 made clear to plaintiffs the restrictions in her schedule, or why she could not have arranged for
20 other counsel to cover in her absence.

21 Accordingly, the court sanctions each party in the amount of \$250. Counsel shall
22 not relay this cost to their clients. Within seven (7) days of this order, counsel is ordered to remit
23 payment and to file a declaration so stating. Failure to comply will result in additional sanctions.

24 IT IS SO ORDERED.

25 DATED: April 30, 2014.

26
27 
28 UNITED STATES DISTRICT JUDGE