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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, et al.,

Defendants.

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

ORDER

On December 17, 2014, this court issued an order, directing the parties “to engage in meaningful meet and confer and file a joint report with the court . . . , identifying procedures to ensure that discovery proceeds as efficiently and promptly as possible.” (Order at 2, ECF No. 85.) In the same order, the court also vacated all dates previously set and stated it would set a new schedule after evaluating the parties’ joint report. (*Id.* at 3.) The parties filed their joint report on January 16, 2015, after obtaining an extension. (ECF No. 89.) While the parties identify their purported experts, and say generally that they will make their experts “available” to each other, their report discloses a continuing inability to reach an agreement on discovery procedures and practices. This inability appears to stem from a continuing inability to engage in

1 meaningful meet and confer. For example, an exchange of letters by counsel as a court deadline
2 approaches reflects the absence of meaningful meet and confer efforts. *See, e.g., id.* at 5. Despite
3 the representation that technical experts will be made available to the opposing party, there is no
4 indication that the experts identified have engaged in any actual discussion of software or other
5 electronic tools whose application may resolve the parties' disputes, including those reviewed in
6 the joint report. Moreover, the failure of the parties to resolve the notice or redaction issue, which
7 the court previously had ordered resolved by May 2014, is impeding the progress of discovery
8 and this case in general.

9 Accordingly, the court orders the parties to meet in person at least twice in the next
10 twenty-one (21) days in order to develop a new joint report reflecting that they have:

- 11 (1) exhausted meaningful meet and confer efforts regarding whether notice or
12 redaction is required by the Family Educational Rights and Privacy Act
13 (FERPA) and related statutes, despite plaintiffs' representation that they do not
14 need to know students' personal identifying information, including names; and
- 15 (2) reviewed in detail the discovery both parties currently anticipate propounding
16 and producing, and methods for streamlining the production required by the
17 Federal Rules of Civil Procedure.

18 At their meetings, the parties and their experts must review in particular plaintiffs'
19 past requests to review defendant's databases unaltered and in their native format so they can
20 efficiently conduct data mining. Through the meetings, and followup meetings and telephone
21 discussions as needed, the parties must develop a detailed plan and schedule for future fact
22 discovery in this case, setting forth any proposed phasing of fact discovery and proposing dates
23 by which each phase will be completed. If the parties are not able to fully resolve the question of
24 notice or redaction, they shall include in the proposed discovery plan a date, within thirty (30)
25 days of the plan's filing in the form of a joint report, by which defendant will file a motion
26 proposing a method for resolution of this threshold dispute; any such motion shall be set for
27 hearing on this court's regular civil and law motion calendar, on the earliest date possible allowed
28 by the applicable civil rules.

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The joint report ordered above shall be filed within thirty (30) days of the filed date of this order, and shall include a concise summary identifying the persons who attended the two meetings and the length of the meetings, any further followup meetings, and describing generally the meeting agendas and efforts to resolve the disputes.

Until this court approves a new fact discovery schedule for the case, the parties shall refrain from filing or proceeding on any discovery motions before the magistrate judge.

IT IS SO ORDERED.

DATED: February 9, 2015.


UNITED STATES DISTRICT JUDGE