

1 Plaintiff filed a motion to compel on March 2, 2023. (ECF No. 189.) Plaintiff noticed the
2 motion before the assigned District Judge. (Id.) The District Court notified the parties that the
3 motion should have been noticed before the undersigned, vacated the hearing, and directed the
4 parties to contact the undersigned’s courtroom deputy to secure a hearing date. (ECF No. 190.)
5 Plaintiff’s counsel filed a notice to reschedule the hearing on plaintiff’s motion to compel before
6 the undersigned. (ECF No. 191.) Thereafter, the parties requested an informal telephonic
7 discovery conference and plaintiff withdrew the motion to compel. (ECF Nos. 192, 193.) The
8 conference was vacated because upon review of the parties’ joint statement the undersigned
9 determined the dispute was not appropriate for an informal telephonic conference. (ECF No.
10 196.)

11 On April 10, 2023, the District Court granted defendant Essex’s ex parte motion to modify
12 the scheduling order. (ECF No. 197.) That same day, plaintiff filed a renewed motion to compel.
13 (ECF No. 198.) The motion was originally noticed for hearing on May 12, 2023. (Id. at 2.)
14 Thereafter, the hearing was rescheduled nine times. (ECF Nos. 200, 201, 204, 205, 212, 214,
15 217, 220, 223.)

16 On January 19, 2024, plaintiff filed a motion for summary judgment. (ECF No. 224.)
17 Several days later, the District Court vacated the pretrial conference set for January 30, 2024, and
18 the Jury Trial set to commence on April 1, 2024. (ECF No. 225.)

19 The most recent notice to reschedule the hearing on plaintiff’s motion to compel was filed
20 on January 8, 2024. (ECF No. 223.) The January 8, 2024, notice filed by plaintiff continued the
21 hearing on plaintiff’s motion to compel that was set for January 12, 2024. The notice states the
22 hearing is continued to February 23, 2023. (ECF No. 223 at 1.)

23 Pursuant to Local Rule 251 motions related to discovery shall consist of a brief notice of
24 motion and motion “scheduling the hearing date[.]” Local Rule 251(a). “No other documents
25 need be filed at this time.” (Id.) However, the motion “shall not be heard unless [] the parties
26 have conferred and attempted to resolve their differences[.]” Local Rule 251(b). In this regard,
27 “[c]ounsel for all interested parties shall confer in advance of the filing of the motion or in
28 advance of the hearing of the motion in good faith effort to resolve the differences that are the

1 subject of the motion.” (Id.) If, after meeting and conferring, the moving party remains
2 dissatisfied, that party shall draft and file a “Joint Statement re Discovery Disagreement” at least
3 fourteen days before the scheduled hearing date. Local Rule 251(a)-(c). The failure to file a Joint
4 Statement may result in the hearing being dropped from the calendar. Local Rule 251(a).

5 The parties did not file a timely joint statement. Additionally, the District Court’s
6 scheduling order, as modified by minute order on September 1, 2023, states “[a]ll motions . . .
7 shall be filed no later than 1/19/2024 and be noticed for hearing on a date consistent with Judge
8 Drozd’s Standing order and on a date no more than 60 days after the filing of the motion.” (ECF
9 No. 216.) The undersigned declines to hear the motion to compel absent modification of the
10 District Court’s scheduling order. Therefore, it will deny the motion to compel without prejudice
11 to its renewal.

12 For the reasons set forth above, IT IS HEREBY ORDERED that:

- 13 1. The renewed motion to compel (ECF No. 198) is denied without prejudice; and
- 14 2. The February 23, 2024, hearing of the motion to compel is vacated.

15 Dated: February 12, 2024

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19 DEBORAH BARNES
20 UNITED STATES MAGISTRATE JUDGE

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