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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMOTHY M. CALLISON,  
  
Plaintiff,  
  
v.  
  
CITY OF AMERICAN CANYON; CITY  
OF VALLEJO; COUNTY OF NAPA;  
OFFICER BRETT SCHNEIDER; and  
CALIFORNIA FORENSIC MEDICAL  
GROUP,  
  
Defendants.

No. 2:15-cv-0116 WBS DB

ORDER

On December 2, 2016, defendants filed a motion to compel plaintiff's deposition and noticed the motion for hearing before the undersigned on December 23, 2016, in compliance with Local Rule 302(c)(1). Defendants' motion alleges that plaintiff has twice failed to appear for noticed depositions and seeks an order compelling plaintiff to appear for a deposition and to pay defendants \$4,674.05 in sanctions. (ECF No. 28 at 1.) After plaintiff's counsel failed to file a timely response to defendants' motion, on December 20, 2016, the undersigned issued an order requiring plaintiff's counsel to show good cause in writing within seven days as to why defendants' motion should not be granted, as well as good cause for failing to timely file a response to defendants' motion. (ECF No. 32.)


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1 On December 21, 2016, plaintiff's counsel filed a notice to withdraw and noticed the  
2 motion for hearing before the assigned District Judge on January 23, 2017. (ECF No. 33.) On  
3 December 23, 2016, plaintiff's counsel filed a response to the December 20, 2016 order to show  
4 cause. (ECF No. 37.) Therein, plaintiff's counsel acknowledges that plaintiff "failed to attend his  
5 deposition," on November 2, 2016.<sup>1</sup> (Id. at 1.)

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1) Defendants' December 2, 2016 motion to compel (ECF No. 27) is granted;  
8 2) Within thirty-five (35) days of the date of this order plaintiff shall appear for his  
9 deposition; and  
10 3) Defendants' request for \$4,674.05 in sanctions for plaintiff's repeated failure to appear  
11 at his deposition is held in abeyance pending plaintiff's appearance at his deposition in  
12 compliance with this order.<sup>2</sup>

13 Dated: December 29, 2016

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16 DEBORAH BARNES  
17 UNITED STATES MAGISTRATE JUDGE  
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24 <sup>1</sup> Plaintiff's counsel also states that he believed he "was to be relieved of representation," by  
25 plaintiff and that "in the absence of communication with Plaintiff," counsel "was (and is)  
26 uncertain of what, if anything Plaintiff wished to present in response to the Motion to Compel."  
(ECF No. 37 at 2.) Plaintiff's counsel is reminded that he is counsel of record unless and until the  
time the court grants his withdrawal. Moreover, all attorneys appearing before this court shall  
comply with the Local Rules.

27 <sup>2</sup> Plaintiff and plaintiff's counsel are reminded that Rule 37 of the Federal Rules of Civil  
28 Procedure provides that the court may order that any sanctions be paid by "the party failing to act,  
the attorney advising that party, or both . . . ."