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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERNEST LINCOLN BONNER, JR., M.D.,

Plaintiff,

v.

MEDICAL BOARD OF CALIFORNIA, et  
al.,

Defendants.

No. 2:17-cv-0445 KJM DB

ORDER

On May 11, 2020, defendants filed a motion to compel and noticed the motion for hearing before the undersigned pursuant to Local Rule 302(c)(1). (ECF No. 69.) The motion is noticed for hearing before the undersigned on June 5, 2020. (ECF No. 71.) According to defendants' motion, plaintiff's "written responses to Defendants' First and Third Sets of Requests for Production of Documents and things . . . [was] due on January 23 and February 28, 2020, respectively." (Defs.' MTC (ECF No. 69) at 3.) "Plaintiff's written responses to Defendants' Second Set of Requests for Production of Documents and Things were due on February 13, 2020." (Id.) Despite repeated meet and confer efforts, "Plaintiff still has not provided any written responses to Defendants' requests[.]" (Id.)

Defendants' motion seeks an order compelling plaintiff's responses "to either Defendants' First Set or Third Set of Requests for Production and Defendants' Second Set of Requests for

1 Production” and sanctions in the amount of \$2,640 for attorney’s fees incurred in bringing the  
2 motion. (Id. at 7-8.) Defendants’ request is supported by a declaration from defendants’ counsel,  
3 Deputy Attorney General Gary Ostrick. (Ostrick Decl. (ECF No. 69-2) at 2-6.)

4 Defendants’ motion was filed pursuant to Local Rule 251(e). (Id. at 2.) Local Rule  
5 251(e) provides, in relevant part, that “when there has been a complete and total failure to  
6 respond to a discovery request,” the parties are excepted from the requirement of filing a Joint  
7 Statement re Discovery Disagreement. Instead, after the moving party has filed and noticed the  
8 motion for hearing “[t]he responding party shall file a response thereto not later than seven (7)  
9 days before the hearing date.” Here, the time for plaintiff to file a response has expired and  
10 plaintiff has not filed any response to defendants’ motion.<sup>1</sup> Given plaintiff’s complete failure to  
11 respond to defendants’ motion, despite notice and ample opportunity, defendants’ unopposed  
12 motion will be granted and the June 5, 2020 hearing vacated.

13 Accordingly, IT IS HEREBY ORDERED that:

14 1. Defendants’ May 11, 2020 motion to compel (ECF No. 69) is granted:

15 2. Within twenty-eight days of the date of this order plaintiff shall produce responses to  
16 either defendants’ First or Third Set of Requests for Production as well as to defendants’ Second  
17 Set of Requests for Production;

18 3. Within twenty-eight days of the date of this order plaintiff’s counsel shall pay  
19 defendants \$2,640 for defendants’ attorney’s fees<sup>2</sup>; and

20 4. The June 5, 2020 hearing of defendants’ motion is vacated.

21 DATED: June 1, 2020

/s/ DEBORAH BARNES  
UNITED STATES MAGISTRATE JUDGE

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27 <sup>1</sup> This is not the first time plaintiff has failed to respond to an order of this court. (ECF No. 68.)

28 <sup>2</sup> Given the failure of plaintiff’s counsel to file any response to the motion, the sanction award shall be paid by plaintiff’s counsel alone and not passed on to plaintiff.