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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MYRTLE STREET FLATS LLC dba  
SUNRISE PROPERTIES,

Plaintiff,

v.

CITY OF VALLEJO, et al.,

Defendants.

No. 2:17-cv-1662-JAM-KJN

ORDER

On September 12, 2018, the court conducted a hearing with respect to plaintiff’s motion to compel production of documents and supplemental responses to requests for production of documents, requests for admission, and interrogatories. (ECF No. 47.) At the hearing, attorneys Frank Busch and Daniel Veroff personally appeared on behalf of plaintiff; attorney Katelyn Knight personally appeared on behalf of defendant City of Vallejo; and attorney Jason Benkner appeared telephonically on behalf of defendant Emergency Construction Services, Inc. (ECF No. 58.)

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1           After carefully considering the parties' joint statement regarding their discovery  
2 disagreement (ECF No. 49) and the parties' oral argument, and for the reasons stated on the  
3 record at the hearing, IT IS HEREBY ORDERED that:

- 4           1. Plaintiff's motion to compel (ECF No. 47) is GRANTED IN PART and DENIED IN  
5           PART.
- 6           2. Defendant City of Vallejo shall promptly make further efforts to confirm with  
7           appropriate persons/custodians that all responsive text messages, voicemails, and call  
8           logs have been produced. Within 21 days of this order, the City of Vallejo shall either  
9           make a supplemental production of such items or provide plaintiff with a firm  
10          representation that no such responsive text messages, voicemails, or call logs exist.
- 11          3. Within 21 days of this order, defendant City of Vallejo shall provide plaintiff with a  
12          supplemental, itemized privilege log for all pre-litigation documents (i.e., documents  
13          that were generated prior to the initiation of this lawsuit) that were withheld based on  
14          the attorney-client privilege, work product doctrine, or any other privilege.
- 15          4. All of plaintiff's remaining requests are denied without prejudice, subject to further  
16          good faith meet-and-confer efforts by the parties as discussed in greater detail at the  
17          hearing. The parties are cautioned that failure to properly meet and confer<sup>1</sup> prior to  
18          bringing a discovery dispute before the court may result in the imposition of sanctions  
19          on the offending party or parties.<sup>2</sup>

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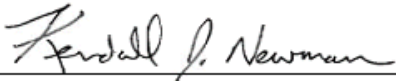
22        <sup>1</sup> Although the parties are free to memorialize discussions in an e-mail or letter, the court expects  
23        the parties to meet and confer in voice-to-voice dialogue (preferably in person, but at a minimum  
24        telephonically) and in a sincere effort to streamline discovery and avoid unnecessary motion  
25        practice.

26        <sup>2</sup> Assuming that appropriate meet-and-confer efforts have been exhausted, the parties are also  
27        invited to use the court's mechanism for informal telephonic discovery conferences. The  
28        procedures and conditions for requesting and conducting such informal telephonic discovery  
      conferences are outlined in Judge Newman's "Order re Informal Telephonic Conferences re  
      Discovery Disputes," posted on the court's website at [http://www.caed.uscourts.gov/caednew/  
      index.cfm/judges/all-judges/5046/](http://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/5046/).

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IT IS SO ORDERED.

Dated: September 14, 2018

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE