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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

KEN ZIU THANG, et al.,  
Plaintiffs,  
v.  
COUNTY OF TEHAMA,  
Defendant.

No. 2:17-CV-1839-JAM-DMC

ORDER

Plaintiffs, who are proceeding with retained counsel, bring this civil action. Pending before the court are defendant’s motions for terminating sanctions as to plaintiffs Bilton Family Revocable Trust (Doc. 49), Randolph Bilton (Doc. 50), Ken Ziu Thang (Doc. 51), Shannon Saetern (Doc. 52), John Alderton (Doc. 53), Connie Bilton (Doc. 54), Robert Lenkner (Doc. 55), Aaron Standish Mathisen (Doc. 56), and Elizabeth Merry (Doc. 57). Pursuant to the stipulated order for voluntary dismissal of plaintiffs Bilton Family Revocable Trust, Robert Lenkner, Aaron Standish Mathisen, Elizabeth Merry, Connie Bilton, and Randolph Bilton (Doc. 59), defendant’s motions as to those plaintiffs (Docs. 49, 50, 54, 55, 56, and 57) are denied as moot. The motions as to plaintiffs Saetern, Thang, and Alderton (Docs. 51, 52, and 53) remain on calendar for hearing before the undersigned in Redding, California, on January 30, 2019, at 10:00 a.m.  
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1 With respect to defendant's requests for an award of reasonable expenses under  
2 Federal Rule of Civil Procedure 37(a)(5)(A) as to the motions being dismissed as moot, the  
3 requests are denied. Defendant's motions seek terminating sanctions under Rule 37(b)(2) based  
4 on plaintiffs' failure to comply with the court's December 7, 2018, order. Expenses under Rule  
5 37(a)(5)(A) are awarded to parties who prevail on a motion to compel discovery responses, not on  
6 a motion based on non-compliance with a discovery order. Defendant has already been awarded  
7 prevailing party expenses under Rule 37(a)(5)(A) and, given the voluntary dismissal of some of  
8 the plaintiffs alleged to have failed to comply with the court's December 7, 2018, order,  
9 defendant has obtained the relief it seeks as to such plaintiffs in terms of terminating sanctions  
10 under Rule 37(b)(2). A further award of reasonable expenses under Rule 37(a)(5)(A) is not  
11 warranted.

12 Accordingly, IT IS HEREBY ORDERED that;

13 1. Defendant's motions for terminating sanctions as to plaintiffs Bilton  
14 Family Revocable Trust, Robert Lenkner, Aaron Standish Mathisen, Elizabeth Merry, Connie  
15 Bilton, and Randolph Bilton (Docs. 49, 50, 54, 55, 56, and 57) are denied as moot; and

16 2. Defendant's request for reasonable expenses under Federal Rule of Civil  
17 Procedure 37(a)(5)(A) as to plaintiffs Bilton Family Revocable Trust, Robert Lenkner, Aaron  
18 Standish Mathisen, Elizabeth Merry, Connie Bilton, and Randolph Bilton are denied.

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21 Dated: January 18, 2019



22 DENNIS M. COTA  
23 UNITED STATES MAGISTRATE JUDGE  
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