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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEYANA JENKINS,
Plaintiff,
v.
CITY OF VALLEJO, et al.,
Defendants.

No. 2:19-cv-1896 TLN DB

ORDER

On November 3, 2023, plaintiff filed a motion to compel and noticed the motion for hearing before the undersigned on December 8, 2023, pursuant to Local Rule 302(c)(1). (ECF No. 45.) On November 22, 2023, the parties filed a Joint Statement re Discovery Dispute pursuant to Local Rule 251. (ECF No. 46.) Therein, the parties disagreed as to whether they had met and conferred after defendants made their most recent document production. (Id. at 2, 3-4.)

Accordingly, on December 5, 2023, the undersigned issued an order continuing the hearing of plaintiff’s motion to January 12, 2024. (ECF No 47 at 2.) The parties were also ordered to meet and confer on or before December 22, 2023, and to withdraw the motion to compel or file an updated Joint Statement on or before December 29, 2023. (Id.)

On December 29, 2023, plaintiff filed their portion of the Joint Statement. (ECF No. 48.) Therein plaintiff’s counsel asserted that the parties met and conferred on December 12, 2023. (Id. at 2.) Thereafter, on December 12, 2023, and December 15, 2023, plaintiff’s counsel emailed

1 defense counsel and received no response. (Id.) These assertions are supported by evidence.
2 (ECF No. 48-2 at 4-10.) Plaintiff’s counsel sent additional emails thereafter and received no
3 response. (ECF No. 48 at 2.) Defense counsel filed nothing in response to either the
4 undersigned’s December 5, 2023 order or the representations made in the December 29, 2023
5 filing by plaintiff’s counsel.

6 Accordingly, on January 8, 2024, the undersigned issued an order continuing the hearing
7 of plaintiff’s motion to February 9, 2024, and ordering defense counsel to show cause as to why
8 counsel should not be sanctioned. (ECF No. 49.) On January 19, 2024, defense counsel filed a
9 declaration in response to the order to show cause. (ECF No. 50.) Therein, defense counsel
10 explained that counsel was “on vacation starting December 22, 2023, through the new year,” and
11 was “not checking emails or deadlines while . . . out.” (Id. at 2.)

12 On February 1, 2024, the parties filed an Updated Statement re: Discovery Dispute. (ECF
13 No. 51.) Therein, plaintiff’s counsel states that after defense counsel filed the declaration on
14 January 19, 2024, plaintiff’s counsel sent defense counsel emails on January 19, 2024, and
15 January 24, 2024. (Id. at 2-3.) Once again defense counsel did not respond. (Id. at 3.) Again,
16 plaintiff has supported these assertions with evidence. (ECF No. 51-3; ECF No. 51-4.)

17 Defense counsel characterizes plaintiff’s statements as “superfluous, perhaps disparaging
18 remarks[.]” (ECF No. 51 at 4.) Counsel does not articulate which statements are “perhaps
19 disparaging.” The information certainly is not superfluous. The undersigned shares plaintiff’s
20 counsel’s concern about the lack of attention and responsiveness defense counsel has displayed,
21 as well as the failure to comply with the Local Rules. While disruption due to vacation and/or
22 holidays is entirely understandable, defense counsel’s explanation that they were out “through the
23 new year,” does not explain defense counsel’s continued unresponsiveness or why counsel did
24 not file anything prior to the undersigned’s order to show cause issued on January 8, 2024.

25 Moreover, defense counsel states that “amended responses will be provided by February
26 27, 2024.” (Id. at 5.) Plaintiff’s motion to compel was filed on November 3, 2023. In the
27 updated Statement re: Discovery Dispute, defense counsel provides no substantive basis to

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1 oppose plaintiff's motion. Nor has defense counsel's conduct inspired confidence that a future
2 production will be responsive and timely.

3 "The discovery process in theory should be cooperative and largely unsupervised by the
4 district court." Sali v. Corona Regional Medical Center, 884 F.3d 1218, 1219 (9th Cir. 2018).

5 "When that cooperation breaks down, the district court has broad discretion to regulate discovery
6 conduct and, if needed, impose a wide array of sanctions." Infanzon v. Allstate Insurance
7 Company, 335 F.R.D. 305, 311 (C.D. Cal. 2020). Moreover, the counsel's failure to comply with
8 the Local Rules "may be grounds for imposition by the Court of any and all sanctions authorized
9 by statute or Rule or within the inherent power of the Court." Local Rule 110.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff's November 3, 2023 motion to compel (ECF No. 45) is granted;
- 12 2. Within seven days of the date of this order defendants shall produce responsive
13 documents;
- 14 3. The February 9, 2024 hearing of plaintiff's motion is vacated; and
- 15 4. Within fourteen days of the date of this order defense counsel shall pay plaintiff \$750
16 as a sanction for their conduct.

17 Dated: February 6, 2024

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21 DEBORAH BARNES
22 UNITED STATES MAGISTRATE JUDGE
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27 DB/orders/orders.civil/jenkins1896.mtc.sanc.ord
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