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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DEBORAH WILSON, )  
)  
Plaintiff(s), )  
)  
v. )  
)  
COMPASS VISION INC., et al., )  
)  
Defendant(s). )  
\_\_\_\_\_)  
)  
COMPASS VISION, INC., )  
)  
Cross-Complainant, )  
)  
v. )  
)  
MAXIMUS, INC., )  
)  
Cross-Defendant. )  
\_\_\_\_\_)

No. C07-3431 BZ  
Related Cases: C07-5642 BZ  
C08-4118 BZ  
C09-2016 BZ

**ORDER GRANTING MOTION FOR  
MORE DEFINITE STATEMENT**

Before the Court is cross-defendant Maximus, Inc.'s motion to dismiss Compass Vision, Inc.'s cross-complaint, or in the alternative, for a more definite statement. The cross-complaint pleads four related claims, all to the effect that Maximus has failed to defend or to agree to indemnify Compass Vision from plaintiff's complaint. The duty to indemnify

1 arises, the cross-complaint alleges, by reason of the  
2 negligence or willful misconduct of Maximus, its employees or  
3 agents. However, as Maximus correctly points out, the cross-  
4 complaint pleads no facts from which a court could conclude  
5 that Maximus acted negligently or committed willful  
6 misconduct. As the Supreme Court recently explained in  
7 Ashcroft v. Iqbal \_\_\_ U.S. \_\_\_, 129 Sup. Ct. 1937, (2009),  
8 conclusory recitations of the legal elements of a claim  
9 without factual support are no longer adequate to state a  
10 claim. None of the cases Compass Vision cites were decided  
11 after Iqbal, which has generally been interpreted as having  
12 tightened federal pleading standards. Moss v. U.S. Secret  
13 Service, \_\_ F.3d \_\_, 2009 WL 2052985 at \*5-6 (9th Cir.)

14 Under the circumstances, the Court finds no need for  
15 further briefing or argument and vacates the hearing presently  
16 set for September 23, 2009. **IT IS HEREBY ORDERED** that the  
17 motion of Maximus for a more definite statement is **GRANTED** and  
18 that the motion to dismiss is **DENIED** without prejudice to  
19 being renewed after the amended cross-complaint if filed. See  
20 Moss, supra, at \*1. Compass Vision shall file an amended  
21 cross-complaint by **August 26, 2009**.

22 Dated: August 5, 2009

23 

24 Bernard Zimmerman  
United States Magistrate Judge

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