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28IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL TOSCHI, et al.,

No. C-07-03625 MMC (EDL)

Plaintiffs,

**ORDER DENYING AS MOOT  
DEFENDANTS' MOTIONS TO COMPEL  
AND DENYING COUNTY  
DEFENDANTS' REQUEST FOR FEES**

v.

COUNTY OF SAN MATEO, et al.,

Defendants.  

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On October 22, 2008, the County Defendants filed a Motion to Compel Further Discovery, seeking responses from Plaintiffs to County Defendants' Requests for Production of Documents Set Three and Interrogatories Set One. Also on October 22, 2008, Defendants Don and Rhonda Dallimonti filed a Motion to Compel Further Discovery, seeking responses from Plaintiffs as to Defendants Dallimontis' Request for Production of Documents Set One, Request for Production of Documents Set Two, Request for Production of Documents and Electronically Stored Information and Things Set Three, Special Interrogatories Set One and Requests for Admission Set One. These motions were fully briefed. On November 19, 2008, after Defendants had filed replies to their motions, Plaintiffs filed a declaration from counsel stating that on November 18, 2008, Plaintiffs had served supplemental responses to the written discovery at issue in Defendants' motions.

Because Plaintiffs have now provided supplemental responses, the relief sought in Defendants' motions is moot. Therefore, the December 2, 2008 hearing is vacated and the motions to compel are denied as moot. The Court is mindful that discovery is closed in this case. Accordingly, the Court will grant Defendants leave to file a motion to compel based solely on Plaintiffs' supplemental responses that were the subject of the original motions to compel filed on October 22, 2008 if Defendants believe in good faith that Plaintiffs' supplemental responses are

1 inadequate. In addition, the Court would consider setting an expedited briefing and hearing  
2 schedule on a further motion to compel, if Defendants believe an expedited schedule is necessary.  
3 Any further motion to compel shall be filed no later than December 9, 2008. The County  
4 Defendants' request for an award of fees associated with bringing this motion is denied for failure to  
5 file a separate motion. See Civil L.R. 37-3.

6 **IT IS SO ORDERED.**

7 Dated: November 26, 2008

*Elizabeth D. Laporte*

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ELIZABETH D. LAPORTE  
United States Magistrate Judge

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