

United States District Court  
For the Northern District of California

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

ALTA BATES SUMMIT MEDICAL CENTER, No. C-07-04224 JSW (EDL)

Plaintiff,

**ORDER DENYING PLAINTIFF'S  
MOTION FOR SANCTIONS**

v.

UNITED OF OMAHA LIFE INSURANCE  
COMPANY,

Defendant.

Before the Court is Plaintiff's Motion for Sanctions pursuant to Federal Rule of Civil Procedure 37(a)(5) based on the motion practice Plaintiff engaged in to obtain case management files and exception logs from Defendants. Plaintiff seeks an award of fees of almost \$100,000 and argues that an award of fees are mandatory in this case pursuant to Rule 37(a)(5)(A). However, the Court did not grant Plaintiff's discovery motions in full as required under Rule 37(a)(5)(A) for a mandatory sanctions award, and instead granted in part the relief Plaintiff sought. Therefore, Rule 37(a)(5)(C) applies, and fees are apportioned between the parties as the Court deems just. Based on the record in this case involving discovery, the Court concludes that the just result is for both sides to bear their own fees.

Even if Rule 37(a)(5)(A) applies, the Court concludes that Defendants' positions with respect to Plaintiff's discovery requests were substantially justified. See Fed. R. Civ. P. 37(a)(5)(A)(ii). There has been no showing that Defendants took unreasonable positions or acted to obstruct discovery. Moreover, for these reasons, an award of sanctions would also be unjust pursuant to Rule

1 37(a)(5)(A)(iii). Under either subsection of Rule 37(a)(5), Plaintiff's Motion for Sanctions is  
2 denied.

3 **IT IS SO ORDERED.**

4 Dated: November 18, 2008

*Elizabeth D. Laporte*

5 ELIZABETH D. LAPORTE  
6 United States Magistrate Judge  
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