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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 STACEY MOODY,

No. C 08-01864 MMC (WDB)

9 Plaintiff,

**ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL**

10 v.

11 SAN MATEO COUNTY,

12 Defendant.
13 _____/

14 Having reviewed the parties' papers and considered pertinent rules, the Court hereby
15 DENIES plaintiff's untimely and procedurally improper motions to compel additional
16 responses to discovery probes and for sanctions.

17 Under Civil Local Rule 7-8, a motion for sanctions "must be separately filed." The
18 Court DENIES the motion for sanctions because plaintiff failed to comply with this Rule – or
19 even to acknowledge its existence. Plaintiff also failed to "itemize with particularity the
20 otherwise unnecessary expenses, including attorney fees, directly caused by the alleged
21 violation or breach, and [to] set forth an appropriate justification for any attorney-fee hourly
22 rate claimed," thus violating Local Civil Rule 37-3 (emphasis added).

23 Under Civil Rule 26-2, "no motions to compel discovery may be filed more than 7
24 court days after the discovery cut-off." The District Judge set the discovery cut-off in the
25 case at June 5, 2009. Plaintiff filed this motion to compel on July 10, 2009 -- well past the
26 deadline. Plaintiff fails to explain or attempt to justify this tardiness.

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1 Plaintiff's motion also violates the Local Rules by failing to "show how the
2 proportionality and other requirements of FRCivP 26(b)(2) are satisfied." Civil Local Rule
3 37-2.

4 In addition, the Court observes that counsel for plaintiff noticed five depositions and
5 the challenged 30(b)(6) event with only a little more than three weeks remaining before the
6 discovery cut-off. This belated explosion of discovery activity was transparently
7 unreasonable, especially given that plaintiff purported to identify some 34 separate topics for
8 the 30(b)(6) deposition (to say nothing of the other depositions), and given that many of
9 these topics called upon the County to undertake burdensome efforts to produce information
10 that would clearly exceed any reasonable understanding of the appropriate scope of
11 discovery in this case

12 For all these reasons, the Court DENIES plaintiff's motions in their entirety and
13 admonishes counsel for plaintiff that repetition of this kind of inattention to rule-based duties
14 may result in initiation of disciplinary proceedings.

15 By this ORDER, the Court also VACATES THE HEARING ON THESE MOTIONS
16 THAT HAD BEEN SCHEDULED FOR THURSDAY, SEPTEMBER 10, 2009.

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18 **IT IS SO ORDERED.**

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20 Dated: September 4, 2009



WAYNE D. BRAZIL
United States Magistrate Judge

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