

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

TSEGAI HAILE,  
Plaintiff,  
v.

No. C-08-04149 MMC (EDL)

**ORDER RE: PLAINTIFF’S SEPTEMBER  
15, 2009 LETTER**

SANTA ROSA MEMORIAL HOSPITAL,  
Defendant.

The Court has received Plaintiff’s September 15, 2009 letter seeking modification of the Court’s September 1, 2009 Order regarding Defendant’s discovery motions, and Defendant’s responsive letter of September 16, 2009. Plaintiff requests that the Court strike the paragraph in the order granting Defendant’s request that the matters contained in Defendant’s Requests for Admissions be deemed admitted. See Sept. 1, 2009 Order at 2:19-24. Plaintiff argues that the parties did not address this issue at the oral argument on August 25, 2009, and that the Court stated that it would not order harsh evidentiary sanctions.

The Court carefully reviewed the proposed order submitted by Defendant following the August 25, 2009 hearing before signing it. Although the Court did not hear oral argument on the issue of the Requests for Admission, the issue was briefed, and the Order correctly reflects the automatic operation of Federal Rule of Civil Procedure 36(a)(3). See Fed. R. Civ. P. 36(a)(3) (“A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney.”). In this case, because Plaintiff did not serve responses to Defendant’s Requests for Admission when they were due, the Requests were deemed admitted. Plaintiff’s recourse is to move to have the admissions withdrawn or amended pursuant to Federal

1 Rule of Civil Procedure 36(b). Accordingly, Plaintiff's request to modify the Court's September 1,  
2 2009 Order is denied.

3 **IT IS SO ORDERED.**

4 Dated: September 21, 2009

*Elizabeth D. Laporte*  
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ELIZABETH D. LAPORTE  
United States Magistrate Judge

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