

United States District Court  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Richard Doble, et al.,  
Plaintiffs,  
v.  
The Mega Life and Health Insurance  
Company,  
Defendants.

No. C 09-1611 CRB (JL)

**ORDER**

**I. Background**

All discovery in this case has been referred by the district court (Hon. Charles R. Breyer) under 28 U.S.C. §636(b). This Court received communications from the parties regarding Defendant’s compliance or lack thereof with a previous court order. The Court notes for the record that, although the communications do not comply with the Court’s procedure for brining a discovery dispute to the Court’s attention, this is a slightly different situation, since the dispute was supposedly already resolved. For this reason, the Court will relax the rules somewhat.

On March 31, 2010, this Court ordered Defendant to produce to Plaintiffs documents responsive to certain of Plaintiffs’ Interrogatories and Requests for Production of Documents, which were originally propounded in August 2009.

“MEGA is hereby ordered to produce forthwith all non-privileged responsive

1 documents (and log any privileged documents), to supplement its interrogatory  
2 responses to provide full and complete information, and to supplement its responses  
3 to both interrogatories and document requests to clarify that it has provide all  
4 requested information, in response to Plaintiffs' following discovery requests: 1)  
Lawsuits and enforcement actions against Mega (Request Nos. 47, 49-50, 52-53,  
and 59-61; and 2) the Multi-State Market Conduct Examination and other regulatory  
agreements (Request Nos. 54-58 and 62-63)."

5 (Order e-filed March 31, 2010 at 11:4-11; Docket #52 )

6 Defendant filed objections with the district court (Hon. Charles R. Breyer) and the  
7 objections were overruled. (Order e-filed April 22, 2010 at Docket # 59) In his order, Judge  
8 Breyer declined to set deadlines and referred the parties to this Court to set deadlines for  
9 various categories of documents. Neither party approached this Court at that time. In its  
10 March 31 order, this Court had stated that the documents were to be produced "forthwith."

11 Plaintiffs inform the Court that it has been almost two months since the Court's order  
12 and still Defendant has not complied. Defendant submitted a letter brief at Docket # 63 and  
13 the Declaration of Susan A. Luna, e-filed at Docket # 64, presenting a number of excuses  
14 for its failure to comply, and requesting at least two weeks, and preferably one month  
15 beyond the parties' agreed time to produce documents:

16 "In any case, MEGA has been diligently searching for and gathering the documents  
17 ordered by this Court. For the reasons set forth herein and the declarations that will  
18 be filed in support of this Statement, a May 21, 2010, deadline is unrealistic. MEGA  
19 use its best efforts to complete the production within two weeks, nonetheless, it  
requests the Court grant it one month for completion in the event of unforeseen  
difficulties."

20 (Letter Brief, Docket # 63, at p. 1)

## 21 II. Analysis

22 The American Heritage Dictionary defines "forthwith" as: "At once; immediately;  
23 without delay." Defendant has had multiple opportunities to object to these discovery  
24 requests, and to complain that it could not produce the documents for various reasons, first  
25 when it responded to Plaintiffs' requests, then again when it opposed Plaintiffs' motion to  
26 compel, and finally when it filed its objections with Judge Breyer. All objections have been  
27 rejected by this Court and by Judge Breyer. Still Defendant fails to comply.

28

