

United States District Court  
For the Northern District of California

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**NOT FOR CITATION**

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

LINO NSHIMBA,

Plaintiff,

v.

LOWE'S HOME IMPROVEMENT  
WAREHOUSE, INC., et al.,

Defendants.

No. CV 10-2982 RS (NJV)

**ORDER REQUIRING PLAINTIFF TO  
FILE OPPOSITION OR STATEMENT OF  
NON-OPPOSITION TO DEFENDANT'S  
MOTION TO COMPEL**

(Docket Nos. 23 & 30)

On May 6, 2011, Defendant Lowe's Home Improvement Warehouse, Inc. filed a motion to compel Plaintiff Lino Nshimba to respond to Defendant's First Set of Interrogatories and First Request for Production of Documents, verify his interrogatory responses, and to produce responsive documents. Doc. No. 23. The district court referred Defendant's motion to compel and all future discovery disputes to this Court for determination. Doc. No. 26. Plaintiff did not file an opposition to Defendant's motion to compel.

On May 19, 2011, the Court ordered counsel for all parties to engage in an in-person meet and confer by June 3, 2011 regarding the pending discovery dispute. On May 24, 2011, Defendant filed a second motion to compel the same responses as its first motion to compel. Doc. No. 30. Defendant indicates that the parties discussed the discovery dispute in detail on May 12, 2011 and that Plaintiff agreed to supplement his responses. Doc. Nos. 30, 31.

1           On June 2, 2011, counsel for Defendant informed the Court that the parties were unable to  
2 engage in an in-person meet and confer by June 3, 2011, due in part to the unavailability of  
3 Plaintiff's counsel through June 15, 2011. On June 3, 2011, the Court ordered counsel for all parties  
4 to engage in the previously ordered in-person meet and confer regarding the pending discovery  
5 dispute by close of business June 20, 2011, and to file a single joint letter regarding the status of the  
6 in-person meet and confer by close of business June 23, 2011.

7           On June 14, 2011, Defendant filed a notice of Plaintiff's non-opposition to its motion to  
8 compel. In its notice, Defendant indicates that Plaintiff previously agreed to supplement his  
9 responses but has not yet done so. Defendant also indicates that Plaintiff has not responded to its  
10 attempts to meet and confer per this Court's orders.

11           To date, Plaintiff has not filed an opposition or a statement of non-opposition to either of  
12 Defendant's motions to compel and his response is long overdue. Plaintiff is ordered to file his  
13 opposition or statement of non-opposition to Defendant's motions to compel by close of business  
14 June 17, 2011. The failure to do so will result in the submission of Defendant's motions to compel  
15 on the papers and the June 28, 2011 hearing date will be vacated.

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**IT IS SO ORDERED.**

Dated: June 15, 2011

  
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NANDOR J. VADAS  
United States Magistrate Judge