

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GEORGE JARVIS AUSTIN,  
Plaintiff,  
v.  
TESLA MOTORS, INC.,  
Defendant.

Case No. [23-cv-00067-AGT](#)

**ORDER ON MOTION TO COMPEL**

Re: Dkt. No. 54

The Court denies without prejudice George Jarvis Austin’s motion to compel Tesla Motors, Inc., to produce Austin’s personnel file. In employment cases alleging an adverse action, like this case, the defendant must ordinarily produce the plaintiff’s personnel file “within 30 days after the defendant has submitted a responsive pleading or motion.” General Order 71, Part 2, subsection (2)(d). But in this case, the question of whether the defendant is required to produce the plaintiff’s personnel file relates to the merits of the case. Austin alleges that Tesla violated state law by failing to provide him with “his entire personnel file.” Operative Compl., Dkt. 51 at 55 ¶ 1. And Tesla, in moving to dismiss Austin’s complaint, has asserted that Austin was a contractor, not an employee, and that his claim for production of his personnel file, under California Labor Code section 1198.5, lacks merit. *See* Mot., Dkt. 59 at 3, 7–10. Rather than

order Tesla to produce Austin's personnel file at this time, if any such file exists, the Court will first consider Tesla's motion to dismiss, which is on calendar for a later date.

**IT IS SO ORDERED.**

Dated: June 14, 2023

A handwritten signature in black ink, appearing to read 'Alex G. Tse', written over a horizontal line.

Alex G. Tse  
United States Magistrate Judge