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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL ORTIZ,
Plaintiff,
v.
AMAZON.COM LLC, et al.,
Defendants.

Case No. [17-cv-03820-JSW](#) (MEJ)

**DISCOVERY ORDER;
ORDER TO SHOW CAUSE**

Re: Dkt. No. 84

On May 25, 2018, the Court ordered Plaintiff Michael Ortiz to appear for his deposition in San Francisco, California. May 25, 2018 Disc. Order at 4-5, Dkt. No. 82. The Court further ordered that Plaintiff’s deposition would occur after he had produced his cell phone records and before Plaintiff could depose any additional Defendant Golden State FC LLC witnesses. *Id.* The Court stated the following:

Plaintiff’s discovery conduct is more appropriate to a party appearing in pro se than to a party represented by five attorneys licensed to practice before this Court. The Court admonishes Plaintiff’s attorneys to conduct themselves in a more professional manner going forward. The Court also reminds Plaintiff and his attorneys that they have a responsibility to “to secure the just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1; *see* Civ. L.R. 11-4(a)(4) (“Every member of the bar of this Court and any attorney permitted to practice in this Court under Civil L.R. 11 must . . . [p]ractice with the honesty, care, and decorum required for the fair and efficient administration of justice.”). Plaintiff cannot wait until the eleventh hour – let alone three weeks past a Court-ordered deadline – to inform Golden State that he is unable to comply with his discovery obligations. These delays could have been avoided or reduced, had Plaintiff promptly informed Golden State of his changes in circumstance that affected his ability to observe the Court’s Order or to be deposed.

Id. at 5. Finally, “[t]he Court reserve[d] the right to impose sanctions against Plaintiff for

1 violations of this and any future Court order, as well as any future discovery violations.” *Id.*

2 After the Court issued its Discovery Order, Plaintiff filed a joint discovery letter regarding
3 the timing of the depositions of Golden State’s persons most knowledgeable. PMK Ltr., Dkt. No.
4 84.

5 Golden State thereafter filed a Statement regarding the PMK Letter. Stmt., Dkt. No. 85.
6 Nancy Villarreal, counsel for Golden State, declares that she informed Plaintiff’s counsel Cesar
7 Alvarado that “the [May 25, 2018] Order rendered moot the relief sought in the [PMK] Discovery
8 Letter” and that “Defendant would prefer not to burden the court with an unnecessary letter on an
9 issue the Court had already ruled on.” *Id.* at 2; *id.* at ECF pp.4-5 (Villarreal Decl.) ¶ 2; *see id.* at
10 ECF pp. 7-12 (Ex. A). To the extent Plaintiff wished to file the PMK Letter, Golden State “had
11 revised the Discovery Letter to reflect the Order and Defendant’s request that Plaintiff not file the
12 Discovery Letter.” Stmt. at 2; Villarreal Decl. ¶ 2; *id.*, Ex. A at ECF p.7 (email from Villarreal to
13 Alvarado); *id.* at ECF pp.8-12 (PMK letter with Golden State’s revisions).

14 The PMK Letter Plaintiff filed does not include Golden State’s revisions. *Compare* PMK
15 Ltr. *with* Stmt., Ex. A at ECF pp.8-12. Ms. Villarreal emailed Mr. Alvarado with the revisions at
16 3:54 p.m. on May 25, 2018. Villarreal Decl. ¶ 2; *see* Stmt., Ex. A at ECF p.7. Ms. Villarreal
17 declares that at 4:08 p.m., Mr. Alvarado “e-mailed [her] with changes he made to the Discovery
18 Letter regarding the class list. . . . Mr. Alvarado made no mention of the Discovery Letter
19 regarding the PMK depositions.” Villarreal Decl. ¶ 3. At 4:47 p.m., Plaintiff filed the PMK Letter
20 without Golden State’s revisions. The PMK Letter includes the following statement: “I, Cesar
21 Alvarado, attest that Nancy Villareal has concurred in the filing of this document. L.R. 5-1(i).”
22 PMK Letter at 2. As of the date of this Order, Plaintiff has not filed an amended letter or sought to
23 correct the letter so it reflects Golden State’s changes.

24 In light of the foregoing, the Court STRIKES the PMK Letter. The Court addressed the
25 timing of Plaintiff’s deposition in relation to the depositions of Golden State’s witnesses in its
26 May 25, 2018 Discovery Order.

27 The Court further ORDERS Plaintiff to show cause why his counsel should not be
28 sanctioned for, at a minimum, the fees and costs Golden State incurred in connection with the

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PMK Letter and its Statement. Plaintiff shall file a response no later than May 31, 2018.

IT IS SO ORDERED.

Dated: May 29, 2018



MARIA-ELENA JAMES
United States Magistrate Judge