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E-FILED 12-01-2009

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LEONARDO ESPINOZA and SERGIO ROQUE,

Plaintiffs,

v.

C&C SECURITY PATROL, INC.
HERMENEGILDO COUGH, MARCEL LOPEZ, GILBERT MARTINEZ,

Defendants.

No. C08-01522 JW (HRL)

**ORDER DENYING AS MOOT
PLAINTIFFS' MOTION TO COMPEL
WRITTEN DISCOVERY RESPONSES**

[Docket No. 60]

Plaintiffs move for an order compelling defendant C&C Security Patrol ("C&C Security") to produce documents, answer interrogatories, and respond to requests for admission. Defendants oppose the motion. This court deems the matter suitable for determination without oral argument, and the December 8, 2009 hearing is vacated. See Civ. L.R. 7-1(b).

Although the instant lawsuit originally was filed as a putative class action for alleged wage and hour violations, plaintiffs have recently amended their complaint withdrawing all class allegations. Plaintiffs acknowledge that a large portion of the requests at issue, which were served before they filed their amended complaint, were designed to seek class-wide discovery. However, they confirm that the instant motion seeks to compel discovery only as to the named plaintiffs. According to plaintiffs, defendant stonewalled legitimate discovery by responding with nothing but boilerplate objections. C&C Security contends that (a) it had

1 legitimate bases for the objections it asserted and (b) plaintiffs failed to adequately meet-and-
2 confer about the requests in question. Defendant nonetheless agrees to serve supplemental
3 responses as to the two named plaintiffs. Because it believes that the instant motion was
4 entirely unnecessary, C&C Security requests an order directing plaintiffs to reimburse its
5 attorney's fees incurred in connection with this motion.

6 Perhaps there is some basis for plaintiffs' view that defendant evaded its reasonably
7 construed discovery obligations. At the same time, however, plaintiffs made little effort to
8 meaningfully meet-and-confer about the requests in dispute before seeking judicial intervention.
9 Given C&C Security's representation that it will serve supplemental responses, this court orders
10 defendant to serve its supplemental responses to all of the requests at issue **no later than**
11 **December 8, 2009**. Plaintiffs' motion is otherwise denied as moot.

12 Defendant's request for reimbursement of its attorney's fees is denied.

13 SO ORDERED.

14 Dated: December 1, 2009

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17 HOWARD B. LLOYD
18 UNITED STATES MAGISTRATE JUDGE
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5:08-cv-01522-JW Notice has been electronically mailed to:
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