

United States District Court  
For the Northern District of California

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**\*\* E-filed March 7, 2011 \*\***

NOT FOR CITATION  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

EDWIN MARTINEZ, et al.,

No. C09-00997 HRL

Plaintiffs,

**ORDER DENYING PLAINTIFFS’  
MOTION TO COMPEL**

v.

**[Re: Docket Nos. 52, 71, 73]**

ANTIQUÉ & SALVAGE LIQUIDATORS,  
INC., et al.,

Defendants.

\_\_\_\_\_ /  
This is a wage-and-hour action between Edwin Martinez, Roger Lindolfo, Wilmer Ruiz, Gabriel Franco, Oscar Rodriguez, and Amado Martinez (collectively, “Plaintiffs”) and their former employer Antique & Salvage Liquidators, Inc. (“ASL”) and its owner Howard Misle (“Misle”) (collectively, “Defendants”).<sup>1</sup> Plaintiffs bring various claims for violation of state and federal labor statutes. Docket No. 29.

Plaintiffs moved to compel a further Misle to produce certain of his “sent” emails in response to their Request for Production of Documents (“RFP”) No. 9. Docket No. 52. On February 8, 2011, this Court took Plaintiffs’ motion under submission and instructed Misle to submit an additional declaration describing in detail the steps he takes when deleting emails, whether received or sent, from either of his two email accounts and stating when he began to delete emails according

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<sup>1</sup> Plaintiffs’ claims against four other defendants were voluntarily dismissed via stipulation of the parties on January 20, 2011. Docket No. 64.

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to these steps and whether he began doing so before or after he first received notice of Plaintiffs' claims. Docket No. 71.

Misle filed a declaration meeting these requirements, and the Court is satisfied that he has no additional emails to produce to Plaintiffs. Docket No. 73. Accordingly, the Court DENIES Plaintiffs' motion to compel.

**IT IS SO ORDERED.**

Dated: March 7, 2011



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HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE

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