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E-FILED 05-28-2010

NOT FOR CITATION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

PIOTR J. GARDIAS,

No. C09-05291 HRL

Plaintiff,

v.

**ORDER DENYING WITHOUT
PREJUDICE PLAINTIFF'S MOTION TO
COMPEL**

THE CALIFORNIA STATE UNIVERSITY,
SAN JOSE STATE UNIVERSITY,

Defendant.

[Re: Docket No. 20]

On May 24, 2010, plaintiff Piotr Gardias filed a motion to compel defendant to produce certain documents. Some of the documents in question appear to be ones that are referenced or mentioned in defendant's Fed. R. Civ. P. 26 initial disclosures. Defendant objects to the motion on the ground that Gardias failed to provide adequate notice. Nonetheless, defendant says that it will serve supplemental initial disclosures, providing additional information as to the identities of witnesses and documents that support defendant's defenses. This would appear to moot at least part of plaintiff's motion to compel.

As to the remainder of plaintiff's motion:

1. The motion is denied on the ground that plaintiff has not clearly explained the basis for his contention that he is entitled to the requested discovery. Nor has plaintiff shown how the proportionality and other requirements of Fed. R. Civ. P. 26(b)(2) are satisfied.

See Civ. L.R. 37-2.

1 2. The motion is denied on the additional ground that it was not filed in compliance
2 with Civil Local Rules 6 and 7, which require motions to be filed at least 35 days before the
3 noticed hearing date, unless the court orders otherwise. Indeed, Gardias filed his motion on
4 four days notice and purported to notice it for a hearing on May 28, 2010, a date that does not
5 coincide with this court’s civil law and motion calendar. The instant action is one of at least
6 twelve lawsuits that plaintiff has filed in this court. He is — or certainly should be — well
7 familiar with the Federal Rules of Civil Procedure and the court’s Civil Local Rules. Plaintiff is
8 admonished to follow them. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987) (finding
9 that pro per litigants must follow the same procedural rules as represented parties). This is not
10 the first time plaintiff has been so admonished. Should Gardias persist in flouting these rules
11 without justification, the court may consider the imposition of sanctions against him.

12 3. The denial is without prejudice to plaintiff to renew his motion, assuming that he
13 can remedy the procedural defects identified above.

14 SO ORDERED.

15 Dated: May 28, 2010



HOWARD M. LUCH
UNITED STATES MAGISTRATE JUDGE

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5:09-cv-05291-HRL Notice has been electronically mailed to:
Mary Susan Cain-Simon Mary.CainSimon@doj.ca.gov, ECFCoordinator@doj.ca.gov,
Leticia.MartinezCarter@doj.ca.gov
Counsel are responsible for distributing copies of this document to co-counsel who have not
registered for e-filing under the court's CM/ECF program.

5:09-cv-05291-HRL Notice mailed to:
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San Jose, CA 95110