

1 admissible evidence and the motion is unopposed, Access's motion is GRANTED.

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3 II. BACKGROUND

4 Pursuant to FRCP 33 and 34, Access served interrogatories and a request to produce
5 documents upon Salsman on August 3, 2010. (Decl. of Anna T. Ferrari in Supp. of Def.'s Mot.
6 to Compel Disc. Exs. A, B). Salsman failed to respond by the September 7, 2010 deadline. The
7 parties conferred about responses to Access's written discovery requests, but to no avail. Finally,
8 on November 15, 2010, Salsman stated that he would not be answering discovery because "the
9 discovery deadlines are tolled while my Appeal to the District Court is pending." (Decl. Of Anna
10 T. Ferrari Ex. E.) To date, no notice of appeal has been filed.

11 Having not received the requested documents almost three months after the initial deadline,
12 Access filed this motion to compel on December 2, 2010. Access has provided the required
13 certification that it has made a good faith effort to obtain this discovery without court action.
14 (Decl. Of Anna T. Ferrari ¶ 6). Salsman's opposition was due December 21, 2010; none was
15 filed. On December 21, 2010, Salsman produced two email chains, which he indicated were a
16 "partial response to [Access's] discovery request." (Supplemental Decl. of Anna T. Ferrari in
17 Supp. of Def.'s Mot. To Compel Disc. Ex. 1).

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19 III. STANDARDS

20 Under FRCP 33 and 34, a party answering interrogatories or a request for the production of
21 documents must provide a written response to each item requested within 30 days of service.
22 Fed.R.Civ.P. 33(b)(2), 34(b)(2). This response must include either a specific objection, an answer to
23 the interrogatory, or an agreement to produce each of the documents requested. Fed.R.Civ.P. 34(b)
24 (2)(A), (B). FRCP 37 grants judicial authority to compel disclosure where a party has failed to
25 provide authorized discovery in a timely fashion. A court may grant a motion to compel discovery
26 upon certification that the moving party has attempted in good faith to obtain the discovery without
27 court action. Fed. R. Civ. P 37(a)(1).

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III. DISCUSSION

Access has provided sufficient documentation and certification that Salsman failed to produce timely discovery as required by FRCP 33 and 34, and that it attempted to obtain the requested discovery without court involvement. (Decl. Of Anna T. Ferrari ¶ 8-12, Exs C-E.). As Access's requests appear reasonably calculated to lead to the discovery of admissible evidence, as required by FRCP 26, and the motion is unopposed, the motion is granted.

V. CONCLUSION

Pursuant to Civ. L.R. 7-1(b), this motion may be determined without oral argument and the hearing scheduled to be held on January 11, 2011 is vacated.

IT IS HEREBY ORDERED that Salsman must respond to Access's interrogatories and must produce all requested documents no later than January 20, 2011.

Dated: January 6, 2011



PAUL S. GREWAL
United States Magistrate Judge

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Counsel automatically notified of this filing via the court's Electronic Case Filing system.

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