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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ADIL HIRAMANNEK, et al.,
Plaintiffs,
v.
L. MICHAEL CLARK, et al.,
Defendants.

Case No. [13-cv-00228-RMW](#)

**ORDER DENYING PLAINTIFFS’
DISCOVERY MOTIONS**

**(Re: Docket Nos. 323, 341, 354, 386, 389,
390, 391, 392, 393, 394)**

Before the court is a raft of discovery motions from Plaintiffs Adil and Roda Hirananeck.¹ Defendants oppose each of them.² In part, these motions seek to relitigate issues on which the court already has ruled. Much of the remainder is either duplicative or frivolous. All of Plaintiffs’ motions are DENIED.

I.

Plaintiffs, representing themselves, brought this suit in January 2013, alleging a variety of misconduct by state court judges, officials and security personnel in connection with Adil Hirananeck’s family court and other proceedings.³ Several amendments later, by mid-2014, Plaintiffs’ complaint had ballooned to 256 pages and included more than 25 claims and some 40

¹ See Docket Nos. 323, 341, 354, 386, 389, 390, 391, 392, 393, 394. All uses of “Hirananeck” below refer to the Plaintiff who seeks the relief being discussed.

² See Docket Nos. 360, 363, 376, 379, 406, 407, 408, 411, 412, 414, 415. All uses of “Defendants” below, unless the court specifies otherwise, refer to the Defendants opposing the motion being discussed.

³ See Docket No. 1.

1 Defendants.⁴ Before discovery began in earnest, however, Judge Whyte winnowed the operative
2 claims to the following five:

- 3 (1) a claim under the Americans with Disabilities Act against Defendant Superior Court
of California, County of Santa Clara by both Plaintiffs;
- 4 (2) a claim under 42 U.S.C. § 1983 against Defendants Polumbus⁵ and Plett, court
5 security officers at SCCA, in their individual capacities for unreasonable searches
and seizures of Adil Hirananeek;
- 6 (3) a similar claim under Section 1983 against Defendants McChristian and Plett in their
individual capacities for an unreasonable detention of Adil Hirananeek;
- 7 (4) a Section 1983 claim against Defendant Beth Miller, an SCCA employee, in her
8 individual capacity for denying both Plaintiffs access to a restroom on account of
their race and
- 9 (5) a Section 1983 claim against McChristian and Plett in their individual capacities for
using excessive force in arresting Adil Hirananeek.⁶

10 Discovery in this case has been contentious, to put it mildly. In all, the court ruled on no
11 fewer than 15 substantive discovery motions.⁷ Early on, in light of Plaintiffs' indiscriminate use
12 of third-party subpoenas—including against sitting judges and other defendants that Judge Whyte
13 had dismissed from the case—the court ordered Plaintiffs to seek leave of the court before issuing
14 any more such subpoenas.⁸ Later, when Defendants complained about Adil Hirananeek's
15 overbroad discovery requests and deposition questioning, the court ordered him to tailor his
16 inquiries narrowly “to the claims still pending” and to adhere to the Federal Rules of Civil
17 Procedure when taking depositions.⁹ The court also ordered him to comply with the Federal Rules
18 of Civil Procedure when taking depositions and admonished Defendants to limit their speaking
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20 _____
21 ⁴ See Docket No. 94-1.

22 ⁵ Plaintiffs mistakenly sued this Defendant as “Polumbo.” See Docket No. 190 at 1.

23 ⁶ See Docket No. 201 at 2-3; see also Docket No. 98 (dismissing claims).

24 ⁷ See Docket Nos. 251, 269, 317, 327, 350, 353, 383. The parties also required the court's
25 intervention to resolve a mid-deposition dispute. See Docket No. 358.

26 ⁸ See Docket No. 251.

27 ⁹ Docket No. 327 at 1-2.

1 objections and instructions not to answer.¹⁰ And after a raft of ex parte motions by Plaintiffs, the
2 court ordered all parties to file only noticed motions pursuant to Civ. L.R. 7-2.¹¹

3 Throughout Plaintiffs' discovery motions, several issues have featured repeatedly.
4 Plaintiffs have objected on numerous occasions about Defendants' decision to serve Plaintiffs—
5 who are mother and son and live at the same address—with only one copy of discovery papers.¹²
6 Each time, the court has overruled the objection.¹³ Plaintiffs also have complained about
7 Defendants' purported failures to appear for deposition.¹⁴ The court has rejected these arguments
8 too.¹⁵

9 Nevertheless, those themes recur in the motions now before the court. Plaintiffs
10 collectively have filed the following ten motions:

- 11 (1) a motion by both Plaintiffs for sanctions for failure to appear at a deposition or
12 produce truthful documents, to compel production of certain documents and to
require Defendants to conduct depositions in a particular way;¹⁶
- 13 (2) a motion by both Plaintiffs to quash a deposition subpoena, for sanctions against
14 Defendants' counsel, to compel the deposition of a non-party who no longer works at
SCCA, to compel SCCA to pay Plaintiffs for a purported failure to take Roda
15 Hirananeek's deposition and to compel SCCA and Miller to produce certain
documents;¹⁷
- 16 (3) a motion by Adil Hirananeek for sanctions for SCCA and Miller's failure to appear at
or submit to depositions and for their failure to produce certain documents;¹⁸

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18 ¹⁰ See *id.* at 2-3.

19 ¹¹ See Docket No. 340 at 1-2.

20 ¹² See, e.g., Docket No. 230 at 4; Docket No. 231 at 4-5; Docket No. 275 at 2-4; Docket No. 276 at
2-4; Docket No. 306 at 18; Docket No. 367 at 6.

21 ¹³ See Docket No. 269 at 2; Docket No. 291 at 2; Docket No. 327 at 4; Docket No. 382 at 8.

22 ¹⁴ See, e.g., Docket No. 306 at 3-7; Docket No. 313 at 18-22; Docket No. 367 at 5.

23 ¹⁵ See Docket No. 327 at 4 & n.11; Docket No. 382 at 6-7.

24 ¹⁶ See Docket Nos. 323, 325.

25 ¹⁷ See Docket Nos. 341, 342.

26 ¹⁸ See Docket No. 354.

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- (4) a motion by Roda Hirananeck to deem certain matters automatically admitted and to sanction Miller for an alleged failure to respond to certain requests for admission and interrogatories, in part because Miller served only one copy on Plaintiffs;¹⁹
- (5) a similar motion by Adil Hirananeck against SCCA for an alleged failure to respond to certain requests for admission and interrogatories;²⁰
- (6) a motion by Adil Hirananeck to compel further depositions of a Santa Clara County Sheriff's Office representative under Rule 30(b)(6) and of Sylvia Sanchez, an IT provider at SCCA;²¹
- (7) a motion by Roda Hirananeck to deem certain matters automatically admitted and to sanction SCCA for an alleged failure to respond to certain requests for admission and interrogatories, in part because SCCA served only one copy on Plaintiffs;²²
- (8) a motion by Adil Hirananeck either to compel SCCSO to produce a Rule 30(b)(6) witness for deposition and pay for Plaintiffs' allegedly failed attempts to depose such a witness or, alternatively, to preclude the officer Defendants from raising evidence relating to these non-parties;²³
- (9) a motion by Adil Hirananeck to sanction SCCA and Miller for their failures to submit to deposition and to sanction Miller for failing to preserve evidence, not providing satisfactory answers to deposition questions and improperly withholding documents on the basis of privilege²⁴ and
- (10) a motion by Adil Hirananeck to deem certain matters automatically admitted and to sanction Miller for an alleged failure to respond to certain interrogatories.²⁵

II.

This court has jurisdiction under 28 U.S.C. §§ 1331. The undersigned was assigned discovery matters in this case pursuant to Fed. R. Civ. P. 72(a).

III.

As an initial matter, many of the motions at issue involve the same procedural and evidentiary disputes, and the court will resolve them here to prevent duplication. Plaintiffs

¹⁹ See Docket No. 386.

²⁰ See Docket No. 389.

²¹ See Docket No. 390.

²² See Docket No. 391.

²³ See Docket No. 392.

²⁴ See Docket No. 393.

²⁵ See Docket No. 394.

1 repeatedly complain—again—about Defendants’ failure to serve separate copies of discovery
2 papers on Plaintiffs. The court already has ruled in Defendants’ favor on this issue on several
3 different occasions, and the court will not take it up yet again.²⁶ Also, Plaintiffs’ replies in support
4 of these motions often ask the court to strike Defendants’ oppositions because, Plaintiffs argue,
5 Defendants’ counsel has not signed them properly. However, Defendants have signed their papers
6 electronically as Civ. L.R. 5-1(i) allows, and the documents therefore satisfy Fed. R. Civ. P.
7 11(a)’s requirement that “every . . . paper must be signed by at least one attorney of record.”
8 Defendants’ oppositions are proper.

9 For their part, Defendants object to Plaintiffs’ use of unauthenticated deposition excerpts,
10 which it appears Plaintiffs have transcribed manually from video recordings instead of obtaining
11 official copies from a court reporter. But Plaintiffs have supported each of these excerpts with
12 declarations affirming that they accurately represent portions of the deposition recordings, and
13 Defendants do not identify any errors in the transcription process. The court will consider these
14 excerpts for the purposes of these motions.²⁷ Their admissibility at trial is a separate issue for the
15 presiding judge to address.

16 On the merits, Plaintiffs have not made a persuasive case for any of the relief they seek.
17 The court addresses each of their motions in turn.

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19 ²⁶ See Docket No. 269 at 2; Docket No. 291 at 2; Docket No. 327 at 4; Docket No. 382 at 8. To be
20 clear, under Fed. R. Civ. P. 5(a)(1)(C), the court may order that discovery papers need not be
21 served on each party to the litigation, and the court has exercised that option at least four separate
22 times.

23 ²⁷ In connection with a previous motion, Adil Hiranamek submitted deposition excerpts that, as
24 Judge Whyte noted, did not have page numbers, were not supported by a declaration and included
25 editorial commentary. See Docket No. 382 at 5 & n.3. Although the new excerpts are supported
26 by declarations, they still lack page numbers for the most part, and they contain the occasional
27 stage direction. See, e.g., Docket No. 390-1 at ¶ 23 (“MILLER (laughing)”); Docket No. 393-1 at
28 ¶ 30 (“(Miller looks to Brown and smerks [sic].)”; *id.* (“(Miller is seen making light of the
question on video)”; *id.* (“(smerks [sic] on video)”; *id.* (“(synde [sic] remark)”; Docket No. 442,
Ex. A at 5:19 (“MS. KU: [seen looking to counsel Brown]”). Nevertheless, because the Plaintiffs
proceed pro se and in forma pauperis, the court will accept their submissions—minus any
commentary—and not require them to incur the expense of ordering official transcripts.

1 *First*, Adil Hirananeek’s first motion alleges that the officer Defendants failed to appear at
2 a deposition, produce documents at that deposition or respond fully or truthfully to discovery
3 requests.²⁸ The motion also repeats Hirananeek’s unsupported allegation that some or all
4 Defendants have tampered with stenographic services to make it more difficult for him to take
5 depositions, which the court has rejected.²⁹ The court will not address the latter issue again.

6 Under similar circumstances, the court previously denied Hirananeek’s request to sanction
7 a Defendant for failing to appear at a deposition.³⁰ Here, as before, Hirananeek violated Civ. L.R.
8 30-1 by not consulting with Defendants before setting a deposition date of October 16, 2015.³¹
9 Also as before, Hirananeek knew well in advance that the deponents would not appear. Starting on
10 October 2, Defendants’ counsel told Hirananeek numerous times that the deposition would not go
11 forward until the court had ruled on a pending motion for a protective order about Hirananeek’s
12 conduct at prior depositions.³² In fact, that conduct required the court to set ground rules for

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15 ²⁸ See Docket No. 323. The motion raised several other issues, but the reply brief indicated that
16 they are now moot. See Docket No. 377 at 10-11. Also, the court already has ruled on
17 Hirananeek’s allegations about Defendants’ deposition misconduct. See Docket No. 327 at 3 (“All
18 parties should avoid speaking objections. Moreover, Defendants’ counsel should instruct
19 deponents not to answer only when permitted by Rule 30(d)(1).”). In his reply, Hirananeek argues
20 that Defendants have not complied with this order, but the instant motion did not ask for the
21 “escalating” sanctions that he now seeks, and he provides no evidence of the violations he alleges.
22 Docket No. 377 at 13-14. Finally, in deciding this motion, the court has not considered the
23 arguments that Defendants only raised in their opposition to a later motion. See Docket No. 412.

24 ²⁹ See Docket No. 327 at 4; Docket No. 382 at 7.

25 ³⁰ See Docket No. 327 at 4 & n.11; Docket No. 382 at 6-7.

26 ³¹ See Docket No. 362 at ¶ 1; cf. Docket No. 327 at 4 n.11 (“Defendants also represent that
27 Hirananeek set the deposition date unilaterally without consulting with opposing counsel as
28 required by Civ. L.R. 30-1. This alone excuses what Hirananeek characterizes as Defendants’
failure to appear.”).

³² See Docket No. 362-1; Docket No. 362-2; Docket No. 362-3; Docket No. 362-4; Docket No.
362-5; Docket No. 362-6; cf. Docket No. 327 at 4 (“Defendants’ delay . . . arose from their
unwillingness to continue until the court had set ground rules for the scope of discovery and the
conduct of depositions.”).

1 further depositions and to warn Hirananeck to follow the Federal Rules,³³ justifying Defendants’
2 desire to wait for a ruling on the pending motion before proceeding with a deposition. Hirananeck
3 nevertheless asks the court to sanction the officer Defendants for not appearing or producing
4 documents at the October 16 deposition. Those requests are denied.³⁴

5 As to the discovery responses, Hirananeck charges these Defendants with several types of
6 misconduct. Requests for production 8, 37 and 38 seek documents relating to all other complaints
7 against Defendants, all documents related to internal affairs audits or other constitutional violation
8 investigations of Defendants since 2000 and all of their performance evaluations since 2010.³⁵ As
9 Defendants rightly point out, these extremely broad requests violate the court’s previous order that
10 “all requests must be narrowly tailored” to Hirananeck’s claims.³⁶ On this basis, Defendants’
11 objections to these requests are sustained.

12 Regarding requests 13, 14 and 15, which seek architectural blueprints of the SCCA
13 courthouse and documents about security equipment there, Defendants responded that they did not
14 possess the relevant documents and suggested that Hirananeck seek them from SCCA or SCCSO
15 directly.³⁷ Similarly, regarding request 32, which seeks the Defendants’ personal phone records
16 pertaining to Hirananeck, Defendants responded that they had none.³⁸ Hirananeck accuses

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18 ³³ See Docket No. 327 at 2-3.

19 ³⁴ The court may punish a party for failing to appear for deposition even if the party has a motion
20 for a protective order pending at the appointed time. See *Pioche Mines Consol., Inc. v. Dolman*,
21 333 F.2d 257, 269 (9th Cir. 1964). However, the court is not required to impose any penalty. See
22 Fed. R. Civ. P. 37(d)(2) (providing that a failure to appear for deposition is excusable if “the party
23 failing to act has a pending motion for a protective order under Rule 26(c)”); Fed. R. Civ. P.
24 37(d)(3) (providing that the court may decide not to impose sanctions for any failure to act if “the
25 failure was substantially justified or other circumstances make an award of expenses unjust”).

26 ³⁵ See Docket No. 323-1, Ex. R at 7, 18-19.

27 ³⁶ Docket No. 201 at 2.

28 ³⁷ See Docket No. 323-1, Ex. R at 9-10; Docket No. 323-2, Ex. Ab at 6-8.

³⁸ See Docket No. 323-2, Ex. Ab at 9-10.

1 Defendants’ counsel of intentionally hiding these documents, but—other than his own
2 suspicions—he provides no evidence to support his allegations except the fact that Defendants
3 received certain other documents from SCCSO.³⁹ Because there is no evidence that Defendants
4 have failed to produce anything within their “possession, custody, or control,”⁴⁰ the court will not
5 order them to do so.

6 **Second**, Plaintiffs jointly move for sanctions against SCCA and Miller’s counsel for
7 violating a protective order, committing perjury and failing to appear at a deposition.⁴¹ In the
8 same motion, Plaintiffs also seek to compel SCCA and Miller to produce certain blueprints and
9 privilege logs. Plaintiffs next ask the court to compel Ed Yearman, a former County sheriff and
10 non-party, to appear for a deposition. Finally, they seek sanctions for an alleged failure to appear
11 at Roda Hirananeck’s deposition.⁴² All of these requests are baseless.

12 Plaintiffs’ perjury claim pertains to counsel’s representation that Plaintiffs did not provide
13 Defendants with the audio or video recording—which Adil Hirananeck took himself, in violation
14 of Rule 30⁴³—of the August 14, 2015 deposition of Caitlin Burgess.⁴⁴ Soon afterwards, the
15 officer Defendants issued a discovery request for the video recording.⁴⁵ On August 24, Hirananeck

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17 ³⁹ See Docket No. 377 at 11-13.

18 ⁴⁰ Fed. R. Civ. P. 34(a)(1).

19 ⁴¹ See Docket Nos. 341, 342.

20 ⁴² Additionally, Plaintiffs move to quash a subpoena to a non-party physician, Samuel Cipoletti,
21 but later filings and communications with the court indicate that Defendants already have deposed
Cipoletti and this relief is moot. See Docket Nos. 399, 401.

22 ⁴³ See Docket No. 327 at 3 (listing several ways in which Adil Hirananeck violated Rule 30 in
23 taking this deposition).

24 ⁴⁴ See Docket No. 326 at 6 (“There is no transcript or record of the testimony by Ms. Burgess at
25 the August 14, 2015 session of her deposition because Mr. Hirananeck did not use a court reporter
26 and has refused to provide anyone with a copy of the audio or video recording that he made.”);
Docket No. 326-1 at ¶ 2 (“[Adil Hirananeck] has not provided a copy of those recordings to
anyone and there is no official transcript of that deposition.”).

27 ⁴⁵ Docket No. 341-1, Ex. U at 1.

1 responded that, if those Defendants cured various defects and propounded the requests again, he
2 “may be inclined to produce [the video recording] upon reimbursement of comparable costs of
3 recording.”⁴⁶ On October 12, after SCCA and Miller’s counsel asked about the recording again,
4 Hiranamek copied and pasted into an email a footnote from his discovery response, in which he
5 had quoted the rates that a stenographic reporting service would charge.⁴⁷ Although counsel’s
6 representation to the court was incomplete, it was far from perjury. Hiranamek said only that he
7 “may be inclined to produce” the recording, and he conditioned his offer both on the officer
8 Defendants’ curing defects in their request and on payment of the rates that professional
9 stenographers charge.⁴⁸ That tender was plainly unreasonable. The details that Plaintiffs supply
10 only emphasize Defendants’ point that Hiranamek did not turn over his recording. Plaintiffs do
11 not support their other claims of perjury with a declaration, much less documentary evidence.⁴⁹

12 Plaintiffs allege that Miller and SCCA violated the parties’ stipulated protective order⁵⁰ by
13 disclosing Cipoletti’s name—and nothing more—to the other Defendants in this case.⁵¹ The
14 protective order provides that the officer Defendants have no interest in “confidential and legally
15 privileged discovery produced by Plaintiff Adil Hiranamek responsive to Defendants [SCCA] and
16 Beth Miller’s discovery on Plaintiff Adil Hiranamek.”⁵² Cipoletti’s identity is not confidential or

18 ⁴⁶ *Id.* at 6 & n.2.

19 ⁴⁷ *See* Docket No. 341-1, Ex. V.

20 ⁴⁸ Docket No. 341-1, Ex. U at 6 & n.2.

21 ⁴⁹ *See* Docket No. 341 at 2.

22 ⁵⁰ *See* Docket No. 337.

23 ⁵¹ Plaintiffs also allege violation of Rule 45(d)(3)(A), which says that “the court . . . must quash or
24 modify a subpoena that . . . requires disclosure of privileged or other protected matter, if no
25 exception or waiver applies.” Plaintiffs argue that the subpoena itself—as opposed to what
26 Cipoletti will discuss at deposition—divulges privileged information, so Rule 45 does not apply.

27 ⁵² *Id.* at 3.

1 legally privileged. In fact, Hiranek included Cipoletti's name in his own expert disclosures.⁵³
2 There is no evidence that any Defendant violated the stipulated protective order.

3 Plaintiffs also seek blueprints of the SCCA courthouse. As indicated above, in response to
4 Adil Hiranek's request for production, the officer Defendants referred Plaintiffs to SCCA for
5 these blueprints.⁵⁴ The court already has denied Hiranek's motion to compel SCCA to produce
6 blueprints in connection with his ADA claims against SCCA.⁵⁵ For the same reason—because his
7 requests are not “narrowly tailored” to any pending claims⁵⁶—the court denies this request as well.
8 Although the layout of the areas at issue might relate tangentially to Hiranek's claims, his
9 request covers “[a]ny and all documents, pertaining to blue-print, architecture drawings, related to
10 the layout of all physical locations related to the claims.”⁵⁷ The request is far too broad to comply
11 with Judge Whyte's order.

12 Compelling SCCA and Miller to produce privilege logs is similarly unnecessary. After
13 Plaintiffs filed the motion, SCCA did produce a privilege log that identified each individual by
14 name, as Plaintiffs demanded.⁵⁸ Plaintiffs ask both Defendants for privilege logs for
15 communications after November 2013, but they filed this case in January of that year, and
16 “counsel's communications with the client and work product developed once the litigation
17 commences are presumptively privileged and need not be included on any privilege log.”⁵⁹ Miller

19 ⁵³ See Docket No. 401-1 at 4.

20 ⁵⁴ See Docket No. 341-1, Ex. Ac at 6-7 (“[Officer Defendants] are informed and believe that
21 responsive documents may be in the possession of [SCCA].”).

22 ⁵⁵ See Docket No. 327 at 2.

23 ⁵⁶ Docket No. 201 at 2.

24 ⁵⁷ Docket No. 341-1, Ex. Ac at 6.

25 ⁵⁸ See Docket No. 376-3, Ex. M.

26 ⁵⁹ *Ryan Inv. Corp. v. Pedregal de Cabo San Lucas*, Case No. 06-cv-03219, 2009 WL 5114077, at
27 *3 (N.D. Cal. Dec. 18, 2009); see also *Grider v. Keystone Health Plant Cent.*, 580 F.3d 119, 139
n.22 (3d Cir. 2009); *Hernandez v. Best Buy Co., Inc.*, Case No. 13-cv-02587, 2014 WL 5454505,

1 claims that “no documents were withheld in her responses based on an assertion of privilege, other
2 than communications that she had after the advent of this litigation.”⁶⁰ Indeed, whenever Miller
3 has cited privilege as a basis for withholding documents, she has done so in response to very broad
4 requests, and she has listed other objections as well.⁶¹ Because Plaintiffs have not established that
5 Miller withheld pre-litigation documents based on privilege, she need not produce a privilege log.

6 Next, Plaintiffs ask the court to compel the officer Defendants’ counsel to divulge
7 Yearman’s contact information and to allow Plaintiffs to depose him after he returns to the state.
8 On October 14, the court granted a motion to serve a third-party subpoena on Yearman in his
9 individual capacity because he “recommended that the sheriff’s office take certain precautions
10 when [Adil] Hiranamek went to county buildings.”⁶² That subpoena issued two days later.⁶³ It
11 turned out, however, that Yearman had retired from SCCSO, so the latter could no longer accept
12 service on his behalf.⁶⁴ Furthermore, Yearman was out of state through the close of fact discovery
13 in mid-November.⁶⁵ Because neither Plaintiff has propounded a discovery request for Yearman’s
14 email address or location, the court has no basis on which to compel production of that
15 information. And even assuming that Plaintiffs can serve him when he returns to the area,
16 discovery has closed,⁶⁶ and only the presiding judge may alter the case schedule.

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18 at *10 (S.D. Cal. Oct. 27, 2014); *United States v. Bouchard Transp.*, Case No. 08-cv-04490, 2010
19 WL 1529248, at *2 (E.D.N.Y. Apr. 14, 2010). Plaintiffs cite out-of-circuit cases reflecting an
20 apparent split in authority on this point, but the only cases either party cites from this circuit
21 support Defendants’ position.

22 ⁶⁰ Docket No. 376 at 10.

23 ⁶¹ *See* Docket No. 380-2, Ex. E; *id.*, Ex. F; *id.*, Ex. G.

24 ⁶² Docket No. 317 at 2.

25 ⁶³ *See* Docket No. 322.

26 ⁶⁴ *See* Docket No. 341-1 at Ex. Aa.

27 ⁶⁵ *See id.*

28 ⁶⁶ *See* Docket No. 356 (extending fact discovery cutoff until November 18, 2015).

1 Finally, Plaintiffs request sanctions for Defendants’ alleged failure to appear at Roda
 2 Hirananeek’s deposition, initially noticed for October 14, 2015 in San Francisco.⁶⁷ But on
 3 September 28, Adil Hirananeek wrote Defendants’ counsel that Roda Hirananeek was not available
 4 on the appointed date and that, in any case, she absolutely could not travel to San Francisco due to
 5 her age and ill health.⁶⁸ On October 1, Defendants responded that they would agree to a different
 6 date and offered to hold the deposition in San Jose instead.⁶⁹ Nevertheless, Plaintiffs now claim
 7 that they showed up in San Francisco on October 14—although Adil Hirananeek believed the
 8 noticing parties’ counsel was out of town—and were rebuffed.⁷⁰ Under these circumstances,
 9 Plaintiffs could not have “expect[ed] a deposition to be taken” on that date, and they are not
 10 eligible to recover their expenses.⁷¹

11 **Third**, Adil Hirananeek moves for sanctions against SCCA and Miller for their purported
 12 failure to appear at a deposition on September 14 or submit to a deposition in late October, in
 13 addition to concealing documents in their discovery responses.⁷² The court already has denied
 14 Hirananeek’s motion for sanctions related to the September 14 deposition,⁷³ and it will not rule on
 15 the same issue again. Hirananeek’s remaining requests are equally meritless. SCCA and Miller
 16 did not refuse to submit to a deposition; a fairer characterization of the parties’ communications is
 17 that they could not find a workable time with the October 31 fact discovery deadline fast

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 19 ⁶⁷ See Docket No. 376-2, Ex. E at 1-2.

20 ⁶⁸ See *id.*, Ex. F.

21 ⁶⁹ See *id.*, Ex. G.

22 ⁷⁰ See Docket No. 341-1, Ex. O.

23 ⁷¹ Fed. R. Civ. P. 30(g). Plaintiffs also have submitted no documentation of their “reasonable
 24 expenses for attending,” *id.*, and without such evidence the court cannot award the \$99.50 that
 25 Plaintiffs have claimed.

26 ⁷² See Docket No. 354.

27 ⁷³ See Docket No. 327 at 4 & n.11; Docket No. 382 at 6-7.

1 approaching and several other depositions already scheduled.⁷⁴ After Judge Whyte extended the
2 deadline to November 18,⁷⁵ Hirananeek took the Rule 30(b)(6) deposition of SCCA on November
3 9.⁷⁶ Hirananeek complains that the deposition did not satisfy SCCA's obligations under Rule 30,⁷⁷
4 but this alleged misconduct is the subject of a separate motion.⁷⁸

5 Hirananeek's arguments about discovery responses fare no better. The bulk of this portion
6 of his motion consists of long quotations from opinions imposing discovery sanctions,⁷⁹ but he
7 fails to first establish the requisite misconduct. Similarly, Hirananeek's supporting declaration
8 contains mostly unsupported accusations of dishonesty.⁸⁰ The only example of potential
9 misconduct that Hirananeek actually identifies is SCCA's failure to produce a contract between
10 SCCA and CourtCall, a third-party provider of telephonic appearance services.⁸¹ But, as SCCA
11 points out, it was not entirely clear that the contract was responsive to Hirananeek's request.⁸²
12 Moreover, the contract makes no difference to Hirananeek's claims, so SCCA's relevance
13 objection is valid.⁸³ For these reasons, SCCA's failure to produce the contract does not give rise
14 to an inference of wrongdoing. Similarly, the fact that Defendants produced no documents in
15 response to certain of Hirananeek's requests does not necessarily imply that they hid them. The
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17 ⁷⁴ See Docket No. 354-1 at ¶¶ 6-14; *id.*, Ex. A; *id.*, Ex. B.

18 ⁷⁵ See Docket No. 356.

19 ⁷⁶ See Docket No. 379-1 at ¶ 3.

20 ⁷⁷ See Docket No. 384 at 5-6.

21 ⁷⁸ See Docket No. 393.

22 ⁷⁹ See Docket No. 354 at 8-12.

23 ⁸⁰ See Docket No. 354-1 at ¶¶ 15-31.

24 ⁸¹ See Docket No. 354-1 at ¶ 16; *id.*, Ex. F.

25 ⁸² See Docket No. 354-1 at ¶ 16 n.2 (reproducing the allegedly related discovery requests).

26 ⁸³ See Docket No. 354-1, Ex. F.

1 more logical conclusion is just what Defendants claim: that they searched for but did not find
2 anything responsive and discoverable.⁸⁴ Finally, the court ruled on the issue of these parties’
3 privilege logs earlier in this order, and it will not consider it again here.

4 **Fourth**, Roda Hirananeek moves for various relief because Miller allegedly did not
5 respond to Hirananeek’s requests for admission or her interrogatories.⁸⁵ Rule 37(a)(1) requires the
6 movant to certify that she has conferred in good faith with the opposing party before filing a
7 motion. Accordingly, under Civ. L.R. 37-1(a), the court may not “entertain a . . . motion to
8 resolve a . . . discovery dispute unless . . . [the parties] have previously conferred for the purpose
9 of attempting to resolve all disputed issues.” On November 6, Hirananeek says that she, “jointly
10 with Plaintiff Adil, . . . engaged in meet and confer with” Miller’s counsel over email,⁸⁶ but the
11 emails she includes are from Adil Hirananeek, not her.⁸⁷ Hirananeek also says that “[a] meet and
12 confer was engaged with” Miller’s counsel on November 16 at her deposition,⁸⁸ but Hirananeek
13 does not dispute that she never spoke to Miller’s counsel herself.⁸⁹ Hirananeek protests that meet
14 and confer communications with Adil Hirananeek should suffice, but Rule 37 is clear: the movant
15 herself must confer with the other party. The court cannot consider this motion under Rule 37 and
16 Civ. L.R. 37-1(a).

17 **Fifth**, Adil Hirananeek similarly moves for various forms of relief because SCCA allegedly
18 failed to provide timely responses to his requests for admission and interrogatories.⁹⁰ However,

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20 ⁸⁴ In fact, SCCA served supplemental responses that indicate that it did search for relevant
21 documents. *See* Docket No. 379-3, Ex. F.

22 ⁸⁵ *See* Docket No. 386.

23 ⁸⁶ Docket No. 386-1 at ¶ 12.

24 ⁸⁷ *See* Docket No. 386-2, Ex. B; *id.*, Ex. C.

25 ⁸⁸ Docket No. 386-1 at ¶ 11.

26 ⁸⁹ *See* Docket No. 406-1 at ¶ 2; Docket No. 419 at 5-6.

27 ⁹⁰ *See* Docket No. 389.

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1 SCCA has provided physical documentation that casts serious doubt on Hirananeck's claims about
2 when he served the requests at issue. Hirananeck's certificate of service for his requests for
3 admission is dated September 28, 2015, and the document certifies that Hirananeck already had
4 emailed courtesy copies of the requests to SCCA's counsel.⁹¹ But the email Hirananeck attached
5 to his own declaration shows that he sent courtesy copies of his requests for admission on October
6 1,⁹² and the physical envelope that SCCA received shows a postmark dated October 2.⁹³
7 Hirananeck's claim to have effected service on September 28 is not plausible.⁹⁴ Hirananeck's
8 claims about service of his interrogatories are similarly incredible. He claims to have served them
9 on September 11,⁹⁵ but he emailed courtesy copies on September 14,⁹⁶ and the mailing envelope is
10 postmarked September 15.⁹⁷ Assuming that service was effective as of the dates that Hirananeck
11 emailed courtesy copies—which comports with the postmarks on his envelopes—all of SCCA's
12 responses were timely. Therefore, the matters in the requests for admission cannot be deemed
13 admitted under Rule 36(a)(3).

14 Hirananeck also is unsatisfied with the content of the responses to his requests for
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17 ⁹¹ See Docket No. 389-1, Ex. B.

18 ⁹² See *id.*, Ex. C.

19 ⁹³ See Docket No. 407-1, Ex. C.

20 ⁹⁴ Hirananeck's explanation about mail pickup times carries no water either. See Docket No. 418
21 at 2 n.2. The United States Postal Service picks up and delivers mail on Saturdays. And Fed. R.
22 Civ. P. 6(d) adds three days to deadlines for documents served by mail because the Rules
23 "recognize a presumption that documents served by ordinary U.S. mail require three days for
24 delivery." *Lue Seng Thao v. Ducart*, Case No. 14-cv-01791, 2015 WL 4478203, at *5 (E.D. Cal.
July 22, 2015). Here, Hirananeck's envelope was not even postmarked, much less delivered, for
four days after he purports to have served it.

25 ⁹⁵ See Docket No. 389-1 at ¶ 14; *id.*, Ex. I at 6.

26 ⁹⁶ See *id.*, Ex. J.

27 ⁹⁷ See Docket No. 407-1, Ex. A.

1 admission.⁹⁸ SCCA’s initial response consisted largely of objections that Hirananeck “failed to
2 timely serve his first set of request [sic] for admissions.”⁹⁹ Given that fact discovery was to end
3 on October 31¹⁰⁰ and that, as above, Hirananeck did not serve his requests on September 28,
4 SCCA’s contention was correct.¹⁰¹ And after Judge Whyte extended the discovery deadline until
5 November 18,¹⁰² and before Hirananeck filed this motion, SCCA served supplemental responses to
6 both Hirananeck’s requests for admissions and his interrogatories.¹⁰³ Hirananeck does not mention
7 either supplemental response in his motion.¹⁰⁴ Given the circumstances above, no sanctions are
8 appropriate under Rule 37.

9 **Sixth**, Adil Hirananeck moves for further relief related to a previously issued third-party
10 subpoena on SCCSO and to issue a new subpoena on Sylvia Sanchez, an IT provider at SCCA.¹⁰⁵
11 Both sets of Defendants oppose.¹⁰⁶ SCCSO has satisfied its obligations under its subpoena, and a

12
13 ⁹⁸ Hirananeck also claims that SCCA raised only “frivolous” objections in response to his
14 interrogatories. Docket No. 389 at 4; Docket No. 389-1 at ¶ 16. However, Hirananeck does not
15 elaborate further on why he believes the objections are improper.

16 ⁹⁹ *Id.*, Ex. D at 3-10.

17 ¹⁰⁰ *See* Docket No. 201 at 1.

18 ¹⁰¹ Under the Federal Rules, because Hirananeck served his requests by mail, SCCA had 33 days
19 to respond. *See* Fed. R. Civ. P. 6, 33(a). Even assuming that Hirananeck served his requests on
20 September 29—and not October 1, as seems more likely—the response deadline would have been
21 November 2, because November 1 was a Sunday.

22 ¹⁰² *See* Docket No. 356.

23 ¹⁰³ *See* Docket No. 407-1, Ex. B; *id.*, Ex. D. Contrary to Hirananeck’s claims, providing a
24 supplemental response does not constitute a tacit admission that any previous responses were
25 defective.

26 ¹⁰⁴ *See* Docket No. 389.

27 ¹⁰⁵ *See* Docket No. 390.

28 ¹⁰⁶ *See* Docket Nos. 404, 408. As Hirananeck observes, the officer Defendants filed two identical
oppositions. *See* Docket Nos. 403, 404. The court will treat the most recent opposition as the
operative one. Hirananeck also contends that the officer Defendants lack standing to oppose the
SCCSO subpoena. *See* Docket No. 417 at 2-3. Hirananeck has made a similar argument before,

1 subpoena of Sanchez is not warranted. These requests are denied.

2 In late October, the court granted Hirananeck's request "to depose a representative of the
3 Sheriff under Fed. R. Civ. P. 30(b)(6) about 'SC County Deputies' unreasonable & invasive body
4 search; search and seizure of Adil's property; unlawful interrogation, confinement, use of
5 excessive force, & cruel & unusual punishment on Adil, at County Courthouses during 2010-
6 2013."¹⁰⁷ In his motion papers, Hirananeck had clarified that "SC County Deputies" referred
7 only to the officer Defendants in this case.¹⁰⁸ Given the context, the court also interpreted the
8 subpoena to relate only to searches of Hirananeck.¹⁰⁹ The subpoena issued on November 3 and set
9 a November 17 date for the deposition.¹¹⁰ In response to the subpoena, SCCSO determined that
10 the three officer Defendants themselves were the people most knowledgeable within SCCSO
11 about the acts at issue.¹¹¹ Accordingly, SCCSO produced these Defendants at the deposition.¹¹²

12 Hirananeck argues that these Defendants did not know enough about the subjects he
13 identified in the subpoena. For example, they did not know about "the underlying topics that
14 prompted the Court to grant leave to conduct discovery, namely, the SCCSO's correspondence
15 asserting [Hirananeck] to be a purported security risk, and similar other matters related to" certain
16 other SCCSO employees.¹¹³ But the subpoena did not specify these topics. In fact, as the court

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18 and the court rejects it now for the same reason it did before: these Defendants have "a personal
19 right or privilege in the information sought to be disclosed." Docket No. 251 at 3. Here,
20 Hirananeck seeks discovery about what these Defendants did, and they plainly have a personal
21 right or privilege in that information.

22 ¹⁰⁷ Docket No. 350 at 2 (quoting Docket No. 318, Ex. A).

23 ¹⁰⁸ *See id.* at 2 n.8 (citing Docket No. 332 at 1 n.1).

24 ¹⁰⁹ *See id.* at 2 n.11.

25 ¹¹⁰ *See* Docket No. 361.

26 ¹¹¹ *See* Docket No. 403 at ¶ 4.

27 ¹¹² *See* Docket No. 390-1 at ¶¶ 3-4.

28 ¹¹³ Docket No. 390 at 2.

1 observed in permitting the discovery, the subpoena was “restricted to deputies’ interactions with
2 Hirananeek.”¹¹⁴ Hirananeek does not suggest that the officer Defendants were incapable of
3 testifying about their interactions with him or of explaining the reasons for their actions.¹¹⁵
4 Hirananeek also complains that the deponents did not produce documents until after the deposition
5 ended. However, Defendants point out—and Hirananeek does not contest—that Hirananeek never
6 asked for these documents, and in any case Defendants already had produced them before.¹¹⁶
7 Even if the SCCSO witnesses waited until the last possible minute, Hirananeek was not prejudiced.

8 Hirananeek alternatively asks the court to issue a new subpoena whose scope extends to the
9 issues he apparently wanted to cover with his initial subpoena. The new subpoena would
10 command SCCSO to produce a Rule 30(b)(6) witness to testify “on Damiano, Aldama, Yearman,
11 Enright, Spade, Greg Christopherson, Susan Taylor, Camua, Swenson, Vander Esch, Frontella,
12 Lamond Davis, Low, Tarabetz’s knowledge of Plaintiff Adil, as it relates to the open claims in this
13 case.”¹¹⁷ This extremely broad and vague subpoena does not “describe with reasonable
14 particularity” the matters for examination;¹¹⁸ nor does it satisfy the court’s previous order that
15 “Hirananeek must tailor all of his questioning narrowly to the claims still pending.”¹¹⁹ Hirananeek

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17 ¹¹⁴ Docket No. 350 at 2. Hirananeek’s intentions in seeking the subpoena may well have been
18 broader, but the actual text of the subpoena determines SCCSO’s obligations.

19 ¹¹⁵ Hirananeek argues that the officer Defendants disclaimed any knowledge about “the numerous
20 court security related communications of SCCSO’s third party personnel” relating to Hirananeek.
21 Docket No. 417 at 5. The only proof he offers is an excerpt from McChristian’s testimony, where
22 Hirananeek asked about a specific “court security risk assessment memo” and McChristian did not
23 remember anything about “[t]hat particular one.” Docket No. 390-1 at ¶ 9. Polumbus testified to
24 the same effect about the same report. *See* Docket No. 417-1 at ¶ 1. Hirananeek apparently did
25 not ask about any other documents or provide any witness with a copy of that report. *See* Docket
26 No. 390-1 at ¶ 9; Docket No. 417-1 at ¶ 1.

27 ¹¹⁶ *See* Docket No. 405 at ¶¶ 5-6; Docket No. 417 at 6; Docket No. 417-1 at ¶ 2.

28 ¹¹⁷ Docket No. 390-1, Ex. B.

¹¹⁸ Fed. R. Civ. P. 30(b)(6).

¹¹⁹ Docket No. 327 at 2.

1 may not issue the new subpoena.

2 Finally, Hirananeck claims that he needs a deposition of Sanchez and document production
3 from her (or from SCCA’s IT provider or custodian of records) because Miller has deleted
4 relevant emails or is otherwise concealing them. Even though fact discovery closed on November
5 18, Hirananeck filed his motion on November 23, and his subpoena proposes a December 11
6 deposition.¹²⁰ Although Hirananeck is correct that parties may file motions to compel discovery
7 up to seven days after the fact discovery cutoff,¹²¹ this motion is not a motion to compel under
8 Rule 37.¹²² On that basis alone, the court denies the motion.

9 In addition, Hirananeck has not shown good cause for the third-party discovery.¹²³
10 Hirananeck cites Miller’s deposition testimony that she sometimes deletes unnecessary emails
11 within as little as a week.¹²⁴ This statement was far from an admission that she violated the
12 court’s order to preserve relevant documents.¹²⁵ Judge Chen issued that order in March 2014, and
13 the only relevant emails that Miller has authenticated but not produced—to non-party Caitlin
14 Burgess—predate the preservation order and even this lawsuit.¹²⁶ Moreover, Miller never said
15 that she always deletes emails within a week or even that she deleted any other emails that she
16 otherwise would have produced to Hirananeck. He has failed to provide any support for his

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¹²⁰ See Docket No. 390; Docket No. 390-1, Ex. D.

19 ¹²¹ See Civ. L.R. 37-3.

20 ¹²² In fact, in a previous order, the court suggested that this relief “belong[ed] in a noticed motion
21 to compel production from Miller.” Docket No. 383 at 1.

22 ¹²³ See Docket No. 251 (requiring Hirananeck to show good cause for subpoenas to third parties).

23 ¹²⁴ See Docket No. 408-1, Ex. A at 14:4-17.

24 ¹²⁵ See Docket No. 82 (“The Court directed defendants to preserve the records (digital or hard
25 copies) relevant to all the claims filed in the initial complaint including those related to Mrs.
26 Hirananeck’s requests for accommodation.”).

27 ¹²⁶ See Docket No. 390-1, Ex. C. The emails also appear entirely irrelevant to Hirananeck’s civil
rights claim. See *id.*

1 contention that Miller has concealed discoverable evidence.

2 **Seventh**, Roda Hiranamek, like her son, moves for several forms of relief because SCCA
3 purportedly did not respond to her requests for admission or interrogatories in a timely fashion.
4 As with her other motion, Hiranamek has not satisfied the meet-and-confer requirements of Civ.
5 L.R. 37-1(a). She again says only that “[a] meet and confer was engaged” with SCCA’s counsel at
6 her deposition, but at the deposition she and SCCA’s counsel never spoke about outstanding
7 discovery.¹²⁷ Here, too, Adil Hiranamek apparently tried to meet and confer on her behalf,¹²⁸ but a
8 communication by a fellow Plaintiff does not satisfy the obligations imposed by the Federal and
9 Local Rules. The court cannot consider this motion under Civ. L.R. 37-1(a).

10 **Eighth**, Adil Hiranamek moves for preclusive and financial sanctions against the officer
11 Defendants and for a new Rule 30(b)(6) deposition of SCCSO because of allegedly failed
12 depositions on October 16 and November 17, 2015.¹²⁹ The motion largely duplicates two of
13 Hiranamek’s previous motions.¹³⁰ As the court explained earlier in this order, Hiranamek had
14 more than enough notice that Defendants would not appear on October 16, and sanctions are not
15 warranted. As for the November 17 Rule 30(b)(6) deposition, as above, SCCSO was justified in
16 designating Defendants as its most knowledgeable representatives, and Defendants did not act
17 improperly by participating. The court will not cover the same ground again.

18 **Ninth**, Adil Hiranamek seeks evidentiary sanctions and costs for SCCA and Miller’s
19 purported failure to submit to depositions, preserve evidence or answer questions at the
20 deposition.¹³¹ Hiranamek again raises the issue of the September 14 deposition, on which the

21 _____
22 ¹²⁷ Docket No. 391-1 at ¶ 11; Docket No. 406-1 at ¶ 2.

23 ¹²⁸ See *id.* at ¶ 12; Docket No. 391-2, Ex. A; *id.*, Ex. B; *id.*, Ex. C.

24 ¹²⁹ See Docket No. 392.

25 ¹³⁰ See Docket No. 323 (seeking sanctions for Defendants’ alleged failure to appear for the
26 October 16 deposition); Docket No. 390 (seeking a new Rule 30(b)(6) deposition of SCCSO
because of the allegedly insufficient November 17 deposition).

27 ¹³¹ See Docket No. 393.

1 court already has ruled in Defendants’ favor.¹³² The court will not address it again.

2 The disputes that Hirananeck raises for the first time pertain to a November 9, 2015
3 deposition of SCCA under Rule 30(b)(6) and a November 16 deposition of Miller. SCCA
4 produced two witnesses, Georgia Ku and Alicia Vojnik, at the November 9 deposition, and Miller
5 appeared as scheduled on November 16.¹³³ Hirananeck nevertheless claims that SCCA and Miller
6 so frustrated his attempts to gather evidence that the depositions were not meaningful.

7 Hirananeck cites a number of problems with the SCCA depositions. The first is SCCA’s
8 failure to disclose the witnesses’ names in advance. However, Hirananeck cites no support for his
9 contention that this disclosure was required for a Rule 30(b)(6) deposition or that the
10 nondisclosure prejudiced him in any way.

11 Hirananeck next argues that SCCA did not produce knowledgeable witnesses. To start
12 with, the deposition subpoena specified that SCCA was to produce witnesses who could testify
13 “about the matters associated with the factual assertions in (A) Counts #II-A, #10, #17, #35 and
14 #44 of” the operative complaint.¹³⁴ This notice utterly failed to “describe with reasonable
15 particularity the matters for examination.”¹³⁵ Accordingly, months before the deposition, SCCA
16 objected to the breadth of the topics and offered only to “produce a witness to testify as to the
17 ADA accommodations requested by Plaintiffs,”¹³⁶ which were the factual bases for Hirananeck’s
18 only remaining claims against SCCA.¹³⁷

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¹³² See Docket No. 327 at 4 & n.11; Docket No. 382 at 6-7.

¹³³ See Docket No. 393-1 at ¶¶ 19, 27.

¹³⁴ Docket No. 393-1, Ex. A at 1. The notice also sought a witness to testify about the factual assertions in Hirananeck’s two motions for a preliminary injunction, which were both denied. See Docket Nos. 164, 207.

¹³⁵ Fed. R. Civ. P. 30(b)(6).

¹³⁶ See Docket No. 414-1, Ex. A.

¹³⁷ See Docket No. 201 at 2-3.

1 None of Hirananeck’s deposition excerpts suffices to show that Ku was not knowledgeable
2 about the ADA accommodation policy or Plaintiffs’ requests. Instead, Hirananeck asked Ku about
3 her work address, his other claims, judicial acts, blueprints for the SCCA courthouse, SCCA’s
4 affirmative defenses, legal conclusions and a variety of other topics for which no witness could
5 possibly have prepared.¹³⁸ His questioning of Vojnik was equally haphazard.¹³⁹ Even
6 Hirananeck’s cherry-picked excerpts, however, show that both witnesses were able to testify about
7 ADA accommodations at SCCA in general and Plaintiffs’ applications in particular.¹⁴⁰

8 Similarly, Hirananeck’s claim that SCCA’s counsel acted unreasonably in asking SCCA
9 witnesses not to answer is not borne out by the deposition testimony that he provides. Counsel did
10 repeatedly instruct deponents not to answer, but only as permitted by Rule 30(c)(2) “to enforce a
11 limitation ordered by the court”—that Hirananeck “tailor all of his questioning narrowly to the
12 claims still pending.”¹⁴¹ And Hirananeck complains that SCCA did not produce documents at the
13 deposition, but the only relevant deposition excerpt refers to documents that SCCA refused to
14 produce because it claimed privilege.¹⁴² Hirananeck has not moved to compel production of these
15 documents, and the court cannot assess the merits of the privilege claim in the context of a
16 sanctions motion. No Rule 37 sanctions against SCCA are warranted.

17 Hirananeck’s grievances against Miller also are unpersuasive. Hirananeck first complains
18 that Miller only was willing to be deposed for a few hours, but Hirananeck agreed to a morning
19 deposition on the same day that Roda Hirananeck was to be deposed at 1 PM.¹⁴³ Miller’s counsel

20 _____
21 ¹³⁸ See Docket No. 442, Ex. A.

22 ¹³⁹ See *id.*, Ex. B.

23 ¹⁴⁰ See *id.*, Ex. A at 75:2-16, 76:6-16, 84:2-12, 85:2-18; *id.*, Ex. B at 22:3-16, 23:4-15, 25:2-10.

24 ¹⁴¹ Docket No. 327 at 2.

25 ¹⁴² See Docket No. 424, Ex. A at 61:22-62:21.

26 ¹⁴³ See Docket No. 393-1, Ex. D; Docket No. 414-1, Ex. B. Hirananeck alleges that Miller
27 appeared late, but offers no support for this assertion, and in any case it appears that she was at
28 most ten minutes late. See Docket No. 393-1 at ¶ 29.

1 offered to continue the deposition past the scheduled end time, but Hirananeek refused.¹⁴⁴ And, as
2 with SCCA, Miller’s counsel’s objections and instructions not to answer were justified in light of
3 Hirananeek’s repeated violation of the court’s order that he narrow the scope of his inquiries.¹⁴⁵
4 Given Hirananeek’s harassing questioning, Miller’s desire to take breaks was understandable. As
5 for Miller’s alleged failure to preserve or produce documents or a privilege log, Hirananeek raised
6 the same concerns in separate motions¹⁴⁶ that the court already has addressed above. The court
7 declines to award any sanctions under Rule 37.

8 **Tenth**, Adil Hirananeek alleges that Miller did not provide proper responses to his requests
9 for admission and interrogatories.¹⁴⁷ Hirananeek served these requests on August 24, 2015, and
10 Miller timely served her responses on the September 28 due date.¹⁴⁸ Nevertheless, Hirananeek
11 argues that these responses were so deficient that Miller effectively failed to respond at all. To the
12 extent that there were defects in Miller’s responses, however, Hirananeek should have moved to
13 compel full responses in the ample time between when he received them and when he filed this
14 motion. Instead, he seeks extraordinary relief—that the court deem the matters in the requests for
15 admission automatically admitted under Rule 36¹⁴⁹ and impose sanctions under Rule 37 including

16 _____
17 ¹⁴⁴ See Docket No. 393-1 at ¶ 37.

18 ¹⁴⁵ Hirananeek’s abusive and unnecessary lines of questioning—which he cites in his own
19 declaration—included whether Miller was Jewish, her bathroom habits, pictures she posted on the
20 Internet, her college major, where she talked to her attorney, how she would react to a restraining
21 order, how she would feel if separated from her child and what medications she was taking. See
22 *id.* at ¶ 30. Hirananeek also asked about her knowledge of the Ku Klux Klan and whether a state
23 appellate court received federal funding. See Docket No. 408-1, Ex. A at 85:7-21. Hirananeek’s
24 claim that Miller’s deposition was too short rings particularly hollow in light of these tangents.

25 ¹⁴⁶ See Docket Nos. 341, 390.

26 ¹⁴⁷ See Docket No. 394.

27 ¹⁴⁸ See Docket No. 394-1 at ¶¶ 1-3, 18-19; *id.*, Ex. C; *id.*, Ex. K.

28 ¹⁴⁹ “Even when a party’s answer . . . fails to comply with the literal requirements of [Rule 36],
courts generally order an amended answer rather than deem the matter admitted.” *Asea, Inc. v. S.*
Pac. Transp. Co., 669 F.2d 1242, 1246 (9th Cir. 1981). “[T]he district court should ordinarily first
order an amended answer, and deem the matter admitted only if a sufficient answer is not timely

1 the purported costs of deposing Miller. The court declines to award these drastic remedies.

2 With respect to the requests for admission, Miller objected to each request, but still
3 responded to most of them.¹⁵⁰ Hirananeek takes issue primarily with her response to his tenth
4 request for admission, which asked her to “[a]dmit the genuineness of documents attached to this
5 Request on a CD.”¹⁵¹ Miller objected to the request on several grounds and did not admit the
6 genuineness of any documents.¹⁵² Miller’s objections, however, were reasonable on the whole.
7 Almost all of the documents were irrelevant to the claims against her or SCCA, many carried no
8 indication of their source and several were subject to a pending motion for a protective order that
9 the court granted in large part.¹⁵³ Hirananeek’s complaints about the remaining responses are to
10 little more than their form or phrasing. Most of his arguments are frivolous, and the rest do not
11 affect the claims at issue. Nothing in Miller’s responses warrants the relief that Hirananeek seeks.

12 The same goes for Hirananeek’s interrogatories. Miller provided substantive responses to
13 the requests that bore most directly on the claims at issue.¹⁵⁴ As for the requests that Miller did
14 not respond to, she properly objected that the requests were vague or overbroad.¹⁵⁵ These
15 responses provide no support whatsoever for Hirananeek’s contention that he “was ‘sandbagged’
16 with no written discovery responses.”¹⁵⁶ Sanctions are not warranted.

17 filed.” *Id.* at 1247.

18 ¹⁵⁰ *See id.*, Ex. C at 3-9.

19 ¹⁵¹ *Id.* at 8.

20 ¹⁵² *See id.* at 8-9.

21 ¹⁵³ *See* Docket No. 327; Docket No. 394-1, Ex. A. Miller’s meet-and-confer correspondence
22 explained these concerns. *See* Docket No. 394-2, Ex. H at 3; *id.*, Ex. O at 3-4. Hirananeek’s email
23 responses were essentially identical repetitions of the same argument. *See id.*, Ex. Q; *id.*, Ex. S;
24 *id.*, Ex. U; *id.*, Ex. W.

25 ¹⁵⁴ *See* Docket No. 394-2, Ex. J.

26 ¹⁵⁵ *See id.* at 7-9, 11-12.

27 ¹⁵⁶ Docket No. 394 at 13.

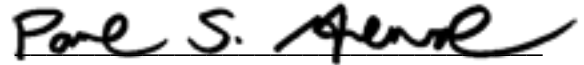
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IV.

All of Plaintiffs' discovery motions are DENIED. Any further motions on the same issues may subject Plaintiffs to sanctions under Rule 11(b)(1) and 11(b)(2).

SO ORDERED.

Dated: January 19, 2016



PAUL S. GREWAL
United States Magistrate Judge