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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JESSE ALEJANDRO,
Plaintiff,

v.

ST MICRO ELECTRONICS, INC,
Defendant.

Case No. 15-cv-01385-LHK (HRL)

**INTERIM ORDER ON DISCOVERY
DISPUTE JOINT REPORT 1**

Re: Dkt. No. 40

Jesse Alejandro (“Alejandro”) sues STMicroelectronics, Inc. (“STM”) for disability discrimination and failure to provide medical leave time. Alejandro bases his claims on STM’s decision to terminate his employment when he was allegedly incapacitated for several days by depression, anxiety, and allergies. The parties dispute whether STM should produce “[a]ll text messages . . . between [Alejandro] and [his former manager]” that were sent between September 4, 2012 and April 4, 2014. Dkt. No. 40 at 2. The parties filed Discovery Dispute Joint Report (“DDJR”) 2 in order to seek judicial resolution of their dispute.

In DDJR 2 the parties do not clearly explain the scope of Alejandro’s requests for production under Federal Rule of Civil Procedure (“FRCP”) 34(a)(1)(A). Alejandro asserts that “[d]uring discovery” he requested the production of “[a]ll text messages” sent or received by the phone STM had provided for Alejandro’s use until STM fired him. Dkt. No. 40 at 2. STM asserts, in contrast, that Alejandro did not “mention” a “desire” for the production of “all text messages between [Alejandro] and [his former manager]” until three days after fact discovery closed. Dkt. No. 40 at 4. Neither party attempts to clarify the potential inconsistency between these key assertions. It is therefore unclear to the court whether Alejandro made a timely request for production under FRCP 34 that might provide a basis for the relief Alejandro seeks in DDJR 2.

The undersigned notes that his standing order expressly permits parties to submit requests

United States District Court
Northern District of California

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for production and responses to those requests where, as here, the requests for production are “in issue” in a DDJR. No later than March 23, 2016, Alejandro shall file any timely request for production he made under FRCP 34(a)(1)(A) that he believes provides a basis for the production of “[a]ll text messages . . . between [Alejandro] and [his former manager] during his employment[.]” If Alejandro files any request for production, then no later than March 24, 2016, STM shall file the response it made to that request under FRCP 34(b)(2).

IT IS SO ORDERED.

Dated: 3/21/16



HOWARD R. LLOYD
United States Magistrate Judge