

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARK VASQUEZ PAJAS, et al.,
Plaintiffs,
v.
COUNTY OF MONTEREY, et al.,
Defendants.

Case No.16-cv-00945-BLF (SVK)

**FURTHER ORDER ON PLAINTIFFS'
MOTION TO COMPEL**

Re: Dkt. No. 96

Following hearings on Plaintiffs’ Motion to Compel on January 31, 2017, February 7, 2017, and February 14, 2017, the Court finds that defendant California Forensic Medical Group (“CFMG”) has failed to comply with this Court’s February 7, 2017 Order (Dkt. No. 96). In light of CFMG’s noncompliance and the impending close of discovery on March 31, 2017 (Dkt. No. 83) CFMG is further ordered as set forth below.

1. Counsel for CFMG shall inform General Counsel of CFMG, Benjamin Rice, and “LibertySync,”¹ the third party vendor employed by CFMG for ESI production purposes in this action, of the proceedings today and explain that compliance with the Court’s order is a top priority. LibertySync shall produce all documents and ESI responsive to the Court’s February 7, 2017 Order to CFMG and its counsel by 12:00 p.m. PST on Wednesday, February 15, 2017. (See Dkt. No. 96.) CFMG must be prepared to produce responsive documents and a privilege log, to the extent one is necessary, to Plaintiffs by 12:00 p.m. PST on Friday, February 17, 2017. CFMG shall also produce the previously-ordered declaration of the employee or independent contractor

¹ Counsel for CFMG identified CFMG’s third party vendor as LibertySync. The Court is unable to verify this identity, although has identified Liberty Technical Solutions, Inc., located in Missouri. For purposes of this Order, the Court will refer to LibertySync to mean CFMG’s third party ESI vendor.

1 with knowledge of CFMG computer systems who executes the searches to Plaintiffs and the Court
2 by 12:00 p.m. PST on Wednesday, February 15, 2017. (See Dkt. No. 96.)

3 2. If LibertySync is unable to produce the documents by Wednesday at 12:00 p.m.
4 PST, CFMG shall immediately retain a new vendor that is able to comply with the court.

5 3. On Thursday, February 16, 2017, the parties are ordered to appear before the Court
6 at 10:00 a.m. PST. Mr. Rice, General Counsel for CFMG, shall be present at the hearing. CFMG
7 and Mr. Rice shall be prepared to update the Court on its efforts to ensure compliance with the
8 Court's orders. If documents and the declaration were not produced by "LibertySync," CFMG
9 shall be prepared to inform the Court of its new vendor and its ability to comply with the Court's
10 order as set forth above.

11 4. At the hearing on Thursday, February 16, 2017, CFMG shall produce a declaration
12 to Plaintiff and the Court regarding responses to RFP Nos. 15, 35-39, as referenced in the Court's
13 February 7, 2017 Order. (Dkt. No. 96 at 1.) The declaration shall state that the deaths referenced
14 both in the RFPs and in the public documents referenced by Plaintiff at the hearing have been
15 investigated and all responsive documents have been produced or that the deaths have been
16 investigated and documents do not exist.

17
18 If CFMG continues to fail to comply with the Court's orders, monetary sanctions will be
19 imposed sua sponte and/or by Plaintiffs' motion, including a fine to be imposed for each day of
20 noncompliance.

21
22 **SO ORDERED.**

23 Dated: February 14, 2017

24
25 
26 SUSAN VAN KEULEN
27 United States Magistrate Judge
28