

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

ABDUL NEVAREZ, et al.,

Plaintiffs,

v.

FORTY NINERS FOOTBALL COMPANY,
LLC, et al.,

Defendants.

Case No. 16-cv-07013-LHK (SVK)

**ORDER REGARDING THE PARTIES’
DECEMBER 21, 2018 DISCOVERY
DISPUTES**

Re: Dkt. Nos. 297, 298, 312

On December 21, 2018 the Parties filed two joint discovery letters regarding the sufficiency of Defendants’ production of ticketing information from the Archtics ticketing database. ECF 297; ECF 298. In the first letter, Plaintiffs ask the Court to reconsider its October 25, 2018 order denying their request to compel Defendants to produce the Archtics database (ECF 268). ECF 297. Plaintiffs contend that Defendants’ response to Plaintiffs’ Interrogatory No. 5 is “incomplete, confusing, and inconclusive.” ECF 297 at 1. As a result, Plaintiffs request that the Court order Defendants to produce the Archtics database, so that Plaintiffs may determine the answer to Interrogatory No. 5, rather than relying on the data that Defendants produced. *Id.* In the second letter, Plaintiffs again request an order compelling Defendants to produce the Archtics database: this time in response to Plaintiffs’ Interrogatory No. 4. ECF 298 at 1. Plaintiffs additionally seek to compel Defendants to produce an updated and accurate Attendance Spreadsheet in the same format as the Attendance Spreadsheet produced on October 4, 2018. *Id.* On January 4, 2019, the Court issued an interim order requesting additional information from the Parties. ECF 311. The Parties filed a joint response to that request on January 7, 2019. ECF 312.

Pursuant to Civil Local Rule 7-1(b), the Court finds these matters suitable for disposition without oral argument. As to ECF 297 and ECF 298, the Court finds that Plaintiffs have not been

1 diligent in raising the issues therein. The motions to compel are therefore untimely and are
2 **DENIED.**

3 Fact discovery closed on October 4, 2018, and expert discovery closed on December 6,
4 2018. ECF 123 at 2. On October 19, 2018, Plaintiffs first moved to compel additional discovery
5 responses and production of the Archtics database. ECF 256. The Court denied Plaintiffs' motion
6 as to the database but ordered Defendants to supplement Interrogatory Responses Nos. 4 and 5 and
7 to produce additional ticketing information, all by October 31, 2018. ECF 268. Deficiencies in
8 the October 31 responses and production were readily apparent to Plaintiffs, as evidenced by the
9 Parties' subsequent meet and confer efforts and agreement to address the production at the Rule
10 30(b)(6) deposition of Jamie Brandt. ECF 297 at 2; ECF 312 at 1-2. That deposition took place
11 on November 6, 2018. ECF 312 at 1. Plaintiffs were still dissatisfied with the information
12 provided in the deposition, yet they failed to raise any further issues with the Court until six weeks
13 later with the filing of ECF 297 and ECF 298. Plaintiffs should have sought relief immediately
14 following the November 6 deposition. Although already past the date for motions to compel, the
15 Court could have then considered the substance of the Defendants' responses and production and
16 the case calendar and acted accordingly. Plaintiffs' explanation for the delay (ECF 312 at 1-2) is
17 unavailing. Further, the Court notes that expert discovery is now closed, and the Parties are well
18 into the briefing schedule for summary judgment. As such, it is unclear what use, if any, Plaintiffs
19 could make of any additional fact-finding efforts at this stage of the proceedings.¹ Accordingly,
20 Plaintiffs' requests are not in proportion to the needs of the case and, as noted above, untimely.

21 ///

22 ///

23 ///

24 ///

25 ///

26

27 _____
28 ¹ The Court also notes that the presiding District Judge, the Honorable Lucy H. Koh, has rejected several requests to extend discovery deadlines in this matter. ECF 230; ECF 248; ECF 275.

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

For all of foregoing the reasons, the Court **DENIES** Plaintiffs' motions to compel.

SO ORDERED.

Dated: January 7, 2019



SUSAN VAN KEULEN
United States Magistrate Judge