United States District Court
Northern District of California

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4   UNITED STATES DISTRICT COURT

5   NORTHERN DISTRICT OF CALIFORNIA

6   SAN JOSE DIVISION

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8   RAY DELGADO,   Case No. 17-cv-07370-LHK (VKD)

                    Plaintiff,
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                                                        THIRD INTERIM ORDER RE
10   v.   **DISCOVERY DISPUTE RE PAGA-**
                                                        RELATED DISCOVERY
11   MARKETSOURCE, INC.,
                                                        Re: Dkt. Nos. 59, 68
                    Defendant.
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13   The Court's second interim order required the parties to discuss a procedure for assessing

14   whether the termination and final wage payment data in MarketSource's records for a given

15   terminated employee requires further investigation to determine whether a violation of California

16   Labor Code § 201 exists. See Dkt. No. 67. The parties' supplemental submission in response to

17   that order reflects a disagreement in the first instance about what MarketSource's records show.

18   Mr. Delgado says: "Defendant's payroll register contains earning codes that correlate to the

19   purpose of a payment—i.e. wages, bonuses, expense reimbursement." Dkt. No. 68 at 2.

20   MarketSource does not say that its payroll register contains no such codes, but it insists that

21   determining when final wages have been paid "requires a manual inquiry" because "[t]he last

22   payment to an individual might not have been a wage payment." Id. at 7. Nevertheless,

23   MarketSource appears to have consulted its payroll register with respect to terminated employees

24   DH, SB, and KH to reach a conclusion that none of those employees received final wage payments

25   after their dates of termination. Id. at 4-5.

26   The Court requires a clear answer to the question of what information MarketSource's

27   PeopleSoft system and payroll register does and does not show. For this purpose, the Court is not

28   interested in whether that data may include inaccuracies due to data entry error or otherwise.

1   Accordingly, MarketSource shall provide a declaration of a knowledgeable corporate

2   representative that answers the following questions:

3   1. Does MarketSource's PeopleSoft system include entries for terminated employees' date

4   of termination?

5   2. Does MarketSource's payroll register include entries reflecting the date final wages

6   were paid to terminated employees?

7   3. Does MarketSource's payroll register use codes or other indicators reflecting the

8   purpose of a payment as "wages" distinct from other forms of payment, such as bonuses or

9   expense reimbursements?

10   4. Can MarketSource query its payroll register to identify the last date on which the

11 payroll register reflects a payment of "wages" was made, and if not, why not?

12   MarketSource must submit this declaration by **4:00pm on May 3, 2019.**

13   **IT IS SO ORDERED.**

14 Dated: May 2, 2019

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16   VIRGINIA K. DEMARCHI
                                           United States Magistrate Judge
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