

1 Second, Schwartz concedes that the parties failed to meet and confer before filing the instant
2 motion. (*See* Pl.’s Reply (#24) at 3:1). Federal Rule of Civil Procedure 37(a)(1) requires a party seeking
3 to compel discovery responses to “include a certification that the movant has in good faith conferred or
4 attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain
5 it without court action.” Additionally, Local Rule 26–7(b) provides that “[d]iscovery motions will not be
6 considered unless a statement of the movant is attached thereto certifying that, after **personal**
7 consultation and **sincere** effort to do so, the parties have been unable to resolve the matter without Court
8 action.” LR 26–7(b) (emphasis added).

9 The meet and confer requirement of Rule 37 and the personal consultation requirement of LR
10 26–7(b) serve important purposes. Compliance lessens “the burden on the court and reduce[s] the
11 unnecessary expenditure of resources by litigants, through the promotion of informal, extrajudicial
12 resolution of discovery disputes.” *Nevada Power v. Monsanto*, 151 F.R.D. 118, 120 (D. Nev. 1993). The
13 obligation “promote[s] a frank exchange between counsel to resolve issues by agreement or to at least
14 narrow and focus matters in controversy before judicial resolution is sought.” *Id.* In order to serve its
15 purpose, parties must “treat the informal negotiation process as a substitute for, and not simply a formal
16 prerequisite to, judicial review of discovery disputes.” *Id.* To do so,

18 [t]he parties must present to each other the merits of their respective positions with the
19 same candor, specificity, and support during the informal negotiations as during the
20 briefing of discovery motions. Only after the cards have been laid on the table, and a
party has meaningfully assessed the relative strengths and weaknesses of its position in
light of all available information, can there be a “sincere effort” to resolve the matter.

21 *Id.* Schwartz’s motion appears ripe for resolution by meet and confer.

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ACCORDINGLY, and for good cause shown,

IT IS ORDERED that Plaintiff's motion to compel (#21) is DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

DATED this 13th day of January, 2014.



CAM FERENBACH
UNITED STATES MAGISTRATE JUDGE