

1 of the class definition and that the Court may consider its contention at this stage that the discovery
2 sought necessarily relies on a class that cannot survive the certification process.²

3 In short, the parties have not substantiated their arguments with sufficient legal authority. The
4 Court declines the invitation to either find the applicable legal authority itself or to rule without a clear
5 understanding of what binding or persuasive authority exists on the particular discovery issues presented.
6 The motion to compel is therefore **DENIED** without prejudice. Plaintiff is permitted to refile the motion
7 if supported with applicable legal authority. Any renewed motion must be filed no later than March 1,
8 2016. If the motion is renewed, any response must be filed no later than March 7, 2016, and any reply
9 must be filed no later than March 10, 2016.

10 IT IS SO ORDERED.

11 DATED: February 23, 2016

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14 NANCY J. KOPPE
15 United States Magistrate Judge
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26 ² In reply, Plaintiff contends that “a Rule 23 analysis is more properly conducted after discovery and
27 upon a motion for class certification,” Docket No. 76 at 4, but neither of the cases cited relates to discovery.
28 *See Haley v. TalentWise, Inc.*, 9 F. Supp. 3d 1188, 1194 (W.D. Wash. 2014) (refusing to resolve class issues
on motion to dismiss); *Thorpe v. Abbott Labs., Inc.*, 534 F. Supp. 2d 1120, 1125 (N.D. Cal. 2008) (refusing
to strike class allegations).