

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

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4 NAVNEET SHARDA, M.D., an individual,

Case No. 2:16-cv-02233-JCM-EJY

5 Plaintiff,

6 v.

**ORDER GRANTING MOTION
TO COMPEL
AND
ORDER TO SHOW CAUSE RE
AWARD OF ATTORNEY'S
FEES AND COSTS**7 SUNRISE HOSPITAL AND MEDICAL
8 CENTER, LLC, a foreign limited liability
9 company; THE BOARD OF TRUSTEES OF
10 SUNRISE HOSPITAL; SUSAN REISINGER,
11 an individual; DIPAK DESAI, an individual;
12 NEVADA STATE BOARD OF MEDICAL
EXAMINERS; KATHERINE KEELEY, an
individual; DOE Individuals I through X; and
ROE CORPORATIONS and
ORGANIZATIONS I through X, inclusive,

13 Defendants.

14 Pending before the Court is Defendants' Motion to Compel Plaintiff's Responses to First Set
15 of Requests for Production and First Set of Interrogatories (ECF No. 139). No timely response to
16 this Motion was filed.

17 Under United States District Court for the District of Nevada Local Rule 7-2(d) "[t]he failure
18 of an opposing party to file points and authorities in response to any motion, except a motion under
19 Fed. R. Civ. P. 56 or a motion for attorney's fees, constitutes a consent to the granting of the motion."
20 Here, Plaintiff has not responded to Defendants' Motion to Compel and for that reason alone
21 Defendants' Motion is granted.

22 Further, the Motion demonstrates that Defendants made substantial efforts to obtain
23 responses to discovery requests served on December 27, 2019, prior to bringing their Motion. ECF
24 No. 139 at 4-5. Numerous letters were sent and extensions were granted. *Id.* As of June 29, 2021,
25 no responses to discovery were received. These undisputed facts further support granting
26 Defendants' Motion to Compel.

27 With respect to Defendants' Motion for Attorney's Fees, the Court finds that Fed. R. Civ. P.
28 Rule 37(a)(4) supports the award. However, Rule 37(a)(5) provides, in pertinent part, that if a motion

1 to compel is granted “the court must, after giving an opportunity to be heard, require the party ...
2 whose conduct necessitated the motion ... to pay the movant’s reasonable expenses incurred in
3 making the motion, including attorney’s fees.”

4 Accordingly, IT IS HEREBY ORDERED that Defendant’s Motion to Compel Plaintiff’s
5 Responses to First Set of Requests for Production and First Set of Interrogatories (ECF No. 139) is
6 GRANTED.

7 IT IS FURTHER ORDERED that Plaintiff shall respond to Defendants’ Interrogatories and
8 Requests for Production within 14 days of the date of this Order. Plaintiff is advised that failure to
9 abide by the terms of this Order may result in additional sanctions up to and including striking of his
10 Complaint.

11 IT IS FURTHER ORDERED that Plaintiff shall show cause in writing no later than July 30,
12 2021 why attorney’s fees and costs incurred by Defendants related to bringing and filing their Motion
13 to Compel should not be awarded.

14 IT IS FURTHER ORDERED that if Plaintiff fails to file a response to this Order to Show
15 Cause, Defendants may file a notice regarding the same, together with a memorandum of fees and
16 costs, detailing the activities, hours spent (in tenths of hours), and the rate charged by each attorney
17 who worked on the Motion. Appropriate redactions from billing records for attorney client privilege
18 and or work product may be made for the public filing with non-redacted copies of such records
19 filed under seal. Defendants’ notice and memorandum must be filed within 21 days of the date of
20 this Order. Plaintiff shall have 14 days to file a response, if any is desired. No reply shall be
21 permitted by Defendants.

22 Dated this 16th day of July, 2021.

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25 ELAYNA J. YOUCHAK
26 UNITED STATES MAGISTRATE JUDGE
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