

1 **UNITED STATES DISTRICT COURT**  
2 **DISTRICT OF NEVADA**

3 John E. Ashcraft,

4 Plaintiff

5 v.

6 Welk Resort Group, Corp., et al.,

7 Defendants

Case No.: 2:16-cv-02978-JAD-NJK

**Order Overruling Objections and  
Affirming Magistrate Judge's Order  
Denying Motions to Compel**

[ECF No. 125]

8 Plaintiff John E. Ashcraft contends that consumer reporting agency (CRA) Experian  
9 Information Solutions, Inc. violated the Fair Credit Reporting Act (FCRA), 15 U.S.C. §§ 1681–  
10 1681x, and Nevada's consumer-reporting statutes when it failed to reasonably reinvestigate  
11 Ashcraft's dispute about his account with Welk Resort Group, Corp. and later reported  
12 inaccurate information about that account.<sup>1</sup> Ashcraft alleges four claims for relief against  
13 Experian, three of which he seeks to assert as a class action.

14 Ashcraft twice moved to compel class discovery from Experian. Magistrate Judge Koppe  
15 denied Ashcraft's motions, finding that the information he sought was unduly burdensome and  
16 not proportional to the needs of the case.<sup>2</sup> Ashcraft objects to Judge Koppe's order,<sup>3</sup> which is  
17 fully briefed,<sup>4</sup> arguing that his objection is "taken only out of an abundance of caution"; if the  
18 court agrees that his proposed classes can be ascertained and certified on the existing evidence,

19  
20  
21 \_\_\_\_\_  
22 <sup>1</sup> ECF No. 78 (first amended complaint).

23 <sup>2</sup> ECF No. 122.

<sup>3</sup> ECF No. 125.

<sup>4</sup> ECF No. 135 (response).

1 then it “will not need to pass on these objections” except for his 46th Request for Production  
2 (RFP 46).<sup>5</sup>

3 A new wrinkle requires me to heed Ashcraft’s instruction to consider only RFP 46, but  
4 not for the reasons he envisions. I recently granted summary judgment in Experian’s favor on  
5 the individual claims that Ashcraft also sought to assert on a class basis.<sup>6</sup> Because entering  
6 summary judgment against Ashcraft on those claims obviated the need for me to consider  
7 whether his meritless claims “should form the basis of a class action,”<sup>7</sup> I denied his motion for  
8 class certification and related relief.<sup>8</sup> Now that class certification is no longer an issue in this  
9 case, I consider only Ashcraft’s objection about RFP 46. Ashcraft argues that the magistrate  
10 judge mistakenly overlooked RFP 46 or lumped it together with his requests seeking meta- or  
11 class discovery, which he contends RFP 46 does not seek. I am not persuaded that the magistrate  
12 judge made either mistake, so I overrule Ashcraft’s objection and affirm Judge Koppe’s order.

### 13 Discussion

#### 14 A. Legal standard for appeals of matters finally decided by magistrate judge

15 A district judge may reconsider any non-dispositive matter that has been finally  
16 determined by a magistrate judge “when it has been shown that the magistrate judge’s order is  
17 clearly erroneous or contrary to law.”<sup>9</sup> This standard of review “is significantly deferential” to a  
18  
19

---

20 <sup>5</sup> ECF No. 125 at 2.

21 <sup>6</sup> ECF No. 154.

22 <sup>7</sup> *Corbin v. Time Warner Entert.-Advance/Newhouse P’ship*, 821 F.3d 1069, 1084–85 (9th Cir. 2016) (collecting cases) (“[T]he district court has no need to entertain [the plaintiff’s] attempt to certify a class without a claim”).

23 <sup>8</sup> ECF No. 155.

<sup>9</sup> L.R. IB 3-1(a).

1 magistrate judge’s determination.<sup>10</sup> A district court overturns a magistrate judge’s determination  
2 under this standard only if it has “a definite and firm conviction that a mistake [of fact] has been  
3 committed”<sup>11</sup> or a relevant statute, law, or rule has been omitted or misapplied.<sup>12</sup>

4 **B. Request for production no. 46**

5 Ashcraft’s RFP 46 asks Experian to “produce all [d]ocuments [that] provide a technical  
6 representation of the internal logic of Auto ACDV Processing, including [d]ocuments [that]  
7 contain (1) the source code and/or algorithms contained therein, and (2) the [d]ocuments from  
8 which that information informing the source code is drawn.”<sup>13</sup> Judge Koppe denied Ashcraft’s  
9 request to compel responses to RFP 46, categorizing the request as seeking meta-discovery—  
10 which she described as discovery about the procedures, methods, and technologies of a party’s  
11 own electronically stored information—and concluding “that the circumstances of this case do  
12 not justify the meta-discovery requested.”<sup>14</sup> Ashcraft argues that Judge Koppe mistakenly either  
13 failed to address RFP 46 at all or improperly lumped it with the other requests at issue in his first  
14 motion to compel, which all sought to compel class or meta-discovery.<sup>15</sup> According to Ashcraft,  
15 RFP 46 doesn’t seek “technical” or “meta” discovery, but merits discovery about the auto-  
16 ACDV process that Experian used when it reinvestigated his dispute.<sup>16</sup>

---

19 <sup>10</sup> *Concrete Pipe and Prods. of Cal., Inc. v. Constr. Laborers Pension Trust for S. Cal.*, 508 U.S.  
602, 623 (1993).

20 <sup>11</sup> *Id.* (internal quotation marks omitted).

21 <sup>12</sup> *See Grimes v. City and Cnty. of S.F.*, 951 F.2d 236, 240–41 (9th Cir. 1991).

22 <sup>13</sup> *See* ECF No. 102 at 17.

23 <sup>14</sup> ECF No. 122 at n.2 (referring to the requests at issue in Ashcraft’s first motion to compel).

<sup>15</sup> ECF No. 125 at 24.

<sup>16</sup> *Id.*

1 While the request arguably seeks both meta-discovery and merits discovery, its overly  
 2 broad nature places it in the meta-discovery bucket. Indeed, by the plain language of this  
 3 request, Ashcraft does not seek documents about the process that Experian used to reinvestigate  
 4 his dispute, but Experian's source code for that system and the documents that form the bases of  
 5 that code. Ashcraft's point that he "needs a representation of how Auto ACDV [p]rocessing  
 6 works in order to ascertain its effectiveness, as well as to troubleshoot any flaws,"<sup>17</sup> lays bare the  
 7 fact that this request seeks meta-discovery. Ashcraft also argues that he needs these documents  
 8 because "[n]either Experian's [Rule] 30(b)(6) witness nor its in-house expert was able to explain  
 9 auto-ACDV processing."<sup>18</sup> But Ashcraft cites no place in the record where he asked Experian's  
 10 witness and expert to explain auto-ACDV processing to him. And his detailed statement of facts  
 11 in his summary-judgment motion on this topic, complete with copious citation to the deposition  
 12 transcripts of Experian's Rule 30(b)(6) and expert witnesses, belies this assertion.<sup>19</sup> So I am not  
 13 left with a definite and firm conviction that the magistrate judge made a mistake when she  
 14 construed RFP 46 as seeking meta-discovery and denied Ashcraft's motion to compel because  
 15 the needs of this case do not justify the documents sought under it.

### 16 Conclusion

17 IT IS THEREFORE ORDERED that Ashcraft's objection [ECF No. 125] to the  
 18 magistrate judge's order [ECF No. 122] is **OVERRULED**. I affirm the magistrate judge's order  
 19 in all respects. Ashcraft's motions to compel [ECF Nos. 102, 109] are **DENIED**.

20   
 21 U.S. District Judge Jennifer A. Dorsey  
 March 24, 2021

22 <sup>17</sup> *Id.* at 17.

23 <sup>18</sup> ECF No. 102 at 16.

<sup>19</sup> ECF No. 130 at 5–10, ¶¶ 4–14.