IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

DAVID MCDONALD,

Plaintiff,

v.

ONPOINT COMMUNITY CREDIT UNION, et al.,

Defendants.

No. 3:16-cv-01649-YY

ORDER

HERNÁNDEZ, District Judge:

Magistrate Judge Youlee Yim You issued a Findings & Recommendation [64] on August 4, 2017, recommending that Defendant Equifax's Motion for Sanctions [59] be denied. Equifax has timely filed objections [66] to the Findings & Recommendation. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When a party objects to any portion of the Magistrate Judge's Findings & Recommendation, the district court must make a de novo determination of that portion of the

Magistrate Judge's report. 28 U.S.C. § 636(b)(1); Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

The Court has carefully considered Equifax's objections and concludes there is no basis to modify the Findings & Recommendation. The Court has also reviewed the pertinent portions of the record de novo and find no errors in the Magistrate Judge's Findings & Recommendation. Pursuant to Federal Rule of Civil Procedure 37(5)(A)(ii)–(iii), the court is not required to award sanctions when a discovery motion is granted if "the opposing party's nondisclosure, response, or objection was substantially justified; or other circumstances make an award of expenses unjust." Here, Magistrate Judge You recognized that Plaintiff suffered several heart attacks during this discovery dispute. In addition, Plaintiff hired new counsel who obtained hard copies of the disputed medical records dating back to the 1990s from Plaintiff's garage. Plaintiff's new counsel scanned the records, classified them, and submitted them to opposing counsel. Accordingly, the Court is convinced that Magistrate Judge You satisfied Rule 37's requirements by identifying circumstances justifying Plaintiff's tardy disclosure and making an award of Equifax's expenses unjust.

CONCLUSION

The Court ADOPTS Magistrate Judge You's Findings & Recommendation [64], and therefore, Equifax's Motion for Sanctions [59] is denied.

IT IS SO ORDERED.

DATED this 18 day of Oct, 2017.

MARCO A. HERNÁNDEZ
United States District Judge