

1
2 The Honorable Richard A. Jones
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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 JONATHAN SANTIAGO ROSARIO,
10 individually and on behalf of all others
11 similarly situated,

12 Plaintiff,

13 v.

14 STARBUCKS CORPORATION,

15 Defendant.

No. 2:16-cv-01951 RAJ

ORDER

16 This matter comes before the Court on Plaintiff's Motion to Compel Deposition
17 of Accurate Background, LLC. Dkt. # 49.

18 **I. BACKGROUND**

19 Plaintiff Jonathan Santiago Rosario brings a putative class action alleging that
20 Defendant Starbucks Corporation violated the Fair Credit Reporting Act ("FCRA"),
21 15 U.S.C. § 1681b(b)(3), in relation to its use of pre-employment background checks.
22 Dkt. # 1. On November 22, 2017, Plaintiff filed this motion to compel the deposition of
23 a third party, Accurate Background, LLC ("Accurate"). Dkt. # 49. Accurate opposes
24 the Motion. Dkt. # 55.
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II. DISCUSSION

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2 The Court has broad discretion to control discovery. *Avila v. Willits Env'tl.*
3 *Remediation Trust*, 633 F.3d 828, 833 (9th Cir. 2011). That discretion is guided by
4 several principles. Most importantly, the scope of discovery is broad. A party must
5 respond to any relevant discovery request that is not privileged and that is “reasonably
6 calculated to lead to the discovery of admissible evidence.” Fed. R. Civ. P. 26(b)(1).
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8 The Court, however, must limit discovery where it can be obtained from some other
9 source that is more convenient, less burdensome, or less expensive, or where its “burden
10 or expense . . . outweighs its likely benefit, considering the needs of the case, the
11 amount in controversy, the parties’ resources, the importance of the issues at stake in the
12 action, and the importance of the discovery in resolving these issues.” Fed. R. Civ. P.
13 26(b)(2)(C)(i), (iii).
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15 Accurate argues in its Response to Plaintiff’s Motion to Compel that Plaintiff
16 failed to comply with the meet-and-confer requirements of Federal Rule of Civil
17 Procedure 37(a)(1) and LCR 37(a)(1). Contrary to this assertion, Accurate’s Response
18 details several discussions between Accurate and Plaintiff regarding Plaintiff’s desire
19 for a deposition and its dissatisfaction with Accurate’s productions in response to
20 Plaintiff’s requests. Dkt. # 55 at 3. The Court will reiterate that the meet-and-confer
21 requirements of the Court’s Standing Order and the Federal and Local Rules are in place
22 to minimize waste of judicial time and resources on issues that could be resolved
23 amongst the parties. The facts as set forth in Plaintiff’s Motion and supporting
24 declaration, as well as Accurate’s Response to Plaintiff’s Motion evidence an effort to
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1 discuss these discovery deficiencies with Accurate on several occasions. Dkt. ## 49,
2 50; Dkt. # 55 at 4.

3 Accurate also argues that Plaintiff's Notice of Subpoena set a deposition date of
4 September 19, 2017, and that any other date would be unenforceable because the
5 subpoena has expired. This argument is unpersuasive. Accurate offers no authority in
6 support of its contention that Plaintiff is confined to the deposition date set forth in its
7 Notice of Subpoena, especially when Accurate and Plaintiff are in discussions regarding
8 the deposition sought. Accurate further argues that even if the subpoena was active,
9 Plaintiff's Motion should be denied because Accurate has fully complied with the
10 subpoena. Plaintiff represents that Accurate refuses to provide him with the discovery
11 he requests after several attempts to come to an agreement regarding "alternative
12 methods" of providing him that information. Accurate does not dispute that it has not
13 complied with Plaintiff's request for a deposition, but instead argues that a "deposition
14 would simply be a fruitless, burdensome exercise" that would reiterate information
15 already given to Plaintiff. Dkt. # 55 at 8. It is apparent from Plaintiff's Motion that the
16 information he seeks would not be duplicative of the information he has already
17 received.
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22 Finally, Accurate argues that a deposition would be unduly burdensome because
23 the proffered witness is located in Colorado and a deposition would require either her or
24 her counsel to travel. However, Plaintiff represents that he offered to take the
25 deposition telephonically or by videoconference and to limit the time of deposition to
26 approximately one hour. Dkt. # 49 at 3-4. Accurate provides no other convincing
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1 argument to support its contention that a deposition would be improperly burdensome.

2 For the foregoing reasons, Plaintiff's Motion to Compel is **GRANTED**.

3 Accurate Background, LLC is **ORDERED** to appear for a deposition, either by
4 telephone or by video, at a mutually convenient time and place, within twenty-one (21)
5 days of the date of this Order, absent extraordinary weather conditions that would
6 greatly inconvenience either party if travel is involved. Dkt. # 49. Further, the Court
7 has low tolerance for gamesmanship in discovery matters and finds that the sanction of
8 attorney fees in this matter is unnecessary at this time, but may be inclined to do so in
9 the future. Plaintiff's request for reasonable attorney fees associated with bringing this
10 Motion is **DENIED**.
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13 DATED this 8th day of January, 2018.
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17 The Honorable Richard A. Jones
18 United States District Judge
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