

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 JENNIFER SANCHEZ,

9 Plaintiff,

10 v.

11 KIRSTJEN NIELSEN, Secretary,
12 United States Department of Homeland
13 Security, Immigration and Customs
14 Enforcement,

15 Defendant.

C17-1353 TSZ

MINUTE ORDER

16 The following Minute Order is made by direction of the Court, the Honorable
17 Thomas S. Zilly, United States District Judge:

18 (1) Plaintiff's Motion to Compel, docket no. 31, is GRANTED in part and
19 DENIED in part. Plaintiff's motion is denied with respect to Request for Production No.
20 10B, which seeks "an electronic copy of the .pst folder . . . from defendant's file server at
21 the time of Plaintiff's termination for" numerous individuals who worked with or
22 supervised Plaintiff. Defendant has already provided nearly all responsive emails
23 regarding Plaintiff with the exception of a portion of Michael Gladish's emails, which
Defendant has promised to produce. To the extent Plaintiff seeks the totality of these
individuals' emails—including those unrelated to her employment—that request seeks
material that is not relevant to the claims or defenses in this matter and is not proportional
to the needs of the case. Fed. R. Civ. P. 26(b)(1). Plaintiff's motion is granted with
respect to Requests for Production 36-47 and 49-58, which seek documents related to
"any discipline imposed" on various individuals. Defendant claims "discipline" is a
"term of art" with a narrow meaning defined by employee collective bargaining
agreements. See Declaration of Priscilla Chan, docket no. 35, ¶¶ 20-21. But Plaintiff's

1 requests do not cite that narrower meaning. “Discipline” should be given its ordinary
2 meaning: any supervisory intervention of any kind to address any conduct by a specific
3 individual or individuals viewed negatively by management. *See U.S. ex rel. Englund v.*
4 *Los Angeles County*, 235 F.R.D. 675, 684 (E.D. Cal. 2006) (“A party may not avoid
5 responding based on technicalities When the purpose and significance of a request
6 are reasonably clear, courts do not permit denials based on an overly-technical reading of
7 the request.”) (citing *Holmgren v. State Farm Mut. Auto. Ins. Co.*, 976 F.2d 573, 580 (9th
8 Cir. 1992)). Whether Defendant meted out comparable discipline—whether formal or
9 otherwise—to Plaintiff and other employees who engaged in conduct viewed negatively
10 by management is directly relevant to the claims in this lawsuit. Defendant must produce
11 all responsive, non-privileged documents to Requests for Production 36-47 and 49-58,
12 including but not limited to Cease and Desist Letters, Letters of Reprimand, and any
13 other formal or informal written discipline imposed upon the specified individuals. Such
14 production must also include documents related to the incidents described in the Second
15 Declaration of Aubrie D. Hicks, docket no. 36-1, ¶¶ 5-14.

9 (2) The Court declines to award attorneys’ fees to Plaintiff in connection with
10 this motion because Defendant’s position regarding the discovery was substantially
11 justified as it sought to clarify the meaning of “discipline” in Plaintiff’s requests. *See*
12 *Fed. R. Civ. P. 37(a)(5)*.

11 (3) The discovery completion deadline is extended until March 15, 2019.
12 Plaintiff may re-notice depositions that were postponed and/or cancelled due to
13 Defendant’s failure to provide responsive documents in advance.

13 (4) The Court declines Plaintiff’s requests—newly raised in her reply brief—to
14 propound additional requests for production and for Defendant to undergo a forensic
15 examination to evaluate Defendant’s compliance with discovery obligations imposed by
16 the Federal Rules of Civil Procedure.

16 (5) The Clerk is directed to send a copy of this Minute Order to all counsel of
17 record.

17 Dated this 7th day of January, 2019.

18 William M. McCool
19 Clerk

20 s/Karen Dews
21 Deputy Clerk