

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Martin v. Ball Corp.

No. 2:21-cv-1049, United States District Court for the Eastern District of California (June 20, 2025)

OPINION

Martin v. Ball Corp.

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 RICHARD MARTIN, No. 2:21-cv-1049 DAD CKD

12 Plaintiff, 13 v. ORDER 14 BALL CORPORATION, et al., 15 Defendants. 16 17 On June 18,
2025, the undersigned held a hearing via Zoom videoconference on 18 defendants' two pending
motions to compel discovery responses. (ECF Nos. 63 & 64.) Attorney 19 Levi Lesches appeared
on behalf of plaintiff, and attorney Aaron Cargain appeared on behalf of 20 defendants. For the
reasons set forth below, the court will grant both motions to compel. 21 A. Background 22 This
action proceeds on the Third Amended Complaint filed August 29, 2024. (TAC, ECF
23 No. 45.) Plaintiff Martin was employed as a machinist by defendant Ball in Ball's Fairfield
plant,

24 which manufactures cans for soup and similar products. In November 2018, Martin allegedly
25 was injured at work, and Ball allegedly retaliated against him by suspending and terminating
his 26 employment when he sought a disability accommodation. (Id.) The TAC asserts California
Fair 27 Housing and Employment Act (FEHA) claims of disability discrimination, failure to
provide 28 reasonable accommodation, and related claims. (Id.) 1 Before the court are two
unopposed motions to compel by defendants. (ECF Nos. 63 & 64.) 2 The first motion was
originally set for hearing June 11, 2025, but the court gave plaintiff an 3 additional week to
respond and moved the hearing to coincide with the second motion, set for
4 June 18, 2025. Martin did not respond to either motion. Per the district judge's scheduling order,
5 the fact discovery deadline is September 16, 2025. (ECF No. 59.) 6 The recent background of
this case is as follows: In October 2024, the undersigned held a 7 settlement conference for the
parties, but the case did not settle. (ECF No. 52.) On December 18, 8 2024, the undersigned held
an informal telephonic discovery conference, and the parties agreed to 9 stipulate to extend time
for discovery; the fact discovery deadline was subsequently extended to
10 June 16, 2025. (ECF Nos. 55, 56 & 57.) At a meet and confer on December 19, 2024, Martin's

11 counsel disclosed that Martin had been injured in an industrial accident, resulting in his temporary 12 incapacitation and hospitalization at UCSF. (Second Cargain Decl., ¶ 4, ECF No. 64-2.) In

13 March 2024, the parties stipulated to continue all deadlines, and the district judge extended the 14 fact discovery deadline to September 16, 2025. (ECF Nos. 58 & 59.) On May 14, 2025, 15 defendant Ball filed a motion to compel Martin to produce his Worker's Compensation records, 16 as "efforts by Defendants to obtain these records without motion practice have been repeatedly 17 ignored." (ECF No. 60-1 at 2.) Martin filed a statement of non-opposition to the motion, 18 agreeing to produce the records by June 6, 2025; thus, the court granted Ball's motion without 19 hearing. (ECF Nos. 60, 61 & 62.) 20 Roughly two weeks later, Ball filed the instant two motions to compel, and Martin did not 21 respond to either. Ball states that defendants anticipate "being forced to file several more motions 22 to obtain responses to basic discovery requests." (ECF No. 63-1 at 2.) 23 B. Motion to Compel Plaintiff's Response to Interrogatories 24 In this motion (ECF No. 63), defendants seek to compel verified responses¹ to defendant 25 Ball Metal Beverage Corporation's (BMBC) Interrogatories, Set One, "[a]fter five months and 26 numerous attempts by Defendants to resolve the issues in this motion informally[.]" (ECF No. 27 1 Federal Rule of Civil Procedure 33(b)(5) provides that "[t]he person who makes the answers [to 28 interrogatories] must sign them, and the attorney who objects must sign any objections." 1 63-1 at 2.) On October 22, 2024, BMBC propounded nine interrogatories relating to damages 2 and efforts to mitigate damages. Martin's responses were due November 21, 2024. (First 3 Cargain Decl., ¶ 4, ECF No. 63-2.) On December 2, 2024, Martin's counsel produced unverified 4 responses, including the preliminary statement: 5 Due to the recent illness in Counsel's family, Counsel will need additional time to prepare Plaintiff's substantive responses, and 6 document productions, to the extent not objected to herein. 7 (Id., ¶ 6 & Exh. D.) Plaintiff raised no objections to Interrogatory Nos. 1-5 and No. 8, and failed 8 to acknowledge or provide any response to Interrogatory No. 9. (Id., ¶ 7 & Exh. D.) In the Joint 9 Statement filed prior to the informal discovery conference on December 18, 2024, BMBC sought 10 "Code-compliant responses to all nine interrogatories by the end of the year or authorization to 11 file a motion to compel." (ECF No. 54 at 2.) In the same Joint Statement, plaintiff's counsel 12 stated that he would provide "substantive interrogatory responses" by December 30, 2024, along 13 with other disputed responses. (Id. at 3.) Despite multiple follow-ups by defendants' counsel 14 during the spring of 2025, plaintiff's counsel has not provided the verified responses nor 15 responded to the instant motion. 16 Defendants' proposed order on the motion directs plaintiff to "serve verified, Code- 17 compliant responses to [BMBC's] Interrogatories, Set One, by June 18, 2025" or face possible 18 sanctions. (ECF No. 63-11 at 2.) 19 C. Motion to Compel Plaintiff to Produce Authorization to Obtain UCSF Records 20 In this motion (ECF No. 64), defendants seek to compel plaintiff's authorization to obtain 21 medical records concerning plaintiff's recent treatment at UCSF after an industrial accident. 22 "Notably, plaintiff's counsel agreed to produce

the subject authorization, but has failed to do so at 23 the time of filing despite Defendant's counsel's repeated requests for the authorization." (ECF

24 No. 64-1 at 2.)

25 On January 10, 2025, defendants served on plaintiff an Authorization for Release of 26 Health Information for UCSF Health and associated medical centers, including a burn center, for 27 execution by plaintiff. (Second Cargain Decl., ¶ 5.) The purpose of this request is to "assess any 28 period when Plaintiff may not be entitled to recover economic damages [e.g., backpay] due to his 1 incapacity" from the November 2024 accident unrelated to this case. (ECF No. 64-1 at 4.) In a

2 February 2025 email exchange, plaintiff's counsel "acknowledged the outstanding authorization, 3 and claimed he would 'handle shortly.'" (Second Cargain Decl., ¶ 6, Exh. D.) However, despite 4 multiple follow-ups by defendants' counsel, plaintiff's counsel has not provided the authorization 5 nor responded to the instant motion. At the hearing, plaintiff's counsel indicated that plaintiff did 6 not oppose providing the authorization. 7 Defendants' amended proposed order on the motion directs plaintiff to "produce the 8 signed authorization by no later than June 25, 2025" or face possible sanctions. (ECF No. 65.) 9 D. Conclusion 10 As stated at the hearing, the court is concerned about plaintiff's counsel's lack of diligence in 11 the discovery process and will consider issue and/or terminating sanctions if this pattern 12 continues. At plaintiff counsel's request, the court will set a June 27, 2025, deadline to provide 13 the requested discovery in these motions. Going forward, however, the court expects plaintiff's 14 counsel to meet and confer as needed to resolve basic discovery issues rather than forcing 15 defendants to file multiple motions to compel. See *Brill v. Napolitano*, 2010 WL 11512400, *1 16 (C.D. Cal. May 12, 2010) ("The whole system of [c]ivil adjudication would be ground to a halt if 17 the courts were forced to intervene in even a modest percentage of discovery transactions. . . . 18 Here, the parties have unnecessarily burdened the Court with discovery disputes they should have 19 been able to resolve themselves."). 20 Accordingly, IT IS HEREBY ORDERED THAT: 21 1. Defendants' first motion to compel (ECF No. 63) is GRANTED; 22 2. Plaintiff shall serve verified, Code-compliant responses to BMBC's Interrogatories, 23 Set One, by June 27, 2025; 24 3. Defendants' second motion to compel (ECF No. 64) is GRANTED; 25 4. Plaintiff shall produce the signed authorization for medical records no later than June 26 27, 2025; 27 //// 28 //// 1 5. Counsel shall meet and confer to set plaintiff's deposition on either July 2 or July 3, 2 2025, and plaintiff's deposition will be held open to continue at a later time, after 3 defendants receive various outstanding discovery responses. 4 | Dated: June 20, 2025 Cad □ ke yy a

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6 UNITED STATES MAGISTRATE JUDGE

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