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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
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11 JOSEPH DIAZ JR.,

12 Plaintiff,

13 v.

14 RALPH HEREDIA, true name
15 RAFAEL HEREDIA TARANGO,
16 a/k/a RAFAEL HEREDIA, a/k/a
17 RAFAEL BUSTAMANTE;
18 JOHN DOE, ESQ.; and
19 JANE DOES 1 through 20,
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Defendants.

Case No. 5:20-cv-02332-JWH-KKx

**ORDER DENYING
DEFENDANT'S MOTION TO
COMPEL ARBITRATION [ECF
No. 25]**

1 Currently pending before the Court is the motion of Defendant Ralph
 2 Heredia to compel arbitration.¹ The Court finds this matter appropriate for
 3 resolution without a hearing. *See* Fed. R. Civ. P. 78; L.R. 7-15. After
 4 considering the papers filed in support and in opposition,² the Court orders that
 5 the Motion is **DENIED**, as set forth herein.

6 This Court's Local Rules require "counsel contemplating the filing of any
 7 motion first [to] contact opposing counsel to *discuss thoroughly* . . . the
 8 substance of the contemplated motion and any potential resolution." L.R. 7-3
 9 (emphasis added). The Local Rules further provide that the "Court may decline
 10 to consider a motion unless it meets the requirements of L.R. 7-3 through 7-8."
 11 L.R. 7-4.

12 This Court expects and requires strict compliance with the Local Rules.
 13 Here, despite a previous admonishment to comply with the Local Rules³—
 14 specifically L.R. 7-3—Heredia's counsel failed to engage in any substantive
 15 Conference of Counsel before filing the Motion, as required by L.R. 7-3.
 16 Instead, a few hours before filing the instant Motion, Heredia's counsel
 17 transmitted a one-sentence email to Diaz's counsel stating: "The purpose of
 18 this email is to request whether Mr. Diaz will consent to a motion to stay the
 19 proceedings pending arbitration?"⁴ That bare question, which does not discuss
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21 ¹ Def.'s Mot. to Compel Arbitration and/or Stay the Proceedings Pending
 22 Arbitration (the "Motion") [ECF No. 25].

23 ² The Court considered the following papers: (1) the Motion (including its
 24 attachments); (2) Pl.'s Opp'n to the Motion (the "Opposition") [ECF No. 28];
 25 and (3) Def.'s Reply in Supp. of the Motion (the "Reply") [ECF No. 29]; and
 26 Pl.'s Obj. to New Evid. in Supp. of the Reply [ECF No. 30].

27 ³ *See* Order Denying Def.'s Mot. to Dismiss Without Prejudice [ECF
 28 No. 22]; Order re Mot. of Def. to Withdraw Second Mot. to Dismiss [ECF
 No. 26] 2:16–18 ("All counsel are **DIRECTED** to review thoroughly and
 hereafter comply assiduously with this Court's Local Rules.").

⁴ *See* Opposition 6:1–4; Decl. of James L. Greeley in Supp. of the
 Opposition (the "Greeley Decl.") [ECF No. 28-2] ¶ 6; Ex. E to the Greeley
 Decl. [ECF No. 28-7].

1 the substance of the motion and is phrased to elicit a binary “yes” or “no”
2 response, does not meet the requirement for counsel to “*discuss thoroughly* the
3 . . . the substance of the contemplated motion and any potential resolution.”
4 L.R. 7-3 (emphasis added). Heredia attempts to excuse the failure of his counsel
5 to meet and confer adequately by shifting blame to Diaz’s counsel, stating “the
6 lack of dialogue is on both parties,” and then by proceeding to explain that the
7 communications between counsel in this case have not been productive thus
8 far.⁵ But Heredia’s counsel’s one-sentence communication regarding the
9 instant Motion does not constitute an invitation to engage in a substantive
10 conference regarding the issues presently before the Court.

11 The Court expects counsel for both parties to engage in a thorough and
12 professional discussion of the substance of any contemplated motion before that
13 motion is filed, as L.R. 7-3 requires, regardless of the ultimate outcome of any
14 such discussions. If the parties find that they are not able (or willing) to engage
15 in productive oral communications, then the Court expects the parties to engage
16 in a thorough discussion of the substantive issues in writing (something more
17 than a one sentence binary question).

18 For the third time, the Court admonishes counsel henceforth to comply
19 strictly with all Local Rules, including L.R. 7-3. Any future failure to comply
20 with the Local Rules will be grounds for sanctions pursuant to L.R. 83-7.

21 Based upon the foregoing, pursuant to L.R. 7-4, the Court hereby
22 **ORDERS** that Heredia’s Motion is **DENIED with prejudice**, for his counsel’s
23 failure to comply with L.R. 7-3.

24 **IT IS SO ORDERED.**

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26 Dated: March 10, 2021



John W. Holcomb
UNITED STATES DISTRICT JUDGE

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28 ⁵ Reply 8:5; *see also id.* at 7:25–9:2.