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11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 MATTHEW R. WALSH

15 Plaintiff,

16 vs.

17 ROKOKO ELECTRONICS, and
DOES 1 through 50, inclusive,

18 Defendant.

Case No.: 2:25-cv-05340-ODW-RAO

[Assigned to Hon. Otis D. Wright, II,
Courtroom 5D; Hon. Rozella A. Oliver,
Courtroom 590]

19 **DEFENDANT ROKOKO**
20 **ELECTRONICS' OPPOSITION TO**
21 **PLAINTIFF MATTHEW R.**
22 **WALSH'S MOTION FOR**
23 **RECONSIDERATION RE MOTION**
24 **TO COMPEL**

25 Date: November 24, 2025
26 Time: 1:30 p.m.
27 Place: Dept. 590

28 [*Concurrently filed with Declaration of
Katherine Ellena*]

State Court Action Filed: May 12, 2025
Removal Date: June 12, 2025
Trial Date: None

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND 1

III. ARGUMENT 3

 A. Plaintiff Cannot Meet the Standard for a Motion for Reconsideration . 3

 B. Plaintiff Has Still Not Met And Conferred Pursuant To Local Rule 37-1 Regarding Rokoko’s Discovery Responses 4

 C. This Court Has Discretion to Consider this Opposition 5

 D. Plaintiff’s Motion Mischaracterizes the Record 6

IV. CONCLUSION 7

TABLE OF AUTHORITIES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Page(s)

Cases

John v. AIG Prop. Cas. Co. Grp., Inc.
2019 U.S. Dist. LEXIS 1862, . (C.D. Cal. Jan. 4, 2019, No. CV 18-8664-RSWL-JEM) 6

Righthaven LLC v. Newman,
No. 2:10-CV-1762 JCM (PAL), 2011 U.S. Dist. LEXIS 80518 (D. Nev. July 22, 2011) 5

Summer v. Berryhill,
No. 16-cv-01872-BLF, 2017 U.S. Dist. LEXIS 109841 (N.D. Cal. July 14, 2017) 5

U.S. v. Warren,
601 F.2d 471 (9th Cir. 1979)..... 5

Rules

L.R. 7-3 1

L.R. 7-12 5

L.R. 37-1 *passim*

1 **MEMORANDUM OF POINTS AND AUTHORITY**

2 **I. INTRODUCTION**

3 This Motion is just the latest in a series of frivolous filings before this Court.
4 Plaintiff in *pro per* Matthew Walsh’s (“Plaintiff”) October 27, 2025 Motion for
5 Reconsideration (“Motion”) asks this Court to revisit its October 17, 2025 Order
6 (“Order”) striking Plaintiff’s Motion to Compel (“Motion to Compel”), which sought
7 (1) an order compelling responses to several third party subpoenas and (2) an order
8 compelling further responses from Rokoko to Plaintiff’s First and Second Sets of
9 Requests for Admission (“RFAs”), First and Second Sets of Requests for Production,
10 and First Set of Interrogatories (collectively, the “Requests”).

11 ***First***, Plaintiff’s Motion should be denied because it asks this Court to
12 reconsider its Order without presenting any new material facts, changes in law, or
13 evidence indicating a failure to consider material facts, as is required under Local
14 Rule 7-18.

15 ***Second***, Plaintiff has still not satisfied his meet and confer obligations
16 concerning the relief sought in his Motion to Compel, which was the basis of the
17 Order striking the Motion to Compel. In fact, Plaintiff filed his Motion to Compel
18 ***two hours*** after being timely served with Rokoko’s discovery responses and
19 objections, without initiating any meet and confer process set forth in L.R. 37-1
20 whatsoever.

21 Accordingly, Plaintiff’s Motion for Reconsideration should be denied.

22 **II. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND**

23 Plaintiff began serving several subpoenas to non-parties on or about September
24 12 through 15, 2025 and on September 26, 2025 (the “Subpoenas”). Pursuant to L.R.
25 7-3, Rokoko requested a meet and confer regarding the Subpoenas on September 18,
26 2025. (Declaration of Katherine Ellena [“Ellena Decl.”], ¶ 3; ECF No. 81-1, Exs. A-
27 I, L). Plaintiff responded that he was “completely unavailable” until September 30,

1 2025, a date conveniently *after* the requested compliance deadlines on the
2 Subpoenas. (ECF No. 81-1, Ex. L). On September 25, 2025, counsel for Rokoko sent
3 Plaintiff a meet and confer letter pursuant to L.R. 37-1 regarding the Subpoenas.
4 (Ellena Decl., ¶ 3). To date, Plaintiff has never responded to Rokoko’s September
5 25, 2025 meet and confer letter request. (*Id.*) And despite claiming he was completely
6 unavailable to meet and confer until September 30, 2025, Plaintiff filed two
7 Declarations in support of his Motion for Sanctions on September 18 and September
8 25, 2025, (ECF Nos. 74, 75), as well as a Request for Judicial Notice in support of
9 his Motion for Sanctions on September 29, 2025 (ECF No. 77) and a Reply in
10 Support of his Motion for Sanctions (ECF No. 78) on September 29, 2025.

11 On October 10, 2025, at 3:21 p.m., Rokoko timely served its Responses and
12 Objections to Plaintiff’s discovery Requests (collectively, the “Responses”) (Ellena
13 Decl., Ex. A). At 5:31 p.m., *two hours after being served* and without any meet and
14 confer effort by Plaintiff regarding the Responses, Plaintiff filed his Motion to
15 Compel demanding compliance with his Requests and further requesting that the
16 RFAs be deemed admitted as a matter of law. (ECF No. 80; Ellena Decl., Ex. B). The
17 Motion to Compel also sought to enforce compliance with the Subpoenas. (ECF No.
18 80).

19 On October 17, 2025, the Court issued its Order striking Plaintiff’s Motion to
20 Compel for failure to meet and confer pursuant to L.R. 37-1. (ECF No. 83). Plaintiffs
21 held their Rule 26(f) conference on October 30, 2025, which included a discussion
22 regarding the Subpoenas. (Ellena Decl., ¶ 7). The Parties ultimately could not reach
23 an agreement on the Subpoenas. (*Id.*). Although counsel for Rokoko has informed
24 Plaintiff multiple times that they will make themselves available to meet and confer
25 regarding Rokoko’s Responses to Plaintiff’s discovery Requests, Plaintiff has not
26 scheduled any such meet and confer discussion nor has he initiated the meet and
27 confer process pursuant to L.R. 37-1. (Ellena Decl., ¶ 8).

1 **III. ARGUMENT**

2 **A. Plaintiff Cannot Meet the Standard for a Motion for**
3 **Reconsideration**

4 “A motion for reconsideration of an Order on any motion or application may
5 be made only on the grounds of **(a) a material difference in fact or law** from that
6 presented to the court that, in the exercise of reasonable diligence, could not have
7 been known to the party moving for reconsideration at the time the Order was
8 entered, or **(b) the emergence of new material facts or a change of law** occurring
9 after the order was entered, or **(c) a manifest showing for a failure to consider**
10 **material facts** presented to the Court before the Order was entered.” (L.R. 7-18).
11 Plaintiff’s Motion does not satisfy these requirements and should be denied for this
12 reason alone.

13 First, Plaintiff fails to identify any material differences in fact or law that could
14 not have been known by him at the time the Order was entered. Furthermore,
15 Plaintiff’s Motion merely reiterates the same arguments made in the Motion to
16 Compel. Absent a showing of a material difference in fact or law unknown to Plaintiff
17 at the time of the Order, reconsideration of this Court’s Order may not be granted.

18 Second, Plaintiff fails to present any new material facts or changes of law
19 occurring after the Order was entered. Plaintiff attempts to justify his Motion by
20 arguing that “discovery is paused as the case is stuck in an infinite loop,” and falsely
21 claiming that Rokoko “refuses or delays in bad faith” to meet and confer. (ECF No.
22 85, p. 10). Plaintiff wholly mischaracterizes the record. Plaintiff never requested a
23 meet and confer before he filed his Motion to Compel, nor did he attempt to comply
24 with Local Rule 37-1 at all. Regardless, Plaintiff’s colorful arguments do not offer
25 any new material facts or changes of law occurring after the Order.

26 Third, Plaintiff presents no evidence or argument demonstrating a “manifest
27 failure” to consider material facts presented to the Court, instead stating that

1 “Plaintiff believes the Court may have erred in striking his motion.” (ECF No. 85, p.
2 11). In fact, the opposite is true: the Court correctly assessed the record and
3 determined that Plaintiff filed his Motion to Compel without properly attempting to
4 meet and confer with Rokoko.

5 At bottom, Plaintiff’s Motion presents no new facts or law, nor evidence that
6 the Court erred in its Order. Accordingly, Plaintiff’s Motion should be denied for this
7 reason alone. *See* L.R. 7-18.

8 **B. Plaintiff Has Still Not Met And Conferred Pursuant To Local Rule**
9 **37-1 Regarding Rokoko’s Discovery Responses**

10 Pursuant to the Local Rules, “[b]efore filing any motion relating to discovery
11 . . . the parties must confer in a good-faith effort to eliminate the necessity for hearing
12 the motion or to eliminate as many of the disputes as possible.” *See* L.R. 37-1. “It is
13 the responsibility of [] the *moving party* to arrange for this conference.” *Id.*
14 “[C]ounsel for the opposing party must confer with counsel for the moving party
15 *within ten days after the moving party serves a letter requesting such conference.*”
16 *Id.* “The moving party’s letter must identify each issue and/or discovery request in
17 dispute, state briefly as to each such issue/request the moving party’s position (and
18 provide any legal authority the moving party believes is dispositive of the dispute as
19 to that issue/request), and specify the terms of the discovery order to be sought.” *Id.*

20 Even if Plaintiff had grounds to request reconsideration (he does not),
21 Plaintiff’s Motion should be denied because the Court *properly* struck Plaintiff’s
22 Motion to Compel for failure to meet and confer pursuant to L.R. 37-1. To this day,
23 Plaintiff has not met and conferred with Rokoko pursuant to L.R. 37-1 regarding
24 Rokoko’s discovery Responses. (Ellena Decl., ¶¶ 6, 8). In fact, Plaintiff filed his
25 Motion to Compel further responses to those Requests on the *same day and just two*
26 *hours after* Rokoko served the Responses and without any attempt by Plaintiff to
27 meet and confer. (*See* Ellena Decl., ¶ 5, Ex. B).

1 Contrary to Plaintiff’s claims otherwise, Rokoko has not failed to meet and
2 confer within the 10-day limit imposed by L.R. 37-1. Plaintiff, as the moving party,
3 had the responsibility to arrange for a meet and confer on the Responses prior to the
4 filing of his Motion to Compel. He has still not done so despite counsel for Rokoko’s
5 confirmation that it will make itself available for such a meet and confer discussion.

6 Accordingly, Plaintiff’s Motion to Compel was properly struck.

7 **C. This Court Has Discretion to Consider this Opposition**

8 The Local Rules give the Court the discretion to consider late filed documents.
9 (*See* L.R. 7-12 [the Court “*may decline to consider*” a late-filed document]). Courts
10 have a strong preference to determine motions on the merits, and regularly exercise
11 their discretion to consider late filings where the prejudice to the non-filing party is
12 minimal. *See Summer v. Berryhill*, No. 16-cv-01872-BLF, 2017 U.S. Dist. LEXIS
13 109841, at *9 (N.D. Cal. July 14, 2017) (noting “the law’s strong preference to
14 determine cases on their merits”).

15 None of the caselaw cited by Plaintiff stands for the propositions he claims
16 they do. *U.S. v. Warren*, 601 F.2d 471 (9th Cir. 1979) dismissed an indictment due
17 to a complete failure to respond to multiple motions, not simply a late-filed motion.
18 *Righthaven LLC v. Newman*, No. 2:10-CV-1762 JCM (PAL), 2011 U.S. Dist. LEXIS
19 80518, at *1 (D. Nev. July 22, 2011) (“*Righthaven*”) similarly involves a complete
20 failure of the opposing party to respond until *after* the motion came before the Court,
21 not a motion filed in advance of the hearing. Furthermore, the “presumed consent”
22 by the failure to timely file discussed in *Righthaven* comes from a 2011 Local Rules
23 of the U.S. District Court for the District of Nevada. Under *this Court’s* Local Rules,
24 the Court has discretion to consider and rule on late-filed papers.

25 Furthermore, Plaintiff does not explain how he would be prejudiced other than
26 an unsubstantiated reference to “Plaintiff’s extremely packed calendar this month.”
27 (ECF No. 87). Absent any showing of prejudice, this Court should exercise its

1 discretion to consider this Opposition. *See John v. AIG Prop. Cas. Co. Grp.,*
2 *Inc.* 2019 U.S. Dist. LEXIS 1862, at *3-4. (C.D. Cal. Jan. 4, 2019, No. CV 18-8664-
3 RSWL-JEM) (exercising discretion to consider an opposition filed thirteen days late
4 where the moving party did not explain how it was prejudiced by the late filing).

5 **D. Plaintiff’s Motion Mischaracterizes the Record**

6 Unfortunately, Plaintiff continues to mischaracterize the record in his filings
7 through inaccurate and inflammatory statements about both Rokoko and its counsel,
8 which must be responded to.

9 First, Plaintiff’s contention that “Rokoko will stop at nothing to avoid
10 discovery and avoid reaching the merits of this case” is wrong. Counsel for Rokoko
11 has responded to Plaintiff’s discovery requests, served discovery requests on
12 Plaintiff, invited meet and confers with Plaintiff, and engaged in meet and confers.
13 Plaintiff’s frustration with the pace of litigation is not a ground to accuse Rokoko of
14 malicious intent, especially when Rokoko’s compliance with the Federal and Local
15 Rules appears to be one-sided.

16 Further, time and time again, Rokoko has been forced to respond to filings
17 from Plaintiff that are either procedurally deficient or plagued with
18 misrepresentations. Since September alone, Rokoko has been forced respond to
19 Plaintiff’s Motion for Sanctions (ECF Nos. 73, 74, 78)—which Plaintiff never met
20 and conferred with Rokoko about before filing, multiple overbroad and harassing
21 Subpoenas (*see* ECF No. 81 [Rokoko’s Motion to Quash]), three individual Requests
22 for Judicial Notice by Plaintiff (ECF Nos. 68, 77, 84), Plaintiff’s Motion to Compel
23 (ECF No. 80), this Motion (ECF No. 85), and the related Notice of Non-Opposition
24 (ECF Nos. 87, 88), and five sets of discovery Requests (Ellena Decl., Ex. A).
25 Plaintiff’s claim that Rokoko is the one engaged in “misconduct” that “continue[s] to
26 prejudice this case” is completely inaccurate.

1 Moreover, Plaintiff’s contention that Rokoko has refused to participate in a
2 Rule 26(f) conference is also not accurate. The Parties conducted a Rule 26(f)
3 conference on October 30, 2025. Thereafter, Plaintiff would not agree to file a Rule
4 26(f) Report and Discovery Plan jointly and proceeded to file his own report on
5 November 10, 2025 (ECF No. 90), thus necessitating the filing of a separate Rule
6 26(f) Report and Discovery Plan from Rokoko. (ECF No. 91).

7 Finally, Plaintiff’s accusation that Rokoko engaged in “ex-parte interference”
8 with the Subpoenas is without merit and the record clearly demonstrates that the
9 opposite is true. (ECF No. 81, p. 11-12; ECF No. 81-1, Exs O-R, ¶¶ 11-15).

10 **IV. CONCLUSION**

11 For all of the reasons explained herein, Rokoko respectfully requests this Court
12 deny Plaintiff’s Motion.

13
14 DATED: November 10, 2025

REED SMITH LLP

15
16 By: /s/ Katherine J. Ellena
Katherine J. Ellena
17 Michael Galibois (*pro hac vice*)
Emily Graue (*pro hac vice*)

18 *Attorneys for Defendant*
19 *Rokoko Electronics*

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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendant Rokoko Electronics, certifies that this Memorandum of Points and Authorities contains 2,059 words, which complies with the word limit of L.R. 11-6.2.

DATED: November 10, 2025

/s/ Katherine J. Ellena
Katherine J. Ellena