

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CALVARY CHAPEL SAN JOSE, et al.,
Plaintiffs,
v.
SARA CODY, et al.,
Defendants.

Case No. [20-cv-03794-BLF](#) (VKD)

**ORDER RE MAY 11, 2021 DISCOVERY
DISPUTE LETTER**

Re: Dkt. No. 89

Plaintiffs Calvary Chapel San Jose (“Calvary”) and Mike McClure, together with others, assert claims against the County of Santa Clara (“County”) and several of its officials for alleged violations of their First and Eighth Amendment rights and state constitutional rights in connection with the County’s enforcement of state and local public health orders. *See* Dkt. No. 81. Meanwhile, the County initiated an enforcement action against Calvary and Mr. McClure for violating those public health orders and for creating a public nuisance. *See* Dkt. No. 67 at 4. The enforcement action is pending in Santa Clara County superior court. *Id.*; Dkt. No. 89 at 1 n.1.

The parties advise that they have agreed that depositions taken in the state court action may be used in this federal action, and vice versa. Dkt. No. 89 at 1 n.1. The parties now ask the Court to resolve a dispute arising out of a deposition taken in the state court action. In addition, they ask the Court to provide “guidance . . . regarding the County’s entitlement to discovery on Calvary’s finances” so that they may avoid future disputes on this issue. *Id.* at 1.

On April 30, 2021, the County took the deposition of Deedy Walker, a Calvary employee who handles financial matters on behalf the church, in the state court action. *Id.* The County apparently asked Ms. Walker several questions about financial matters, and Calvary’s counsel

1 instructed her not to answer. *Id.* The County asks the Court to order Ms. Walker to testify about
2 “organizational financial matters.” *Id.* at 8. Calvary objects to the County’s discovery of any of
3 its financial information. *Id.* at 4. Neither party has sought relief from the state court.

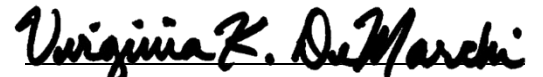
4 The Federal Rules of Civil Procedure generally contemplate that the parties will engage in
5 discovery on their own without the Court’s assistance. Rule 26(b)(1) permits a party to “obtain
6 discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense.”
7 Fed. R. Civ. P. 26(b)(1). If a party believes a specific discovery request violates Rule 26(b)(1)’s
8 scope, then the party may move for a protective order “forbidding the disclosure or discovery” that
9 is sought by a specific request. Fed. R. Civ. P. 26(c)(1)(A); *see also* Fed. R. Civ. P. 37(a)(1),
10 (3)(B) (requiring parties to confer about specific discovery request before asking the court to
11 compel answer or production). The Rules do not permit a party to seek a general order that
12 prospectively limits or defines the scope of discovery. *See, e.g., Wright v. Old Gringo, Inc.*, No.
13 17CV1996-BAS (MSB), 2020 WL 9173088, at *2 (S.D. Cal. Mar. 30, 2020) (request for
14 prospective decision on withdrawn subpoena that might be re-issued sought improper advisory
15 opinion). The fact that the parties have agreed to use state court discovery in this federal action
16 does not transform state court discovery requests into federal court discovery requests.
17 Additionally, the somewhat unusual manner in which this dispute was presented makes it difficult
18 for the Court to ascertain the discovery being sought or the issues to be decided. The County has
19 not clearly articulated the information it seeks, except at a very high level. And the parties have
20 not pointed the Court to particular discovery that may be in dispute, beyond the one general
21 question and response from Ms. Walker’s state court deposition.

22 The Court hopes that the discussion during the hearing assisted each party in better
23 understanding its opponent’s arguments about the nature and scope of the County’s anticipated
24 discovery of financial matters. If and when the parties have a dispute about discovery requests in
25 this federal action, they may bring that dispute before this Court for resolution. In the meantime,
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1 the parties should bring their dispute about state court discovery before the state court.

2 **IT IS SO ORDERED.**

3 Dated: May 21, 2021

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6 VIRGINIA K. DEMARCHI
7 United States Magistrate Judge
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