

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	SACV 13-1267-JLS (JEMx)	Date	September 15, 2014
Title	Consumer Financial Protection Bureau v. Morgan Drexen, Inc., et al.		

Present: The Honorable	John E. McDermott, United States Magistrate Judge
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S. Anthony

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Proceedings: (IN CHAMBERS) ORDER RE PLAINTIFF’S *EX PARTE* MOTION TO COMPEL PRODUCTION OF EXECUTIVE COMMITTEE MEETING MINUTES (Docket No. 133); *EX PARTE* MOTION FOR PROTECTIVE ORDER TO PREVENT 30(b)(6) DEPOSITION OF THE BUREAU (Docket No. 136)

Plaintiff’s *Ex Parte* Motion to Compel Production of Executive Committee Meeting Minutes (“*Ex Parte* Motion to Compel”; **Docket No. 133**) and *Ex Parte* Motion for Protective Order to Prevent 30(b)(6) Deposition of the Bureau (“*Ex Parte* Motion for Protective Order”; **Docket No. 136**) are DENIED.

Ex parte motions are for extraordinary relief where the moving party is without fault. Mission Power Engineering Co. v. Continental Cas. Co., 883 F. Supp. 488, 492 (C.D. Cal. 1995). Both the Federal Rules of Civil Procedure and the Local Rules of this Court contemplate that “noticed motions should be the rule and not the exception.” In Re Intermagnetics America, Inc., 101 Bankr. 191, 193 (C.D. Cal. 1989). In particular, Local Rule 37-3 provides that “[u]nless the Court in its discretion otherwise allows, no discovery motions shall be filed or heard on an *ex parte* basis, absent a showing of irreparable injury or prejudice not attributable to the lack of diligence of the moving party.” (Emphasis added.) “*Ex parte* applications are not intended to save the day for parties who have failed to present requests when they should have, and should not be used as a way to ‘cut in line’ ahead of those litigants awaiting determination of their properly noticed and timely filed motions.” Id.

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Plaintiff’s *Ex Parte* Motion to Compel and *Ex Parte* Motion for Protective Order do not come close to meeting the requirements of Local Rule 37-3. Plaintiff does not even mention Local Rule 37-3 regarding *ex parte* discovery motions nor explicitly address its requirements. In fact, the discovery dispute at issue in the *Ex Parte* Motion to Compel was evident weeks earlier than the filing of this motion (see *Ex Parte* Motion to Compel at 2-3); yet, Plaintiff offers absolutely no explanation for its failure to bring this discovery dispute as a regularly noticed motion. With respect to the *Ex Parte* Motion for Protective Order, it is undisputed that the urgency was created by Plaintiff’s own failure to timely file the motion. (See *Ex Parte* Motion for Protective Order at 1 n. 1.) Nor has Plaintiff shown any irreparable injury or prejudice. Accordingly, Plaintiff’s *Ex Parte* Motion to Compel (**Docket No. 133**) and *Ex Parte* Motion for Protective Order (**Docket No. 136**) are DENIED. See In Re Intermagnetics, 101 Bankr. at 193 (*ex parte* motions should not be used to “save the day”).

IT IS SO ORDERED.

cc: Parties

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 Initials of Preparer sa
