

4/16
LM

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

DILLINGHAM & MURPHY, LLP
CARLA J. HARTLEY (SBN 117213)
ANNA NAGORNAIA (SBN 311549)
601 Montgomery Street, Suite 1900
San Francisco, California 94111
Telephone: (415) 397-2700
Facsimile: (415) 397-3300

Attorneys for PLAINTIFF
ARMANDO SOLORIO

FILED
SAN MATEO COUNTY

MAR 21 2018

Clerk of the Superior Court

By 
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

ARMANDO SOLORIO,

PLAINTIFF,

V.

XPO LOGISTICS, INC., a Delaware
Corporation; NDO AMERICA, INC. a California
Corporation; and DOES 1-20, Inclusive,

DEFENDANTS.

CASE NO. 17CIV01393

**NOTICE OF RULING REGARDING
DEFENDANT'S MOTION TO COMPEL
FURTHER RESPONSES TO FORM
INTERROGATORIES, SET TWO**

Hearing Date: 3/21/18
Time: 9:00 a.m.
Dept.: Law and Motion

Complaint Filed: 3/28/17
FAC Filed: 7/17/17
Cross-Complaint Filed: 9/15/17
Trial Date: 9/24/18

And Related Cross-Complaints

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT Defendant and Cross-Complainant XPO GF America, Inc.'s Motion to Compel Further Responses to Form Interrogatories, Set Two, was scheduled for hearing on March 21, 2018, at 9:00 a.m. in the Law and Motion Department of the San Mateo County Superior Court, located at 400 County Center, Redwood City, California 94063. Anna Nagornaia appeared in person on behalf of Plaintiff, Armando Solorio, and Krystle Meyer appeared on behalf of Defendant XPO, the Honorable Susan Greenberg presiding.

After oral argument, Plaintiff's counsel agreed to provide supplemental answers to Form



File By Fax

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

Interrogatories 4.1, 4.2, and 17.1. Judge Greenberg adopted her tentative ruling as the Order of the Court with the exception that Plaintiff will provide supplemental answers to Form Interrogatories 4.1, 4.2, and 17.1. Attached hereto as Exhibit "A" please find a copy of the Court's Order.

Dated: March 21, 2018

DILLINGHAM & MURPHY, LLP
CARLA J. HARTLEY
ANNA NAGORNAIA

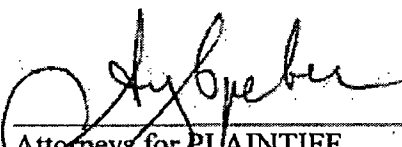
By: 
Attorneys for PLAINTIFF
ARMANDO SOLORIO

EXHIBIT A

EXHIBIT A

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

Law and Motion Calendar

Judge: HONORABLE SUSAN GREENBERG
Department 3

400 County Center, Redwood City
Courtroom 2B

Wednesday, March 21, 2018

9:00

LINES: 3 & 4

17-CIV-01393 ARMANDO SOLORIO VS. XPO LOGISTICS, INC., ET AL.

SOLORIO, ARMANDO
XPO LOGISTICS, INC.

CARLA J. HARTLEY

3. XPO GF AMERICA, INC.'S MOTION TO COMPEL FURTHER RESPONSES TO INTERROGATORIES, SET TWO, REQUEST FOR MONETARY SANCTIONS IN THE AMOUNT OF \$3,112.50

TENTATIVE RULING:

The motion is denied as to Form Interrogatories 2.11, 4.1, 4.2, 12.1-12.7, 13.1, and 13.2. Using XPO's definition of "INCIDENT," Solorio cannot answer these interrogatories. For Solorio to provide a substantive response would implicitly admit that he used XPO's confidential information. XPO's attempt to redefine "INCIDENT" by adding "whether Solorio denies such conduct occurred" is ineffective, because the word is still defined as his use of confidential information.

The motion is denied as to Form Interrogatory 17.1. Form Interrogatory 17.1 asks for factual information behind failures to admit various Requests for Admissions. XPO's Moving Separate Statement fails to comply with California Rules of Court Rule 3.1345(c) (if response to discovery request depends on response given to another discovery request, other requests and the

responses must be set forth).) XPO's Moving Separate Statement does not set forth the Request for Admissions or Solorio's response to them. The Court cannot determine what Solorio was being asked to admit or what his response was. Without that information, the Court cannot determine whether his response to 17.1 is sufficient or evasive.

Solorio's request for sanctions is granted. Attorney Krystle D. Meyer and the law firm of Rosen Saba, LLP, shall jointly and severally pay a monetary sanction of \$1390.00 to Armando Solorio, no later than April 4, 2018, or one week after written notice of this order, whichever is later. This sanction is separate and distinct from the sanction ordered in connection with XPO's motion regarding Form Interrogatories, Set Three.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Plaintiff/Cross-defendant Armando Solorio shall prepare a written order consistent with the Court's ruling for the Court's signature, pursuant to California Rules of Court, Rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.

4. XPO GF AMERICA, INC.'S MOTION TO COMPEL RESPONSES TO FORM INTERROGATORIES, SET THREE, REQUEST FOR MONETARY SANCTIONS IN THE AMOUNT OF \$3.112.50

TENTATIVE RULING:

The motion is denied as to Form Interrogatories (Set Two) 2.11, 4.1, 4.2, 12.1 through 12.7, 13.1, and 13.2. Using XPO's definition of "INCIDENT," Solorio cannot answer these interrogatories. For Solorio to provide a substantive response would implicitly admit that he solicited XPO's clients or business, which he denies. XPO's attempt to redefine "INCIDENT" by adding "whether Solorio denies such conduct occurred" is ineffective, because the word is still defined as his solicitation of clients or business.

Solorio's request for sanctions is granted. Attorney Krystle D. Meyer and the law firm of Rosen Saba, LLP, shall jointly and severally pay a monetary sanction of \$1390.00 to Armando Solorio, no later than April 4, 2018, or one week after written notice of this order, whichever is later. This sanction is separate and distinct from the sanction ordered in connection with XPO's motion regarding Form Interrogatories, Set Two.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Plaintiff/Cross-defendant Armando Solorio shall prepare a written order consistent with the Court's ruling for the Court's signature, pursuant to California Rules of Court, Rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.

PROOF OF SERVICE

I am a citizen of the United States, and employed in the City and County of San Francisco. I am over the age of eighteen (18) years, and not a party to the within above-entitled action. My business address is 601 Montgomery Street, Suite 1900, San Francisco, California 94108. On the date below, I served the following on each party listed below:

- **NOTICE OF RULING REGARDING DEFENDANT'S MOTION TO COMPEL FURTHER RESPONSES TO FORM INTERROGATORIES, SET TWO**
- **NOTICE OF RULING REGARDING DEFENDANT'S MOTION TO COMPEL FURTHER RESPONSES TO FORM INTERROGATORIES, SET THREE**

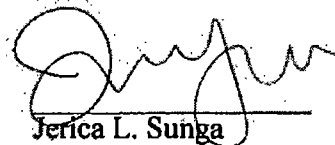
____ (BY MAIL) By depositing for collection and mailing, following ordinary business practices, a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid. I am readily familiar with this business' practice for collection and processing of correspondence for mailing with the U.S. Postal Service. The correspondence is deposited with the U.S. Postal Service the same day in the ordinary course of business.

XX (BY ELECTRONIC DELIVERY) By sending a true copy thereof in pdf format electronically the parties listed below at the appropriate email addresses listed below.

Ryan D. Saba, Esq.
Krystle D. Meyer, Esq.
ROSEN SABA, LLP
9350 Wilshire Blvd., Suite 250
Beverly Hills, California 90212
Telephone: 310.285.1727
Facsimile: 310.285.1728
rsaba@rosensaba.com
kmeyer@rosensaba.com

Attorneys for
XPO GF AMERICA, INC.
(formally known as NDO America, Inc.)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 21, 2018 at San Francisco, California.



Jerica L. Sunga