

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV15-1008 (FFM)	Date	January 31, 2019
Title	<i>Andrea Shari Ealy v. Nancy A. Berryhill</i>		

Present: The Honorable	Frederick F. Mumm, United States Magistrate Judge		
James Munoz	CS	None	
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorneys Present for Plaintiff:	Attorneys Present for Defendant:		
None	None		

Proceedings: (IN CHAMBERS) ORDER VACATING NOVEMBER 20, 2018 ORDER; ORDER TO SHOW CAUSE RE APPARENT VIOLATION OF RULE 11

On November 20, 2018, the Court issued an order (the “Section 406(b) Order”) awarding Bill LaTour of the Law Offices of Bill LaTour (“Counsel”), counsel for plaintiff Andrea Shari Ealy (“Plaintiff”), \$17,457 in attorney’s fees under 42 U.S.C. § 406(b). (Docket No. 28.) On December 17, 2018, Plaintiff filed a document alleging, *inter alia*, that an unknown person forged her signature to the May 22, 2015, fee agreement underlying the attorney’s fees motion. (Docket No. 29.) The Court construed the document as a motion for reconsideration of the Section 406(b) Order and ordered Counsel to file a response. (Docket No. 31.) The response denied Plaintiff’s allegations and asserted that Plaintiff had, in fact, signed the fee agreement. (Docket No. 32.) The response included a declaration from Counsel’s employee, Irene Ramirez, which stated, *inter alia*: “I reviewed the terms of the Federal Fee Agreement with [Plaintiff] which she executed and returned to this office” (Docket No. 32 at 3.) Plaintiff filed a reply asserting under penalty of perjury that Ms. Ramirez “is not telling the truth.” (Docket No. 33.)

Given the contradictory declarations, the Court held a status conference on January 22, 2019, at which time it advised Plaintiff and Counsel that it would hold an evidentiary hearing to resolve the dispute. The Court also located an attorney who was willing to represent Plaintiff without charge for the evidentiary hearing.

On January 28, Counsel filed a document stating that Ms. Ramirez advised him on January 26 that she had signed Plaintiff’s name on the fee agreement. (Docket No. 39 at 2.) Counsel stated that he would “waive all attorney’s fees in connection with this matter including 406(a), EAJA and 406(b)” and requested that the Court set aside the order permitting recovery of attorney’s fees. Counsel also stated that “all attorney fees already

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received by this attorney will be refunded to plaintiff Andrea Shari Ealy upon receipt of the court's order." (*Id.* at 2.)

Given the foregoing, the Court ORDERS the following:

- (1) the Section 406 Order is hereby VACATED;
- (2) within **five days** of the date of this order, Counsel shall refund to Plaintiff any attorney's fees obtained by Counsel in these proceedings; and
- (3) within **seven days** of the date of this order, Counsel shall file a document, supported by affidavit or declaration, demonstrating that he has complied with the instant order and that any such attorney's fees have been refunded.

ORDER TO SHOW CAUSE

IT IS HEREBY ORDERED that Bill LaTour and Irene Ramirez **appear** in Courtroom 580 of the Roybal Federal Courthouse, located at 255 East Temple Street, Los Angeles, California, **on February 26, 2019 at 10:30 a.m.**, then and there to show cause why they, or either of them, should not be sanctioned pursuant to Federal Rule of Civil Procedure 11(c)(1) and (3) for misrepresenting facts to the Court in declarations and other documents filed in these proceedings (*i.e.*, Docket Nos. 25 and 32).

IT IS SO ORDERED.

Initials of Preparer

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JM
