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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JESSE WASHINGTON,
Plaintiff,
vs.
J. W. ANDREWS, et al.
Defendants.

No. 1:07-CV-886-CKJ

ORDER

Pending before the Court are Defendants' Motion to Declare Plaintiff a Vexatious Litigant and Requiring Security¹ (Doc. 61), Plaintiff's Objection to Defendants Failure to File Court Ordered Proposed Joint Pretrial Statement and Request for Sanctions (Doc. 66), Defendants' Motion for Extension of Time to File Proposed Pretrial Order (Doc. 67), Defendants' Response to Order to Show Cause (Doc. 68), Plaintiff's Motion for Extension of Time to File Declaration (Doc. 71), Defendants' Motion for Extension of Time (Doc. 72), and Defendants' Request for Leave to File Late Reply (Doc. 76).

Procedural History

On October 26, 2010, this Court ordered that the parties and counsel shall file a Joint Proposed Pretrial Order, as set forth in the Court's December 17, 2009, Order (Doc. 27), on

¹The Court will address this motion in a separate order.

1 or before November 29, 2010. Alternatively, the Court ordered Plaintiff to show cause why
2 this matter should not be dismissed for failure to prosecute by filing a writing with the Court
3 on or before November 29, 2010. On November 24, 2010, Plaintiff filed a Reply to the
4 Court's Order to Show Cause requesting additional time to file a Joint Pretrial Statement. On
5 December 14, 2010, this Court ordered the deadline for the filing of a Joint Proposed Pretrial
6 Statement was extended to January 31, 2011.

7 On February 2, 2011, Defendants filed a Motion to Declare Plaintiff a Vexatious
8 Litigant and Requiring Security. An opposition, a declaration in support of opposition, and
9 a reply have been filed. Defendants have also filed a Motion for Extension of Time to File
10 Reply and a Request to File Late Reply; Plaintiff has filed a Motion for Extension of Time
11 to File Declaration.

12 On February 4, 2011, Plaintiff filed a request for additional time and a separate
13 Proposed Pretrial Statement. Defendants did not file a Pretrial Statement/Order. On
14 February 9, 2011, the Court granted Plaintiff's request and ordered Defendants to show why
15 sanctions should not be imposed against them for failing to comply with the Court's orders
16 requiring the filing of a Proposed Pretrial Order by filing a writing with the Court on or
17 before February 28, 2011.

18 On February 25, 2011, Plaintiff filed an Objection to Defendants Failure to File Court
19 Ordered Proposed Joint Pretrial Statement. Defendants have filed an opposition and Plaintiff
20 has filed a reply. On February 28, 2011, Defendants filed a response to the order to show
21 cause and also filed a Motion for an Extension of Time to File a Proposed Pretrial Order.
22 Plaintiff has filed a reply to Defendants' response to the order to show. Defendant have filed
23 a separate Proposed Pretrial Order.

24
25 *Objection to Defendants' Failure to File Court Ordered Proposed Joint Pretrial Statement,*
26 *Motion for Extension of Time, and Response to Order to Show Cause*

27 Defendants assert they did not comply with the Court's December 14, 2010, Order to
28 file a Joint Proposed Pretrial Statement because it was not clear that the Court intended a

1 Joint Proposed Pretrial Order to be filed. The Court acknowledges that it interchanges the
2 names of these documents as it views the document as the parties' statement until and unless
3 it is adopted by the Court wherein it becomes an order. Although Plaintiff urges the Court
4 not to hold Defendants to a lesser standard regarding non-compliance with court orders, the
5 Court finds it is not appropriate to impose sanctions against Defendants because the Court's
6 orders were not clear. The Court will grant Defendants' Motion for Extension of Time to File
7 Proposed Pretrial Order and will accept Defendants March 21, 2011, Proposed Pretrial Order.

8
9 *Motion for Extension of Time to File Declaration, Defendants' Motion for Extension of Time,*
10 *and Request for Leave to File Late Reply*

11 The Court finds the delays and danger of prejudice to the opposing parties is minimal
12 and that the parties acted in good faith. *See* Fed.R.Civ.P. 6(b); *Pincay v. Andrews*, 389 F.3d
13 853, 855-56 (9th Cir. 2004); *Kyle v. Campbell Soup Company*, 28 F.3d 928, 931 (9th Cir.
14 1994), *quoting Pioneer Inv. Servs. v. Brunswick Assocs.*, 507 U.S. 380, 113 S.Ct. 1489, 1496,
15 123 L.Ed.2d 74 (1993). The Court will grant the requested extensions.

16 Accordingly, IT IS ORDERED:

17 1 Plaintiff's Objection to Defendants Failure to File Court Ordered Proposed
18 Joint Pretrial Statement and Request for Sanctions (Doc. 66) is DENIED.

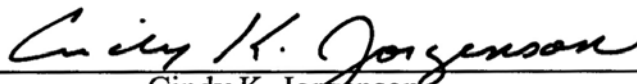
19 2. Defendants' Motion for Extension of Time to File Proposed Pretrial Order
20 (Doc. 67) is GRANTED.

21 3. Plaintiff's Motion for Extension of Time to File Declaration (Doc. 71) is
22 GRANTED.

23 4. Defendants' Motion for Extension of Time (Doc. 72) is GRANTED.

24 5. Defendants' Request for Leave to File Late Reply (Doc. 76) is GRANTED.

25 DATED this 10th day of May, 2011.

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28 _____
Cindy K. Jorgenson
United States District Judge