

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

BNSF RAILWAY COMPANY,

Plaintiffs,

v.

SAN JOAQUIN VALLEY RAILROAD
COMPANY, et al.,

Defendants.

AND RELATED COUNTERCLAIMS.

NO. 1:08-CV-01086-AWI-SMS

ORDER DENYING BNSF’S
REQUEST FOR SANCTIONS

(Document #172)

On March, 8, 2010, Defendant San Joaquin Valley Railroad Company (“SJVR”) filed a motion to compel further responses to interrogatories and requests for the production of Plaintiff BNSF Railway Company’s (“BNSF”) fuel surcharge information. On June 25, 2010, Magistrate Judge Snyder issued an order that denied SJVR’s motion to compel. On July 9, 2010, SJVR filed a motion for reconsideration of the June 25, 2010 ruling. On July 16, 2010, BNSF filed a motion for sanctions pursuant to 28 U.S.C. §1927 and the court’s inherent power against SJVR for filing its motion for reconsideration. On August 30, 2010, this Court issued an order denying SJVR’s motion for reconsideration.

1 BNSF argues that sanctions are appropriate because SJVR filed a frivolous motion for
2 reconsideration. BNSF essentially contends that SJVR's motion is frivolous and in bad faith
3 because SJVR's motion did not comply with Local Rule 230.

4 SJVR argues that BNSF's sanction request should be denied because SJVR's motion for
5 reconsideration is not governed by L.R. 230. SJVR argues that it filed its motion pursuant to
6 L.R. 303, which does not require that a moving party make new arguments.

7 The Court agrees with SJVR that L.R. 303 governs a District Judge's reconsideration of a
8 Magistrate Judge's order. Under L.R. 303(c), a party may file a request for reconsideration of a
9 Magistrate Judge's ruling by a District Judge. SJVR complied with the applicable local rule, L.R.
10 303. The Court denies BNSF's motion for sanctions because the basis of BNSF's request for
11 sanctions is rooted in L.R. 230, which is not applicable in this case.

12 **ORDER**

13 Accordingly, BNSF's motion for sanctions is DENIED.

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15 IT IS SO ORDERED.

16 Dated: October 8, 2010

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18 CHIEF UNITED STATES DISTRICT JUDGE
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