

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL LOUIS FOSTER,

Plaintiff,

v.

A. ENENMOH,

Defendant.

CASE NO. 1:08-cv-01849-LJO-SKO PC

ORDER PROVIDING PLAINTIFF WITH
FINAL OPPORTUNITY TO SET FORTH
REASONABLE EXPENSES INCURRED IN
BRINGING MOTION TO COMPEL

(Docs. 63 and 64)

THIRTY-DAY DEADLINE

Plaintiff Michael Louis Foster, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on December 3, 2008. On April 16, 2012, the Court granted Plaintiff's motion to compel and granted Plaintiff thirty days within which to set forth, under penalty of perjury, the reasonable expenses he incurred in making his motion. Fed. R. Civ. P. 37(a)(5)(A). Plaintiff was informed that if, due to indigency or other reason, he did not incur any expenses, he should state that fact. Defendant was granted thirty days thereafter to be heard regarding the payment of reasonable expenses.

On April 20, 2012, Plaintiff filed a notice of reasonable expenses that does not comply with the terms of the Court's order. Specifically, Plaintiff seeks attorney's fees in the amount of \$265.50. Plaintiff is not represented by counsel and he did not incur attorney's fees in bringing his motion to compel. Fed. R. Civ. P. 37(a)(5)(A). Further, because Plaintiff is not an attorney, he is not entitled to attorney's fees. Kay v. Ehrler, 499 U.S. 432, 1423 S.Ct. 1435 (1991); Elwood v. Drescher, 456 F.3d 943, 946-48 (9th Cir. 2006).

1 The Court will provide Plaintiff with one final opportunity to set forth any reasonable
2 expenses he actually incurred. If Plaintiff did not incur any expenses, he is not entitled to
3 reimbursement. Fed. R. Civ. P. 37(a)(5)(A).

4 Based on the foregoing, it is HEREBY ORDERED that:

- 5 1. Within **thirty (30) days** from the date of service of this order, Plaintiff shall set forth,
6 under penalty of perjury, the reasonable expenses he incurred in bringing his motion
7 to compel, if any; and
- 8 2. Defendant has **thirty (30) days** thereafter within which to file a response regarding
9 the payment of reasonable expenses.

10
11 IT IS SO ORDERED.

12 Dated: April 24, 2012

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE