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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARSHAWN GOVAN dba MKG TAX
CONSUTANTS,

Plaintiff,

v.

CITY OF CLOVIS, a municipal entity,
et al.,

Defendants.

Case No. 1:13-cv-00547-LJO-SMS

**ORDER STRIKING AS UNTIMELY
PLAINTIFF'S BRIEF IN OPPOSITION
TO DEFENDANTS' MOTION TO DISMISS**

(Doc. 29)

On June 10, 2013, Defendants moved to dismiss the complaint in this matter pursuant to F.R.Civ.P. 12(b)(6)(e) and (f). Doc. 15. On June 19, 2013, Plaintiff filed a curious document that appeared to be captioned as opposition to the motion but that actually moved for an order compelling Defendants to respond to form interrogatories. Doc. 23. (On the same date, Plaintiff filed a motion to compel discovery (Doc. 22) and a demand for identification of expert witnesses (Doc. 24). On June 24, 2013, the Court struck as untimely, and without prejudice, all three motions. Doc. 26.) Plaintiff filed no timely brief in opposition to the motion to dismiss.

On July 19, 2013, the District Court issued an Order to Dismiss Claims, in which it dismissed certain claims as duplicative and dismissed other claims with leave to amend. Doc. 28. The Court ordered Plaintiff, "no later than August 9, 2013, to file and serve either (1) an amended complaint; or (2) a statement that he elects to proceed only on the complaint's fifth, eighth, and

1 ninth claims as pled in the complaint." Doc. 28. On July 29, 2013, Plaintiff filed a document
2 entitled "Notice of Motion of Plaintiff Opposition of Defendants Motion TBD, Plaintiff's Statement
3 of [F]acts, Memorandum of Points and Authorities" (Doc. 29), apparently intended to oppose
4 Defendants' already decided Motion to Dismiss. Because the District Court has already issued its
5 Order Dismissing Claims, Plaintiff's opposition to the motion is untimely.

6 The Court hereby STRIKES as untimely the Notice of Motion of Plaintiff Opposition of
7 Defendants Motion TBD, Plaintiff's Statement of [F]acts, Memorandum of Points and Authority
8 (Doc. 29). Plaintiff is DIRECTED "to file and serve either (1) an amended complaint; or (2) a
9 statement that he elects to proceed only on the complaint's fifth, eighth, and ninth claims as pled in
10 the complaint," in compliance with the Court's July 19, 2013 Order to Dismiss Claims (Doc. 28).
11 The Clerk of Court is directed to serve Plaintiff by mail a copy of this order and a copy of the Order
12 to Dismiss Claims (Doc. 28).

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20 IT IS SO ORDERED.

21 Dated: July 31, 2013

/s/ Sandra M. Snyder
22 UNITED STATES MAGISTRATE JUDGE