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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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10 GINA CARUSO,

11 Plaintiff,

12 v.

13 OFFICER G. SOLORIO, et al.,

14 Defendants.
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Case No. 1:15-cv-00780-AWI-EPG (PC)

ORDER GRANTING PLAINTIFF'S
REQUEST TO SUBMIT EVIDENCE ON
PENDING ORDER TO SHOW CAUSE
RE: SANCTIONS

(ECF No. 371)

18 Before the Court is Plaintiff's request to submit evidence on pending order to show
19 cause re: sanctions. (ECF No. 371).

20 On May 13, 2022, the Court directed defense counsel to "show cause in writing why
21 they should not be sanctioned pursuant to Federal Rule of Civil Procedure 11(b) and/or the
22 Court's inherent authority for filing an intentionally misleading declaration with the Court."
23 (ECF No. 362). On June 3, 2022, defense counsel filed their response. (ECF No. 365). On
24 June 28, 2022, the Court held a hearing on the order to show cause. (ECF No. 366). On July 5,
25 2022, Plaintiff filed a request to submit evidence on pending order to show cause re: sanctions.
26 (ECF No. 371).

27 According to Plaintiff's request, Plaintiff's counsel attempted to meet with Plaintiff via
28 video conference three times prior to the hearing, but Plaintiff was not produced for any of

1 these legal visits. Thus, Plaintiff did not have the opportunity to speak with her counsel about
2 the search at issue until July 5, 2022. Plaintiff informed her counsel that “she observed
3 Lieutenant Spinney document the search in the logbook for the Miller B housing unit.” (Id. at
4 2). According to Plaintiff’s counsel, this logbook may show “who was involved in that search
5 and the property that was confiscated.” (ECF No. 371-1, p. 2)

6 “Plaintiff requests three weeks to submit additional evidence, to allow time for a
7 response to Plaintiff’s public records request, and to submit evidence on the logbook.” (ECF
8 No. 371, p. 2). Plaintiff also asks for an opportunity to submit evidence regarding the
9 attorney’s fees she incurred in responding to the order to show cause.

10 On July 18, 2022, defense counsel filed an opposition to Plaintiff’s request. (ECF No.
11 373). Defense counsel argues that the evidence “has no substantive impact or evidentiary
12 value” because “both Mr. Lee and the Office of Attorney General acknowledge that a cell
13 search occurred on November 29, 2017.” (Id. at 2). Defense counsel also note that they
14 inquired about the documents identified by Plaintiff, and they have “not been informed that
15 these documents have been located.” (Id. at 3). Finally, defense counsel argues that Plaintiff’s
16 request to submit evidence regarding attorney’s fees “is premature and unnecessarily warranted
17 at this time.” (Id.).

18 The Court will grant Plaintiff’s request to submit additional evidence regarding the
19 order to show cause. According to Plaintiff’s counsel, she recently learned of this evidence.
20 And contrary to defense counsel’s assertion, it is potentially relevant. As defense counsel
21 themselves point out in their opposition to Plaintiff’s motion, defense counsel argue that they
22 should not be sanctioned because “defense counsel believed in good faith that the previous
23 court order did not encompass the November 2017 cell search, because that cell search did not
24 seek information for ‘documents relevant to this case’ that had been allegedly taken from
25 Plaintiff.” (ECF No. 373, pgs. 2-3) (citation omitted). However, Plaintiff contends that at least
26 one other document, which was relevant to the case, was taken as well. See, e.g., Transcript of
27 Deposition of Plaintiff, 174:2-14 (“Officer Spinny, the AG, the Attorney General on my other
28 case, asked officer asked Lieutenant Spinny, he was a lieutenant at the time, he was also ISU at

1 the time, to go into my room and get back some discovery that they sent me by accident that
2 they didn't want me to have, and when Spinny went in there to get the discovery, all of a
3 sudden my motion for my -- not my motion, my -- my order to depose Officer Bates came up
4 missing, so I didn't have that anymore.”). Based on the representations made by Plaintiff's
5 counsel, this logbook may show what property was confiscated. Thus, it may support or
6 undermine defense's counsel's main argument as to why they should not be sanctioned, and the
7 Court will give Plaintiff's counsel an opportunity to locate and submit it.

8 As to Plaintiff's request to submit evidence regarding attorney's fees, the Court agrees
9 with defense counsel that this request is premature. If the Court grants sanctions in the form of
10 attorney's fees to Plaintiff's counsel, the Court will grant Plaintiff's counsel an opportunity to
11 submit relevant evidence.

12 Accordingly, IT IS ORDERED that:

- 13 1. Plaintiff may file supplemental evidence on the pending order to show cause on
14 or before August 1, 2022;
- 15 2. Defense counsel may file a response to the supplemental evidence within seven
16 days after service of the additional evidence; and
- 17 3. Plaintiff's request to submit evidence regarding attorney's fees is denied as
18 premature.

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20 IT IS SO ORDERED.

21 Dated: July 19, 2022

22 /s/ Eric P. Grogan
23 UNITED STATES MAGISTRATE JUDGE
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