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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN TREVINO,  
an individual,

NO. CIV. S-07-2106 LKK/DAD

Plaintiff,

v.

O R D E R

LASSEN MUNICIPAL UTILITY  
DISTRICT, et al.,

Defendants.

\_\_\_\_\_ /

Plaintiffs have brought an action in this court seeking redress for asserted violations of their due process rights as a result of one plaintiff's termination from his employment by defendants. The parties cross-moved for summary judgment, which the court resolved by order on February 12, 2009. In that order, the court also sanctioned plaintiffs' counsel in the amount of \$450 for his failure to timely file certain documents in support of plaintiffs' motion and in opposition to defendants'. Plaintiffs' counsel now seeks partial reconsideration of that order.

The court's sanctions order was based on three violations of

1 the Local Rules by plaintiffs' counsel, with a sanction of \$150 for  
2 each. One of these violations was the plaintiffs' apparent failure  
3 to timely file their opposition to defendants' motion for summary  
4 judgment. That motion was noticed to be heard on January 30, 2009.  
5 According to the Local Rules, plaintiffs' opposition was required  
6 to be served by mail or electronic service seventeen days prior to  
7 the hearing, or fourteen days prior to the hearing if personally  
8 served. Local Rule 78-230(c). Plaintiffs' opposition was  
9 electronically filed on January 15, 2009, fifteen days prior to the  
10 hearing. Through the court's electronic filing system, the  
11 opposition was also electronically served on defendants' counsel  
12 on this date. See Docket No. 106. Based on this and defendants'  
13 representations, see Defendants' Objections to Plaintiffs' Evidence  
14 Submitted in Support of Plaintiffs' Opposition to Defendants'  
15 Motion for Summary Judgment ¶ 37, the court concluded that  
16 plaintiffs' opposition was untimely.

17 Plaintiffs' counsel has now tendered evidence that defendants'  
18 counsel was personally served on January 15, 2009. Affidavit of  
19 Thomas P. Beko In Compliance With the Sanctions Order of February  
20 13, 2009. As such, service was timely under Local Rule 78-230(c).

21 Accordingly, the court's February 12, 2009 order is AMENDED  
22 at footnote one to reflect that plaintiffs' counsel is not  
23 sanctioned for failure to file a timely opposition and that the  
24 total sanction amount is \$300. As plaintiffs' counsel has already  
25 deposited \$450 with the Clerk of the Court, the Clerk is directed

26 ////

1 to disburse \$150 to plaintiffs' counsel, Thomas Beko.

2 IT IS SO ORDERED.

3 DATED: April 3, 2009.

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LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT

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