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

STANLEY SWENSON,
Plaintiff,

No. CIV S-08-1675-FCD-CMK

vs.

ORDER

SISKIYOU COUNTY, et al.,
Defendants.

_____ /

Plaintiff, who is proceeding pro se, brings this civil rights action. A hearing on defendants’ motion to compel and for sanctions (Doc. 57) was held on April 22, 2010, at 10:00 a.m. before the undersigned in Redding, California. Plaintiff appeared pro se. Philip B. Price, Esq., appeared for defendants.

At the outset, the court addresses plaintiff’s objection that defendants violated Eastern District of California Local Rule 251(b) and (c) by failing to meet and confer or submit a joint statement regarding the discovery dispute. The meet-and-confer provisions of Local Rule 251 do not apply, however, “where there has been a complete and total failure to respond to a discovery request or order.” See Local Rule 251(e). Such is the case here. Defendants allege, and plaintiff does not dispute, that he was provided an extension of time to January 22, 2010, to

1 provided responses to interrogatories but failed to do so by that deadline. Thus, because
2 defendants' motion is based on a total failure to respond to a discovery request, the exception to
3 the meet-and-confer rule applies.

4 Turning to defendants' motion, counsel stated in court that he recently received
5 plaintiff's responses to interrogatories and he withdrew that portion of defendants' motion
6 seeking responses. All that remains is defendants' request for sanctions. Defendants are entitled
7 to monetary sanctions under Federal Rule of Civil Procedure 37(a)(5) for reasonable expenses
8 incurred in bringing their motion. Counsel states by declaration that his associate spent two
9 hours preparing the motion at a rate of \$105.00 per hour. Counsel expended three hours of his
10 time for round-trip travel from Chico, California, at a rate of \$120.00 per hour. The hearing
11 lasted ten minutes. The court finds that these times and rates are reasonable. Therefore,
12 defendants are entitled to sanctions in the total amount \$590.00.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Defendants' motion to compel and for sanctions (Doc. 57) is granted;
- 15 2. Defendants are awarded monetary sanctions in the amount of \$590.00 as
16 reasonable expenses incurred in bringing their motion; and
- 17 3. Plaintiff shall pay the sanctions to defendants' counsel within 30 days of
18 the date of this order.

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20 DATED: April 26, 2010

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22 **CRAIG M. KELLISON**
23 UNITED STATES MAGISTRATE JUDGE
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