

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

JACOB WINDING,

Plaintiff,

No. 2:09-cv-03526 KJM KJN PS

v.

ALLSTATE INSURANCE COMPANY
and DOES 1 through 25, inclusive,

Defendants,

ORDER

ALLSTATE INSURANCE COMPANY,

Counter-claimant,

v.

JACOB WINDING,

Counter-defendant.

On August 1, 2011, defendant and counter-claimant Allstate Insurance Company (“Allstate”) filed a motion for summary judgment, or partial summary judgment in the alternative, with respect to plaintiff’s claims against it (Dkt. No. 60). That same day, Allstate filed a motion for summary judgment addressed to its counterclaim against plaintiff (Dkt. No. 59). Both motions are fully briefed and presently set for an October 27, 2011 hearing before

1 the undersigned.¹ (Order, Sept. 6, 2011, at 3, Dkt. No. 76; see also Order, Sept. 21, 2011, Dkt.
2 No. 89.)

3 Although plaintiff has not filed a notice of change of address with the court, the
4 court's docket reveals that plaintiff might not have received the court's order entered on
5 September 21, 2011, which disregarded plaintiff's several documents impermissibly filed by
6 plaintiff. (See Order, Sept. 21, 2011.) The court's docket indicates that although the court
7 mailed a copy of that order to plaintiff at the address provided by plaintiff's former counsel, that
8 mail was returned to the court on or around September 29, 2011, as undeliverable because of an
9 insufficient address and an inability to forward.

10 This court's Local Rule 182(f) provides:

11 Each appearing attorney and pro se party is under a continuing duty to
12 notify the Clerk and all other parties of any change of address or telephone
13 number of the attorney or the pro se party. Absent such notice, service of
14 documents at the prior address of the attorney or pro se party shall be fully
15 effective. Separate notice shall be filed and served on all parties in each
16 action in which an appearance has been made.

17 E. Dist. Local Rule 182(f). In specific regard to parties appearing without counsel, Local
18 Rule 183(b) further provides:

19 A party appearing in propria persona shall keep the Court and opposing
20 parties advised as to his or her current address. If mail directed to a
21 plaintiff in propria persona by the Clerk is returned by the U.S. Postal
22 Service, and if such plaintiff fails to notify the Court and opposing parties
23 within sixty-three (63) days thereafter of a current address, the Court may
24 dismiss the action without prejudice for failure to prosecute.

25 E. Dist. Local Rule 183(b).

26 Although Local Rule 183(b) provides plaintiff with 63 days to notify the court and
Allstate of any change of address, the undersigned orders plaintiff to file a notice of change of
address no later than Thursday, October 17, 2011. Such notice should also indicate whether

¹ This action proceeds before the undersigned pursuant to Eastern District of California
Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

1 plaintiff intends to appear at the October 27, 2011 hearing on Allstate's motions. As plaintiff has
2 been warned on at least two occasions, plaintiff's failure to comply with the court's orders or the
3 applicable procedural rules will result in a recommendation that plaintiff's claims be dismissed
4 with prejudice and that a judgment by default be entered as to Allstate's counterclaim. (Order,
5 Sept. 6, 2011, at 3-4; Order, Sept. 21, 2011, at 3-4.)


6 In light of the foregoing, IT IS HEREBY ORDERED that:

7 1. The hearing on Allstate's motions for summary judgment shall remain on
8 the court's October 27, 2011 calendar.

9 2. No later than October 17, 2011, plaintiff shall file a notice of change of
10 address with the court, which also indicates whether plaintiff intends to appear at the October 27,
11 2011 hearing.

12 IT IS SO ORDERED.

13 DATED: October 7, 2011

14
15 
16 KENDALL J. NEWMAN
17 UNITED STATES MAGISTRATE JUDGE
18
19
20
21
22
23
24
25
26