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

JOHN ZAPATA dba ZAPATA
COLLECTION, SERVICE, an Individual,

Plaintiff,

No. 2:09-cv-03555 GEB KJN PS

v.

FLINTCO, INC., an Oklahoma
corporation, SAN JOAQUIN DELTA
COMMUNITY COLLEGE DISTRICT,
a Political Subdivision and JOHN DOE
1-25, inclusive,

Defendants.

ORDER

On October 6, 2010, plaintiff filed the following two documents: (1) "Motion for Protective Order" (Dkt. No. 37); and (2) "Opposition to Monetary Sanctions, Opposition to Dismissal, Request to Modify Order, Request for Sanctions" (Dkt. No. 38). The undersigned will deny all of the relief requested in these filings.

I. Motion for Protective Order

Plaintiff's motion for a protective order pertains to the location where his deposition, which pertains to limited issues discussed in the court's prior orders (Dkt. Nos. 29, 31, 36), will take place. The motion states, in its entirety: "Plaintiff requests that this court issue an order requiring that the deposition of Plaintiff be conducted in the Eastern District of

1 California pursuant to Federal Rules of Civil Procedure, and not in Los Angeles, or a mutual site
2 agreed by both parties.” (Mot. for Protective Order at 1.)

3 As an initial matter, plaintiff’s motion is defectively noticed in that it does not
4 conform to the notice requirements of this court’s Local Rules 230(b) or 251(a). Ordinarily, the
5 court would permit plaintiff to re-notice his motion in conformity with the Local Rules.
6 However, the undersigned will deny plaintiff’s motion because the court has already addressed
7 the issue of the location of plaintiff’s limited deposition in its order entered October 5, 2010.
8 (Dkt. No. 36.) Nothing in plaintiff’s motion for a protective order persuades the court that it
9 should modify its October 6, 2010 order.

10 II. The “Opposition”

11 Plaintiff’s document that is styled an “Opposition” opposes several of defendants’
12 requests for sanctions included in defendants’ reply to plaintiff’s response to a previously entered
13 order to show cause. Plaintiff’s “Opposition” requests relief as follows:

- 14 1. Plaintiff submits and requests the following from this court;
 - 15 A. That this court modify the order dated June 10, 2010
 - 16 i. That Plaintiff should not be required to go to Los
17 Angeles for his deposition and that the Deposition is
18 conducted at a location pursuant to Federal Rules of
19 Civil Procedure.
 - 20 ii. That a deadline for 100% completion of issue
21 regarding the assignment be set within 30 calendar
22 days.
 - 23 B. That the courts deny Defendant Request for monetary
24 sanction.
 - 25 C. That this court imposes sanctions against Defendants for its
26 misrepresentation and misleading of the court.
 - D. That the court deny Defendant request for dismissal.
 - E. That the court allows Plaintiff to proceed with its Motion
for Summary Judgment.
 - F. That the court allows Plaintiff to proceed with general

1 discovery of its own in this matter.

2 G. That this court allows Plaintiff to do its filing via E-mail
3 with the court and that all filing be sent to Plaintiff via E-
Mail from the (sic).

4 (Dkt. No. 38 at 1-2.)

5 As an initial matter, plaintiff has not requested any of the affirmative relief in the
6 form of a motion properly noticed pursuant to Local Rules 230(b) or 251(a). Nevertheless, the
7 undersigned will briefly address each request.

8 First, with respect to plaintiff's requests designated by letters "B" and "D," the
9 court already denied defendants' requests for involuntary dismissal of plaintiff's case and the
10 imposition of monetary sanctions, for now, against plaintiff. (Order, Oct. 5, 2010, Dkt. No. 36.)
11 Accordingly, plaintiff's requests are moot.

12 Second, with respect to plaintiff's requests designated by letters "E," "F," and
13 "G," the court already dismissed without prejudice plaintiff's motion for summary judgment,
14 stayed general discovery pending a determination of whether the court has subject matter
15 jurisdiction to hear plaintiff's claims, and rejected plaintiff's repeated requests to use the court's
16 electronic filing system. (See Dkt. Nos. 22, 23, 29.) The court has made an accommodation to
17 permit plaintiff to file one brief in electronic format, but nothing in plaintiff's "Opposition"
18 persuades the undersigned that plaintiff is entitled to the remaining requested relief. Moreover,
19 to the extent that plaintiff is anxious to conduct general discovery and file a motion for summary
20 judgement, plaintiff has been the cause of the delay because his international travel schedule has
21 delayed the progress of this case.

22 Third, the undersigned will deny plaintiff's requests designated as A.i and A.ii.
23 As stated above, the undersigned has already resolved issues pertaining to the location where
24 plaintiff's limited deposition will take place. (Order, Oct. 5, 2010, Dkt. No. 36.) Additionally,
25 the court has already set forth a briefing schedule regarding resolution of the issues related to
26 what defendants allege is a "sham" assignment. Nothing in plaintiff's "Opposition" supports

1 modification of the court's prior orders.

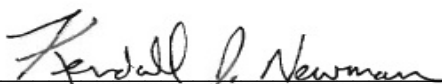
2 Finally, as to the relief sought under letter "C," the undersigned finds no basis for
3 the imposition of sanctions on defendants.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. Plaintiff's Motion For Protective Order (Dkt. No. 37) is denied.
- 6 2. Plaintiff's request for modification of the court's June 10, 2010 order is
7 denied.
- 8 3. Plaintiff's request for the imposition of sanctions against defendants is
9 denied.
- 10 4. Plaintiff's request to proceed with his motion for summary judgment is
11 denied.
- 12 5. Plaintiff's request to conduct general discovery is denied.
- 13 6. Plaintiff's request to use the court's electronic filing system is denied,
14 except as stated in prior orders of the court.

15 IT IS SO ORDERED.

16 DATED: October 7, 2010

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19 KENDALL J. NEWMAN
20 UNITED STATES MAGISTRATE JUDGE
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