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

JOSEPH EDWARD MARTY,

Plaintiff,

No. 2:10-cv-01823 MCE KJN PS

v.

LOUIS B. GREEN, et al.,

Defendants.

ORDER

On July 14, 2010, plaintiff filed an application for a temporary restraining order (“TRO”), which United States District Judge Morrison E. England denied on July 15, 2010. (Dkt. Nos. 1, 6.) Plaintiff subsequently filed a “Response” to Judge England’s order denying plaintiff’s application for a TRO, which Judge England denied to the extent that the “Response” constituted a motion for reconsideration. (Dkt. Nos. 7, 8.)

On September 8, 2010, plaintiff filed a document entitled “Motion For Orders To Void and Vacate: Judgments and Orders To Strike Liens of El Dorado County Superior Court,” and noticed the “motion” for hearing on September 30, 2010. (Dkt. No. 9.) Because plaintiff’s document that was styled as a “motion” was defectively noticed, the court order plaintiff to re-notice the motion in compliance with this court’s Local Rule 230(b). (Dkt. No. 10.) On October 5, 2010, plaintiff filed a document entitled “Amended Motion For Orders To Void and

1 Vacate: Judgments and Orders To Strike Liens of El Dorado County Superior Court,” which he
2 noticed for hearing on November 18, 2010 (the “Amended Motion”). (Dkt. No. 11.)

3 Upon review of plaintiff’s “Amended Motion”, the undersigned concludes that
4 although this document is styled as a “motion,” it is not in fact a motion; instead, this document
5 appears to be an amended complaint that seeks relief relative to several decisions of the El
6 Dorado County Superior Court. Accordingly, the undersigned construes the Amended Motion as
7 a first amended complaint. As a result, the undersigned will vacate the November 18, 2010
8 hearing date and direct the Clerk of Court to issue a summons with respect to the first amended
9 complaint so that plaintiff may properly serve defendants with process consistent with the
10 Federal Rules of Civil Procedure, including Rule 4, the court’s Local Rules and orders, and
11 applicable law.¹ The parties shall thereafter respond to the first amended complaint consistent
12 with the Federal Rules of Civil Procedure, the court’s Local Rules and orders, and applicable
13 law.

14 For the foregoing reasons, the court HEREBY ORDERS that:

15 1. Plaintiff’s “Amended Motion For Orders To Void and Vacate: Judgments
16 and Orders To Strike Liens of El Dorado County Superior Court” (Dkt. No. 11) is hereby deemed
17 to constitute a “First Amended Complaint.”

18 2. The Clerk of Court is directed to issue a summons with respect to the First
19 Amended Complaint.

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24 ¹ The court expresses no view regarding whether any of the defendants have yet been
25 properly served with either the original complaint filed with the TRO or the first amended complaint,
26 and any related process. To date, none of the over 25 defendants has entered an appearance in this
action.

1 3. The hearing presently set before the undersigned to take place on
2 November 18, 2010, is vacated.

3 IT IS SO ORDERED.

4 DATED: October 13, 2010
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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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