IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff, No. 2:10-cv-02591 MCE KJN PS

v.

JAMES O. MOLEN (also known as James-Orbin: Molen); et al.,

Defendants. ORDER

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Defendants James Molen and Sandra Molen (the "defendants") are proceeding without counsel in this action.[1] Defendants have filed eight motions in approximately as many weeks, including a "Motion To File Amended Answer" (Dkt. No. 84), and a "Motion To Amend Answer to Complaint" (Dkt. No. 79), both requesting leave to amend their Answer (Dkt. No. 4).

The court took defendants' motions (Dkt. No. 79, 84) under submission on the papers and without oral argument, in accordance with Eastern District Local Rule 230(g), and denied both motions. (Dkt. No. 96 at 1-2.) Specifically, the court vacated the motions' hearing date and explained that "[b]ecause oral argument would not materially aid the resolution of the pending motions, these matters are submitted on the briefs and record without a hearing." (Id.

[1] This action was referred to the undersigned pursuant to Eastern District Local Rule 302(c)(21). (See Dkt. No. 11.)

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(citing Fed. R. Civ. P. 78(b); E.D. Local Rule 230(g)).)

Defendants have since filed a document styled as a "Reply Brief To Court Order Vacating Hearing On Notice Of Motion And Motion For Jury Trial And Demand For Jury Trial" (Dkt. No. 100), in which defendants state that

> [d]efendants oppose any order that denies their right to a fair hearing on any motion presented before the Court. To deny any right to a fair hearing, whether to the Plaintiff or the Defendant, is a denial of due process. The Defendants do request that the Court reopen the matter for further briefs and oral arguments. The Defendants are opposed to Newman's order that oral argument would not materially aid the resolution of the pending motion, and that matters are submitted on the briefs and record without a hearing.

(Dkt. No. 100 at 1-2.) The court construes this "Reply Brief" as a motion for reconsideration of the court's orders at Docket Numbers 95 and 96, and denies the motion.[2]

A. Local Rule 230(g) Permitted The Court To Take Defendants' Motions Under Submission

While defendants believe oral argument would materially aid the court in resolving the above-described motions, however, defendants do not offer *any* explanation — let alone a compelling one — as to why "further briefs and oral arguments" (Dkt. No. 100 at 1-2) might have been useful. The court reviewed defendants' moving papers and deemed those papers sufficient for a determination of the issues raised therein, and, in keeping with the Eastern District Local Rules, took the motions under submission accordingly. Defendants are reminded,

[2] Pursuant to Local Rule 230(j), a motion for reconsideration must state "what new or different facts or circumstances are claimed to exist which did not exist or were not shown upon such prior motion, or what other grounds exist for the motion" and "why the facts or circumstances were not shown at the time of the prior motion." E.D. Local Rule 230(j)(3)-(4). Defendants' "Reply Brief" (Dkt. No. 100) does not describe new or different facts or circumstances that would warrant reconsideration of the court's Orders (Dkt. Nos. 95, 96).

yet again, that they are not entitled to oral arguments regarding every motion they file.[3]

Defendants are also directed to review the substance of the court's orders so as to better understand why their motions were properly taken under submission without oral argument. For instance, as stated in the order denying defendants' motions to amend their answer (Dkt. Nos. 84, 79), the motions were denied *without prejudice* because of a procedural defect, namely, the defendants' failure to attach a draft amended answer to their moving papers pursuant to Local Rule 137(c). (Dkt. No. 96 at 2-3.) Accordingly, an oral argument would not have cured the motions' procedural defect. In the future, similarly baseless objections to the court's taking defendants' motions under submission may be summarily denied. The court does not have the resources to continue to remind defendants that they are not always entitled to oral arguments. Local Rule 230(g).

B. Local Rule 230(d) Governed Defendants' Deadline To Reply

Defendants argue (Dkt. No. 100 at 2) that the court gave them insufficient time to file a Reply brief in support of their Request For Jury Trial (Dkt. Nos. 81, 85), another set of motions that the court took under submission. (Dkt. No. 95.) Defendants are mistaken.

Defendants set their Request For Jury Trial to be heard on September 1, 2011.

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[3] The undersigned has *already* reminded defendants that they do not have a "right" to make oral arguments supporting "each and every one of their motions." (Dkt. No. 65 at 6; Dkt. No. 93 at 4-5.) The undersigned *again* cautions defendants against filing multiple copies of substantively identical motions in efforts to achieve their goals, whether those goals are making oral arguments or obtaining dismissal of the case against them. (Dkt. No. 65 at 2-3, 6-7.) The multiplicity of defendants' improper and duplicative filings is a burden on the court and the plaintiff, and impedes the progress of this action. In the future, such conduct may be sanctioned, and the sanctions may include entry of default judgment against defendants. See, e.g., Thompson v. Housing Auth. of City of L.A., 782 F.2d 829, 831 (9th Cir. 1986) (per curiam) ("District courts have inherent power to control their dockets. In the exercise of that power they may impose sanctions including, where appropriate, default or dismissal."); accord In re Phenylpropanolamine (PPA) Products Liability, 460 F.3d 1217, 1227 (9th Cir. 2006) (quoting Thompson). As the court has already advised defendants (Dkt. No. 65), successive and repetitious filings of substantially similar motions, such as those continuing to demand oral arguments where the court has already determined that a hearing would not materially aid the court's decision (and where defendants themselves cannot seem to articulate *why* oral argument is necessary), will not aid defendants and may result in sanctions including a potential entry of default judgment. See Thompson, 782 F.2d at 831.

(Dkt. No. 85.) It was defendants' own selection of the September 1, 2011 hearing date that established August 25, 2011, as the deadline for them to file their Reply brief. See Local Rule 230(d) ("Reply. Not less than seven (7) days preceding the date of hearing, the moving party may serve and file a reply to any opposition filed by a responding party."). Seven days before September 1, 2011, was August 25, 2011. Accordingly, defendants were *already obligated* to file their Reply brief on August 25, 2011, a date the court further clarified within the order taking those motions under submission. (Dkt. No. 95.) Defendants' argument that they were prejudiced by having to file a Reply brief by this August 25, 2011 deadline is not well-taken. Defendants had already subjected themselves to that very deadline when they filed their moving papers and selected September 1, 2011, as the hearing date.

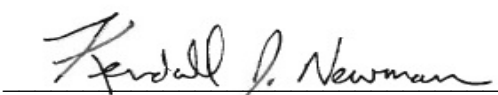
For the foregoing reasons, IT IS HEREBY ORDERED that:

1. Defendants' "Reply Brief To Court Order Vacating Hearing On Notice Of Motion And Motion For Jury Trial And Demand For Jury Trial" (Dkt. No. 100) is construed as a motion for reconsideration of the undersigned's orders at Docket Numbers 95 and 96, and is denied.

2. As the court has now repeatedly advised defendants (Dkt. No. 65 at 6; Dkt. No. 93 at 4-5), successive and repetitious filings of substantially similar motions (such as motions demanding oral arguments after the court has already determined that a hearing would not materially aid the court's decision, especially where defendants themselves cannot articulate why oral argument is necessary) may be summarily denied and may result in sanctions, including a potential entry of default judgment against defendants.

IT IS SO ORDERED.

DATED: August 29, 2011



KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE