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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
JAMES O. MOLEN, et al.,
Defendants.

No. 2:10-cv-2591 MCE KJN

ORDER AND ORDER TO SHOW CAUSE

Defendant James Molen (“defendant”) is proceeding without counsel in this action.¹ On November 22, 2013, plaintiff the United States (“plaintiff”) filed a Motion for Partial Summary Judgment. (Mot. for Summ. J., ECF No. 148.) On December 5, 2013, defendant filed his opposition, which focused primarily on the fact that plaintiff had filed its Motion for Partial Summary Judgment a day after the deadline for such a motion and raised discovery arguments, but did not address plaintiff’s motion on the merits. (ECF No. 155.) On December 12, 2103, the court issued an order requiring defendant to file an amended opposition to plaintiff’s Motion for Partial Summary Judgment no later than February 6, 2014, “that substantively addresses the arguments and factual/evidentiary assertions made in the pending motion and complies with the requirements of Federal Rule of Civil Procedure 56 and Eastern District Local Rule 260(b),

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

1 including but not limited to the filing of a Separate Statement of Disputed Facts.” (ECF No. 156
2 at 3-4.) The court deemed plaintiff’s Motion for Partial Summary Judgment timely on January
3 27, 2014, and further ordered defendant to file an amended opposition to plaintiff’s motion in
4 accordance with the December 12, 2013, order no later than February 6, 2014. Although that
5 deadline has now passed, defendant has not yet filed an opposition in accordance with the court’s
6 order.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. The March 13, 2014, hearing is VACATED and CONTINUED until April 1, 2014.

9 2. No later than February 24, 2014, defendant shall file an amended opposition that
10 complies with the court’s December 12, 2013, and January 27, 2014, orders as well as the
11 requirements of Federal Rule of Civil Procedure 56 and Eastern District Local Rule 260(b),
12 including but not limited to the filing of a Separate Statement of Disputed Facts. Defendant is
13 strongly cautioned that failure to file an amended opposition in a timely manner may result in the
14 court treating defendant’s inaction as a statement of non-opposition to plaintiff’s Motion for
15 Partial Summary Judgment, which will result in the court deciding plaintiff’s motion solely on
16 plaintiff’s evidence, arguments in support of its motion, and its statement of undisputed facts.


17 3. No later than February 24, 2014, defendant shall also file a statement showing cause
18 why sanctions should not be imposed for his failure to an amended opposition in accordance with
19 the court’s order.

20 4. Failure to timely file an amended opposition or a response to this order to show cause,
21 or both, may result in more severe sanctions, including the court deeming defendant’s inaction as
22 a statement of non-opposition to plaintiff’s Motion for Partial Summary Judgment or other
23 appropriate sanctions.

24 5. No later than March 3, 2014, plaintiff may file a Reply to defendant’s above-described
25 Amended Opposition.

26 IT IS SO ORDERED.

27 Dated: February 14, 2014

28 
KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE