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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANDRE CRAVER,  
Plaintiff,  
v.  
J. HASTY, et al.,  
Defendants.

No. 2: 11-cv-1344 TLN KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. This action is set for jury trial before the Honorable Troy L. Nunley on September 28, 2015. Pending before the court is plaintiff's November 4, 2014 motion for monetary sanctions. (ECF No. 126.) For the following reasons, this motion is denied.

Plaintiff moves for sanctions against defendants based on their failure to oppose his motion to allow the declaration of Nurse Pearsal. (ECF No. 104.) The background to the motion for sanctions is set forth herein.

On June 4, 2014, plaintiff filed a motion to allow the declaration of Nurse Pearsal. (Id.) On June 9, 2014, plaintiff filed two motions: motion for witnesses to appear telephonically (ECF No. 105) and motion for summary trial proceedings (ECF No. 106). On June 9, 2014, plaintiff filed a motion requesting the testimony of Nurse Reynolds. (ECF No. 107). On September 8, 2014, plaintiff filed a motion for sanctions. (ECF No. 120).


1           On October 16, 2014, the undersigned issued an order denying the five motions set forth  
2 above. (ECF No. 122.) In this order, the undersigned noted that plaintiff's motion to allow the  
3 declaration of Nurse Pearsal (ECF No. 104), motion for defendants to provide written testimony  
4 of Nurse Reynolds (ECF No. 107), and motion for sanctions (ECF No. 120), were related. (ECF  
5 No. 122 at 1.) The undersigned addressed these three motions together, noting that defendants  
6 had failed to oppose plaintiff's motion to allow the declaration of Nurse Pearsal. (Id. at 2.)  
7 Plaintiff now moves for sanctions based on defendants' failure to oppose this motion.

8           Defendants' failure to oppose plaintiff's motion to allow the declaration of Nurse Pearsal  
9 is not sanctionable conduct. Plaintiff has not demonstrated that he was prejudiced by defendants'  
10 failure to oppose this motion. Moreover, after reviewing the record, the undersigned determined  
11 that an opposition to this motion was not required, as defendants had opposed the other related  
12 motions.

13           Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for sanctions (ECF No.  
14 126) is denied.

15           Dated: November 24, 2014

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE