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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER D. SCHNEIDER,

Plaintiff,

v.

BANK OF AMERICA N.A.; BANK OF
AMERICA MORTGAGE; BANK OF
AMERICA HOME LOANS SERVICING
LP; BALBOA INSURANCE COMPANY;
HOME RETENTION GROUP; QUALITY
LOAN SERVICE CORPORATION;
CLIFF COLER; and DOES 1-100,
inclusive,

Defendants.

No. 2:11-cv-2953-JAM-EFB PS

ORDER

On November 16, 2016, plaintiff was ordered to file within 30 days a notice of motion in compliance with Local Rule 230 to properly calendar for hearing his motion for a new trial. ECF No. 314. He failed to do so. Also in violation of Local Rule 230(c), plaintiff failed to timely file an opposition or statement of non-opposition to defendants’ motion filed January 31, 2017. ECF No. 321. Accordingly, plaintiff was ordered to show cause why sanctions should not be imposed for his failure to comply with the court’s November 16, 2016 order and for violation of the Local Rules. ECF No. 323. The deadline has passed and plaintiff has not noticed his motion for a new trial for hearing or filed an opposition or statement of non-opposition to defendants’ motion. Nor

1 has plaintiff responded to the court's order to show cause. However, a review of the docket
2 indicates that plaintiff was not properly served with a copy of defendants' motion and the court's
3 order to show cause since both documents were served electronically.

4 Plaintiff previously sought an order permitting him to file documents electronically. ECF
5 No. 109. That request was granted, but the order granting it also specifically directed that
6 because plaintiff had not consented to electronic service "the parties shall continue to serve
7 documents conventionally in accordance with Local Rules 135(b) and (e)." ECF No. 110 at 2,
8 n.2. Sometime thereafter, plaintiff retained counsel and all documents were then served
9 electronically. But following the trial of this action, his counsel withdrew and plaintiff was again
10 proceeding pro se. ECF Nos. 300 and 305. However, plaintiff continued to be served
11 electronically rather than by mail. This includes the service of defendants' motion and the court's
12 March 13, order to show cause.¹ Accordingly, the hearing on defendants' motion must be
13 continued to allow for service of these documents and to permit an opportunity for plaintiff to
14 respond to the motion and the court's order to show cause.

15 Accordingly, it is hereby ORDERED that:

16 1. The hearing on defendants' motion for an order regarding plaintiff's motion for a new
17 trial is continued to May 3, 2017.

18 2. The Clerk shall serve plaintiff by mail with copies of defendants' motion (ECF No.
19 321) and the court's March 13, 2017 order to show cause (ECF No. 323).

20 3. By no later than April 24, 2017, plaintiff shall file a response to the court's order to
21 show cause and either an opposition or statement of non-opposition to defendants' motion.

22 4. Defendants may file a response to plaintiff's opposition, if any, by April 28, 2017.

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26 ¹ Plaintiff also was not served by mail with the court's November 16, 2016 order
27 directing him to notice for hearing his motion for a new trial. However, it is clear he had actual
28 notice of that order as he filed objections to it. ECF No. 315. Accordingly, this does not provide
a basis for discharging the order to show cause.

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5. Defense counsel's request to appear telephonically at the hearing on April 12, 2017 (ECF No. 326) is denied as moot.

DATED: April 10, 2017.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE