UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT JOHNSON,

Plaintiff,

v.

LOUIS H. VOSS; GREEN MAN RECYCLING, INC., a California Corporation,

Defendants.

No. 2:14-cv-2021-TLN-EFB

ORDER

This matter was before the court on January 28, 2015, for hearing on defendant Green Man Recycling, Inc.'s ("GMRI") motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(5) for ineffective service of process (ECF No. 5) and the court's order to show cause directed at plaintiff for failure to file a timely opposition to GMRI's motion (ECF No. 9). Attorney Amanda Lockhart appeared on behalf of plaintiff. However, GMRI failed to appear at the hearing on its own motion. Accordingly, the hearing was continued to February 11, 2015, and GMRI was ordered to show cause why sanctions should not be imposed for its failure to appear. ECF No. 17. GMRI has since submitted a response to the court's order to show cause. ECF No. 19.

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At the February 11, 2015 hearing, Ms. Lockhart appeared on behalf of plaintiff, and attorney Tonya Hubinger appeared on behalf of GMRI. At the hearing, GMRI represented that its motion to dismiss is now moot and withdrew the motion on the record. Accordingly, the Clerk of the Court is directed to terminate plaintiff's motion to dismiss, ECF No. 5.

As for the two pending orders to show cause, neither plaintiff nor GMRI have shown good cause for their failures to comply with this court's local rules. Therefore, for the reasons stated on the record, Ms. Hubinger is sanctioned in the amount of $150, which is intended to partially compensate plaintiff for the reasonable expenses incurred in appearing at the January 28, 2015 hearing.[1] *See* E.D. Cal. L.R. 110 ("Failure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or within the inherent power of the Court."). This sum shall be paid to plaintiff no later than 14 days from the date of this order. Upon payment to plaintiff, Ms. Hubinger shall file an affidavit with the court which states that the sanction was paid personally by her, out of personal funds, and is not and will not be billed, directly or indirectly, to her client or in any way made the responsibility of her client as attorneys' fees or costs.

DATED: February 18, 2015.

EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

[1] The unreimbursed portion of plaintiff's counsel's expenses for travel to and time expended for the January 28 hearing, shall serve as a sanction for plaintiff's unexcused failure to timely file an opposition to GMRI's motion to dismiss.