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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JASEN LYNN DUSHANE,
Plaintiff,
v.
SACRAMENTO COUNTY MAIN JAIL,
et al.,
Defendants.

No. 2:15-cv-136-TLN-EFB P

ORDER

Plaintiff is proceeding without counsel in a civil rights action. He has filed a motion for sanctions against defense counsel. ECF No. 47. According to plaintiff, defense counsel declared under penalty of perjury in opposing a motion to compel filed by plaintiff that “[o]n November 5, 2015, Plaintiff mailed a discovery request” and that this “was Plaintiff’s only discovery request served.” *Id.* at 1 (quoting ECF No. 43). Plaintiff submits a declaration averring that he served other discovery requests that were received and responded to by defense counsel. *Id.* at 4.


Defense counsel responds that plaintiff has not complied with Federal Rule of Civil Procedure 11(c)(2), which required plaintiff to provide counsel with 21 days after service of the motion to withdraw the challenged statement before presenting the motion to the court. ECF No. 54. Defense counsel states that he filed a notice of errata regarding the challenged statement. ECF No. 44. The court has reviewed that filing and finds that it does not identify the challenged

1 statement as erroneous. Nevertheless, defense counsel represents that he has responded to
2 plaintiff's discovery requests. ECF No. 54.

3 Plaintiff has not replied to defense counsel's representations or provided anything to show
4 that he did serve the motion on defendant 21 days prior to filing it with the court. Because it
5 appears that plaintiff did not comply with Federal Rule of Civil Procedure 11(c)(2) prior to filing
6 the instant motion with the court, the motion for sanctions is denied. *Radcliffe v. Rainbow*
7 *Constr. Co.*, 254 F.3d 772, 789 (9th Cir. 2001).

8 So ordered.

9 DATED: March 23, 2016.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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