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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD JOSEPH CRANE,
Plaintiff,
v.
RODRIGUEZ, et al.,
Defendants.

No. 2:15-cv-0208 TLN KJN P

ORDER

Plaintiff filed a motion to strike defendant Weeks’ response as untimely, and seeks an extension of time to file a reply to the oppositions to plaintiff’s motion for sanctions.¹

Motion to Strike

In his motion to strike, plaintiff claims that defendant Weeks “acknowledges that ‘plaintiff filed and served his memorandum on November 2, 2016,’” yet defendant did not file and serve his response until November 30, 2016. (ECF No. 87, citing ECF No. 83 at 3, ¶ 2.) Plaintiff argues that under Local Rule 230(l), defendant’s response was due 21 days after the motion was served, and is untimely because it was not filed until 28 days after the motion was served.

Defendant Weeks’ November 30, 2016 response is entitled “Response by Defendant R. Weeks Re: Plaintiff’s Objections and Motion for Sanctions of Defendants’ Counsel at Doc. 81.”

¹ Plaintiff styled his filing as “Objections and Plaintiff’s Motion for Sanctions of Defendants’ Counsel,” but for ease of reference, the court addresses the filing as a motion for sanctions.

1 (ECF No. 83 at 1.) It is clear that defendant Weeks opposes the November 23, 2016 motion for
2 sanctions, but also construes plaintiff's filing as an "improper motion to compel," arguing that
3 plaintiff's memorandum ("filed and served" on November 2, 2016), and November 17, 2016
4 motion were mailed before the issuance of a discovery order in this matter. (ECF No. 83 at 3.)

5 The record reflects that plaintiff served his notice of motion and motion for sanctions on
6 defense counsel by mail on November 17, 2016. (ECF No. 81 at 21.) Included as an exhibit is a
7 proof of service reflecting that plaintiff served his motion for sanctions on defense counsel by
8 mail on November 2, 2016. (ECF No. 81 at 18.) Plaintiff also provided a document signed
9 November 17, 2016, entitled "Notice of Motion and Motion of Plaintiff's Objections and
10 Plaintiff's Motion for Sanctions of Defendants' Counsel," in which plaintiff claims his motion for
11 sanctions was served on defense counsel on November 2, 2016. (ECF No. 81 at 19.) Plaintiff's
12 proofs of service do not reflect service on the court.

13 Plaintiff is correct that Local Rule 230(l) requires an opposition to be filed 21 days after
14 the date of service of the motion. But Local Rule 230(l) also requires that the motion be filed
15 with the court. In addition, it would be inappropriate to require an opposition to be filed with the
16 court prior to the filing of the motion. The court docket does not reflect an earlier-filed date for
17 plaintiff's motion for sanctions, despite defendant Weeks' statement that plaintiff "filed and
18 served his memorandum on November 2, 2016." (ECF No. 83 at 3.) Although plaintiff's proofs
19 of service do not indicate service on the court, plaintiff's motion for sanctions was filed on
20 November 23, 2016. Because the proof of service indicates mailing on defendants on November
21 17, 2016, any opposition was due on or before December 8, 2016. Therefore, defendant Weeks'
22 November 30, 2016 response was timely filed, and plaintiff's motion to strike is denied.

23 *Request for Extension*

24 Plaintiff seeks an additional fourteen days in which to file a reply to defendant Week's
25 response. During the pendency of his request, the remaining defendants filed a timely opposition
26 to plaintiff's motion for sanctions. Good cause appearing, the court grants plaintiff an extension
27 of time in which to file a reply to both the response and the opposition.

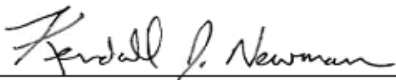
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Accordingly, IT IS HEREBY ORDERED that:

1. Defendant Weeks is relieved of his obligation to respond to plaintiff's motion to strike;
2. Plaintiff's motion to strike (ECF No. 87) is denied;
3. Plaintiff's motion for an extension of time (ECF No. 88) is granted;
4. Plaintiff is granted fourteen days from the date of this order in which to file a reply to defendant Weeks' response (ECF No. 83) and the remaining defendants' opposition (ECF No. 85).

Dated: December 14, 2016


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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