

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEV PATEL, Plaintiff, v. STATE OF CALIFORNIA, et al., Defendants.	No. 2:15-cv-2471-KJN <u>ORDER</u>
---	--

This matter was scheduled for a status (pretrial scheduling) conference on December 1, 2016. (ECF No. 17.) The evening prior to that date, plaintiff’s counsel contacted the undersigned’s courtroom deputy via an email that stated that he would not be in attendance at that hearing because he was on vacation in Florida and had forgotten to request a continuance of that proceeding. Accordingly, the court continued the status (pretrial scheduling) conference and issued an order to show cause (“OSC”) directing plaintiff’s counsel to show cause in writing why he should not be subject to monetary or other appropriate sanctions for his failure to notify the court regarding his anticipated absence at that proceeding in a more timely fashion and failure to file a request for a continuance of that proceeding in light of his anticipated absence. (ECF No. 19.) Plaintiff’s counsel timely responded to the OSC. (ECF No. 20.)

////

1 In his response, plaintiff's counsel notes that he provided multiple notices to opposing
2 counsel regarding his anticipated unavailability, but "lost sight of the fact" that he had not filed an
3 application with the court to continue the status conference. (Id.) Plaintiff's counsel represents
4 further that he was under the assumption that the court would issue a scheduling order based on
5 the parties' joint statement without the need for a hearing because plaintiff requested that the
6 court take such action in the joint statement. (Id.) Plaintiff's counsel admits, however, that he
7 "neglected to follow up" with the court regarding that request and whether the hearing would still
8 be held. (Id.)


9 As discussed during the January 19, 2017 status (pretrial scheduling) conference, the court
10 appreciates plaintiff's counsel's apology and candor regarding his negligent failure to notify the
11 court regarding his anticipated absence and to take appropriate measures to accommodate that
12 absence. However, the court still finds a small amount of monetary sanctions appropriate to
13 reprimand plaintiff's counsel for his negligent behavior and deter him from acting in a similar
14 manner as this action moves forward.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. Within fourteen (14) days of this order, plaintiff's counsel, Richard Rogers, shall pay
17 the Clerk of Court \$100.00 in sanctions based on his failure to timely appear at the
18 December 1, 2016 status conference. Plaintiff's counsel shall NOT directly or
19 indirectly attempt to recover such sanctions from his client.
- 20 2. Failure to timely comply with this order will result in increased sanctions.

21 IT IS SO ORDERED.

22 Dated: January 20, 2017

23 
24 _____
25 KENDALL J. NEWMAN
26 UNITED STATES MAGISTRATE JUDGE
27
28