Zwick v. Zwick Doc. 20

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 ELKA ZWICK, No. 2:16-cv-734-EFB 12 Plaintiff, 13 **ORDER** v. 14 MICHAEL ZWICK, 15 Defendant. 16 17 This case was previously set for a settlement conference to be held on April 13, 2017. In 18 violation of the court's order, both parties failed to submit settlement conference statements seven 19 days prior to the settlement conference, or by April 6, 2017. See ECF No. 14. Instead, they 20 submitted a joint stipulation requesting modification of the dates in the scheduling order. But 21 even that request was filed after the deadline for submitting settlement conference statements and 22 it did not address the parties' failure to submit their statements. See ECF No. 15. In light of the 23 violation of the court's order, the settlement conference was vacated and counsel for both parties 24 were ordered to show cause why sanctions should not be imposed. ECF No. 16. Plaintiff's 25 counsel responded stating the he failed to file a settlement statement due to a calendaring error. 26 ECF No. 18. 27 ///// 28 ///// 1

Defendant's counsel states that he overlooked the briefing deadline. ECF Nos. 17. The explanations are troubling. While counsel each express the opinion that holding a settlement conference on April 13 would not have been productive in any event, that fails to take account of the very heavy caseload in this district and the large numbers of cases in which the parties are requesting and awaiting available dates for settlement conferences. When a date is reserved for the parties in one case, as occurred here, it becomes unavailable to the parties in other cases.² Although the court is not imposing sanctions at this time, counsel are admonished that future violations of scheduling orders or the court's Local Rules or Federal Rules of Civil Procedure will result in sanctions. See Fed. R. Civ. P. 16(f); E.D. Cal. Local Rule 110. The order to show cause issued on April 10, 2017, ECF No. 16, is therefore discharged. So Ordered. DATED: May 4, 2017. EDMUND F. BRENNAN UNITED STATES MAGISTRATE JUDGE

¹ Neither explanation constitutes good cause excusing their failure to comply with the court's order. *See Wei v. State of Hawaii*, 763 F.2d 370, 372 (9th Cir. 1985).

² Due to the number of cases in this district, the court's available settlement conference dates are booked for the next four months.