

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

JONATHAN M.D. SCHNELL,  
Plaintiff,  
v.  
COMMISSIONER OF SOCIAL  
SECURITY,  
Defendant.

No. 2:17-cv-1941-KJN

ORDER

On October 27, 2017, the court denied plaintiff’s motion to proceed *in forma pauperis* and directed plaintiff to pay the applicable filing fee within 28 days, noting that the court would entertain a request for a reasonable extension of time to pay the fee should such an extension be necessary. (ECF No. 3.) However, plaintiff was expressly cautioned that failure to timely pay the filing fee, or timely request an extension of time to do so, may result in dismissal of the action pursuant to Federal Rule of Civil Procedure 41(b). (Id.)

Plaintiff, who is represented by counsel, ultimately failed to either pay the filing fee or request an extension of time. Consequently, on January 2, 2018, in an attempt to avoid the harsh sanction of dismissal, the court first imposed \$250.00 in monetary sanctions against plaintiff’s counsel personally based on his failure to comply with court orders and deadlines. (ECF No. 4.)


1 The court also provided plaintiff with an additional fourteen (14) days to either pay the applicable  
2 filing fee or file a request for voluntary dismissal of the action without prejudice. (Id.)

3         Thereafter, on January 3, 2018, plaintiff's counsel promptly moved for reconsideration of  
4 the portion of the court's January 2, 2018 order imposing monetary sanctions on counsel. (ECF  
5 No. 5.) Counsel outlined the numerous unsuccessful efforts he had made to communicate with  
6 plaintiff regarding the court's October 27, 2017 order; represented that he had not understood the  
7 court's prior order to require a further filing under such circumstances; apologized for any  
8 inconvenience; and indicated that he would otherwise comply with the court's order to either pay  
9 the filing fee or voluntarily dismiss the case within the time prescribed in the court's January 2,  
10 2018 order. (Id.)

11         Good cause having been shown, IT IS HEREBY ORDERED that:

- 12         1. Plaintiff's counsel's motion for reconsideration (ECF No. 5) is GRANTED.
- 13         2. The portion of the court's January 2, 2018 order imposing monetary sanctions on  
14             plaintiff's counsel is VACATED.
- 15         3. All other portions of the court's January 2, 2018 order remain effective.

16 Dated: January 5, 2018

17   
18 \_\_\_\_\_  
19 KENDALL J. NEWMAN  
20 UNITED STATES MAGISTRATE JUDGE  
21  
22  
23  
24  
25  
26  
27  
28