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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TIMOTHY BATTS,
Plaintiff,
v.
BANKERS LIFE & CASUALTY
COMPANY,
Defendant.

Case No. [13-cv-04394-SI](#)

ORDER TO SHOW CAUSE

Re: Dkt. No. 67

On August 14, 2013, plaintiff filed a complaint against Bankers Life in Alameda Superior Court, alleging causes of action for: (1) breach of contract, (2) fraud, and (3) intentional interference with a prospective economic advantage. Compl. at 3-6. On September 23, 2013, defendant removed the action from state court to this Court pursuant to 28 U.S.C. § 1441 on the basis of diversity jurisdiction. Docket No. 1, Notice of Removal.

On November 6, 2013 the Court granted defendant's motion for a more definite statement and granted plaintiff leave to amend. Docket No. 22. On December 6, 2013 plaintiff filed his first amended complaint, alleging the same three causes of action as the original complaint. Docket No. 24, FAC. On January 27, 2014 the Court granted in part, and denied in part defendant's motion to dismiss the FAC. Docket No. 31. On February 21, 2014 plaintiff filed the second amended complaint; Docket No. 41, SAC, and on March 7, 2014, defendant filed an answer. Docket No. 42.

A hearing is currently set for January 16, 2015 regarding defendant's motion for summary judgment; the matter has been fully briefed by the parties. Docket No. 61. Now before the Court is

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defendant's motion for request for leave to file an objection to a declaration filed by plaintiff. Docket No. 67. The declaration was filed by plaintiff on November 24, 2014 – ten days after plaintiff's opposition brief, and three days after defendant's reply brief was submitted. Defendant contends that that plaintiff's declaration was filed late in violation of Civil Local Rule 7-3(d), and should therefore not be considered for purposes of ruling on its motion for summary judgment.

The Court ORDERS plaintiff to show cause, in writing to be filed no later than January 5, 2015, why his declaration was not filed in compliance with the local rules and should not be stricken.

IT IS SO ORDERED.

Dated: December 29, 2014



SUSAN ILLSTON
United States District Judge