

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAPAUL SOMERS,
Plaintiff,

v.

DIGITAL REALTY TRUST INC, et al.,
Defendants.

Case No. 14-cv-05180-EMC (KAW)

**ORDER DISCHARGING ORDER TO
SHOW CAUSE; DENYING
DEFENDANTS' MOTION TO STRIKE**

Re: Dkt. Nos. 315, 324

On April 19, 2018, at 12:58 p.m., approximately half an hour before the scheduled hearing on Defendants' motion for sanctions and Plaintiff's motion to recuse, Plaintiff e-mailed the Court stating that he had fallen ill the prior day and was "now being admitted to [the] hospital," and that "[t]he hearing for later this afternoon will have to be continued." (Dkt. No. 308.) That same day, the Court deemed the motion for recusal suitable for disposition without hearing, but permitted Plaintiff to file a request to continue the hearing on Defendants' motion for sanctions. (Dkt. No. 309 at 1.) The Court required that Plaintiff's request to continue the hearing "be accompanied by a declaration under penalty of perjury, and include extrinsic proof of Plaintiff's illness and subsequent hospitalization, i.e., a hospital receipt or similar record." (Id.)

On April 26, 2018, Plaintiff filed a proposed order for a continuance of the hearing on Defendants' motion for sanctions. (Dkt. No. 313.) Plaintiff did not include a declaration or extrinsic proof of his illness and subsequent hospitalization, as required by the Court's April 19, 2018 order. (Id.; see also Dkt. No. 309 at 1.) On April 27, 2018, the Court denied Plaintiff's motion to continue the hearing based on his failure to comply with the Court's order to provide proof of his illness and subsequent hospitalization. (Dkt. No. 315 at 2.) The Court also issued an order to show cause, ordering Plaintiff to explain why he should not be required to pay

1 Defendants' attorney's fees incurred for preparing for and attending the April 19, 2018 hearing.
2 (Id.)

3 Plaintiff's response was due by May 11, 2018. (Dkt. No. 315 at 2.) Plaintiff, however, did
4 not file his response until May 21, 2018. (Somers Decl., Dkt. No. 323.) Under penalty of perjury,
5 Plaintiff stated that he was admitted to the hospital on April 19, 2018, and provided a picture of a
6 medical wrist band, which was dated on April 19, 2018. (Somers Decl. ¶ 5, Exh. A.) Plaintiff
7 also stated that he had not submitted this information in response to the Court's April 19, 2018
8 order because he did not read the order, and was submitting his response to the order to show
9 cause late because he needed to "research all issues before responding." (Somers Decl. ¶¶ 7-8,
10 11.)¹

11 On May 24, 2018, Defendants filed a motion to strike Plaintiff's response to the order to
12 show cause. (Defs.' Mot., Dkt. No. 324.) Defendants' motion was based on Plaintiff's failure to
13 timely file, and contends that Plaintiff has failed to provide sufficient factual information about his
14 illness. (Id. at 2.)

15 Although Plaintiff's response to the order to show cause is untimely, the Court finds it
16 sufficient to demonstrate that Plaintiff was hospitalized on April 19, 2018. Accordingly, the Court
17 DISCHARGES the order to show cause. Plaintiff is reminded of his obligation to read **all** of the
18 Court's orders, and to comply with court-mandated deadlines. If Plaintiff requires additional time,
19 he should file a request to extend time rather than simply file his documents late, as the Court is
20 not obligated to accommodate his failure to comply with its deadlines.²

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25 ¹ Plaintiff also objected to the undersigned's "continued involvement in these proceedings for the
26 reasons given in the Motion to Recuse." (Somers Decl. at 1.) The Court already denied Plaintiff's
27 motion to recuse on May 9, 2018, and Plaintiff did not appeal that order to the presiding judge.
28 (See Dkt. No. 319 at 19-24.)

² This is especially the case where Plaintiff has repeatedly been warned of his obligation to comply
with the Court's rules and deadlines by the presiding judge. (See Dkt. No. 116 at 1 n.1; 218 at 2;
252 at 2.)

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Defendants' motion to strike is DENIED.

IT IS SO ORDERED.

Dated: June 1, 2018


KANDIS A. WESTMORE
United States Magistrate Judge