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United States District Court  
Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RAYMOND RICHARD WHITALL,  
Plaintiff,  
v.  
S.D. GUTIERREZ, et al.,  
Defendants.

Case No. 18-cv-01376-CRB (TSH)

**ORDER RE: SANCTIONS MOTION**

Re: Dkt. No. 147

The parties have filed a joint discovery letter brief in which Plaintiff moves for evidentiary sanctions, monetary sanctions and attorneys' fees. ECF No. 147. Judge Breyer has referred the motion to the undersigned. ECF No. 149. In the letter brief, Plaintiff states that due to space limitations, he cannot detail Defendants' many transgressions, and he requests that the Court grant him leave to submit formal briefing.

As it happens, that is what Plaintiff was supposed to do in the first place. Civil Local Rule 37-4 states:

When, in connection with a dispute about disclosure or discovery, a party moves for an award of attorney fees or other form of sanction under Fed. R. Civ. P. 37, the motion must:

- (a) Comply with Civil L.R. 7-8 and Civil L.R. 7-2; and
- (b) Be accompanied by competent declarations which:
  - (1) Set forth the facts and circumstances that support the motion;
  - (2) Describe in detail the efforts made by the moving party to secure compliance without intervention by the Court; and
  - (3) If attorney fees or other costs or expenses are requested, itemize with particularity the otherwise

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unnecessary expenses, including attorney fees, directly caused by the alleged violation or breach, and set forth an appropriate justification for any attorney-fee hourly rate claimed.

Civil Local Rule 7-8 further provides:

Any motion for sanctions, regardless of the sources of authority invoked, must comply with the following:

- (a) The motion must be separately filed and the date for hearing must be set in conformance with Civil L.R. 7-2;
- (b) The form of the motion must comply with Civil L.R. 7-2;
- (c) The motion must comply with any applicable Federal Rule and must be made as soon as practicable after the filing party learns of the circumstances that it alleges make the motion appropriate; and
- (d) Unless otherwise ordered by the Court, no motion for sanctions may be served and filed more than 14 days after entry of judgment by the District Court.

Finally, Civil Local Rule 7-2 provides:

- (a) Time. Except as otherwise ordered or permitted by the assigned Judge or these Local Rules, and except for motions made during the course of a trial or hearing, all motions must be filed, served and noticed in writing on the motion calendar of the assigned Judge for hearing not less than 35 days after filing of the motion. Fed. R. Civ. P. 6(d), which extends deadlines that are tied to service (as opposed to filing), does not apply and thus does not extend this deadline.
- (b) Form. In one filed document not exceeding 25 pages in length, a motion must contain:
  - (1) On the first page in the space opposite the caption and below the case number, the noticed hearing date and time;
  - (2) In the first paragraph, notice of the motion including date and time of hearing;
  - (3) In the second paragraph, a concise statement of what relief or Court action the movant seeks; and
  - (4) In the succeeding paragraphs, the points and authorities in support of the motion — in compliance with Civil L.R. 7-4(a).
- (c) Proposed Order. Unless excused by the Judge who will hear the motion, each motion must be accompanied by a proposed order.
- (d) Affidavits or Declarations. Each motion must be accompanied by affidavits or declarations pursuant to Civil L.R. 7-5.

The undersigned’s Discovery Standing Order is to the same effect, stating that “[n]o

1 motion for sanctions may be filed until after the moving party has complied with the requirements  
2 above,” concerning joint discovery letter briefs. The Discovery Standing Order then provides that  
3 “[m]otions for sanctions shall be filed separately, pursuant to Federal Rule 37 and Civil Local  
4 Rules 7 and 37-4.”

5 Accordingly, the Court **ORDERS** Plaintiff to refile his motion for sanctions as a formal  
6 noticed motion in conformity with Civil Local Rules 7-2, 7-8 and 37-4.

7 **IT IS SO ORDERED.**

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9 Dated: February 21, 2023

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11 THOMAS S. HIXSON  
12 United States Magistrate Judge

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