

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RYAN THOMAS SMITH,
Plaintiff,
v.
HUMBOLDT COUNTY SHERIFF'S
OFFICE CORRECTIONAL FACILITY,
Defendant.

Case No. [24-cv-01035-PHK](#)

**ORDER TO SHOW CAUSE RE:
FAILURE TO COMPLY WITH
COURT'S SCHEDULING ORDER [DKT.
6]**

Show Cause Hearing SET for October 17,
2024 at 10:30 a.m. in Courtroom F, 15th
Floor, San Francisco Courthouse

Defendant Humboldt County Sheriff's Office Correctional Facility is **ORDERED TO SHOW CAUSE** why default should not be entered against Defendant for failure to defend this action, where Defendant failed to comply with the Court's Scheduling Order [Dkt. 6] under which Defendant's dispositive motion is three months overdue.

Plaintiff filed his *pro se* Complaint on February 21, 2024, and on the same day consented to Magistrate Judge jurisdiction. [Dkts. 1, 3]. On March 22, 2024, the Court screened the Complaint, found that the Complaint stated either an Eighth Amendment or Fourteenth Amendment claim against Defendant, and ordered service of process on Defendant. [Dkt. 6]. In that same order, the Court entered a scheduling order "to expedite resolution of this case." *Id.* at 3. The Court's scheduling order instructed Defendant to file a dispositive motion within 91 days of March 22, 2024 (which was June 21, 2024), and instructed the parties that "[a]ny motion for an extension of time must be filed no later than (and preferably well in advance of) the deadline sought to be extended and must be accompanied by a showing of good cause." *Id.* at 3-5. The scheduling order further stated that, "[i]f Defendant is of the opinion that this case cannot be

1 resolved by summary judgment, Defendant must so inform the Court prior to the date such
2 summary judgment motion is due.” *Id.* at 4.

3 On April 24, 2024, Defendant filed its Answer to the Complaint. [Dkt. 12]. On July 22,
4 2024, Defendant consented to magistrate judge jurisdiction. [Dkt. 14]. Defendant’s deadline to
5 file a dispositive motion was June 21, 2024, yet no dispositive motion was filed. Court staff
6 contacted Defendant’s counsel in July 2024 and September 2024, reminding Defendant of the
7 dispositive motion deadline. As of the date of this Order to Show Cause, Defendant has not filed a
8 dispositive motion, has not requested that the briefing schedule be reset, has not requested an
9 extension of time to file their dispositive motion, and has not informed the Court that Defendant is
10 of the opinion that this case cannot be resolved by summary judgment. Other than the Answer and
11 consent to Magistrate Judge jurisdiction, Defendant has filed no other documents in this case. In
12 sum, Defendant’s dispositive motion is nearly three months overdue without leave of Court.

13 Accordingly, the Court **HEREBY ORDERS** Defendant to show cause why default should
14 not be entered against Defendant for failure to defend this action pursuant to Fed. R. Civ. P. 55
15 (and to the extent applicable, pursuant to the Court’s inherent authority), where Defendant has
16 failed to comply with the Court’s Scheduling Order [Dkt. 6] under which Defendant’s dispositive
17 motion is three months overdue, despite numerous communications from the Court’s staff. In the
18 written response to this Order, Defendant shall, at a minimum, explain why they failed to timely file
19 a dispositive motion, failed to timely file a request that the briefing schedule be reset, failed to
20 timely file a request for an extension of time to file their dispositive motion, and failed to inform
21 the Court whether Defendant is of the opinion that this case cannot be resolved by summary
22 judgment.

23 Defendant’s written response to this Order **SHALL** be filed on or before **October 11, 2024**.
24 Defendant’s written response to this Order **SHALL** be accompanied by a declaration under oath from
25 lead trial counsel for Defendant to explain or support any factual assertions made in response to this
26 Order to Show Cause.

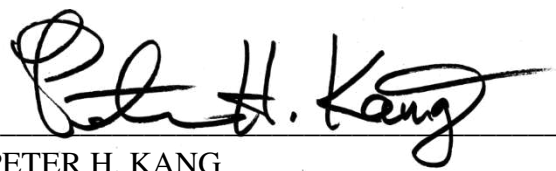
27 The Court further **ORDERS** that lead trial counsel for Defendant, as well as any other counsel
28 responsible for defending this action, and also the official, employee, or officer of Defendant

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responsible for acting as the client for this case all **SHALL** appear **IN PERSON** at a hearing regarding this Order to Show Cause on **October 17, 2024 at 10:30 a.m.** in Courtroom F on the 15th Floor of the San Francisco courthouse located at 450 Golden Gate Ave. in San Francisco. Remote appearances will not be permitted.

IT IS SO ORDERED.

Dated: September 26, 2024



PETER H. KANG
United States Magistrate Judge