

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RICHARD KENNEDY,

CASE NO. 5:11-cv-02407 EJD

Plaintiff(s),

**ORDER REQUIRING COMPLIANCE
WITH PROCEDURAL ORDER FOR
IMMIGRATION AND MANDAMUS
CASES**

v.

UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, DISTRICT
DIRECTOR,

Defendant(s).

On May 17, 2011, this court entered the Procedural Order for Immigration Mandamus Cases (the "Procedural Order") which provides a schedule for the filing of documents in this case. See Docket Item No. 2. Specifically, the Federal Defendant was required to serve and file an Answer to the Petition within 60 days of receipt of service of the summons and complaint. See id., at ¶ 1. In addition, the Federal Defendant is required to file a Motion for Summary Judgment within 120 days of service of the complaint if Plaintiff has not filed a similar motion within 90 days of filing the complaint. See id., at ¶ 3.

Having been assigned this case on October 25, 2011, the court has reviewed the docket and determined the requirements of the Procedural Order have not been observed. For example, it appears the summons and complaint were served no later than July 1, 2011. See Docket Item Nos. 8, 9, and 10. However, instead of filing an Answer, the Federal Defendant filed a Notice of

1 Appearance on August 30, 2011. See Docket Item Nos. 11. In addition, instead of filing a Motion
2 for Summary Judgment, the Federal Defendant filed a “Notice of Respondent’s Opposition.” See
3 Docket Item No. 13.

4 Neither the Notice of Appearance or “Notice of Respondent’s Opposition” are designated
5 filings under the Procedural Order. Indeed, the “Notice of Respondent’s Opposition” is particularly
6 troubling as such a document does not have an established timeline for the filing of opposition and
7 reply papers. The court simply cannot countenance this process as a proper way to resolve this
8 action, especially when the authorized process is clearly defined.

9 Accordingly, the court orders as follows:

- 10 1. The Federal Defendant shall, no later than November 15, 2011, file and serve an
11 Answer as required by the Procedural Order.
- 12 2. The Federal Defendant shall convert the “Notice of Respondent’s Opposition” into a
13 Motion for Summary Judgment which complies with Federal Rule of Civil Procedure
14 56, and shall file and serve such motion no later than November 15, 2011.
- 15 3. After the filing of the documents described above, the parties shall then comply with
16 the Procedural Order in all further aspects.

17 **IT IS SO ORDERED.**

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19 Dated: November 1, 2011


EDWARD J. DAVILA
United States District Judge

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