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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ANTON EWING,

Plaintiff,

vs.

K2 PROPERTY DEVELOPMENT,
LLC, and DANIEL KLEIN,

Defendants.

CASE NO. 16cv678-LAB (AGS)

**ORDER STRIKING PLAINTIFF'S
OPPOSITION;**

**ORDER VACATING HEARING ON
MOTION FOR JUDGMENT ON THE
PLEADINGS; AND**

**ORDER REVOKING AUTHORIZATION
FOR PLAINTIFF TO FILE
DOCUMENTS ELECTRONICALLY**

In opposition to Defendant Daniel Klein's motion for judgment on the pleadings, Plaintiff Anton Ewing filed an opposition that violates a number of the Court's orders and applicable rules, and is grossly uncivil. It is replete with insults and baseless accusations against opposing counsel, her paralegal, and Klein.

Among other things, it accuses her of perjury and of suborning the unauthorized practice of law by her paralegal. It refuses to acknowledge her as having any role in filing the motion, and instead repeatedly refers her paralegal (and occasionally Klein personally) as the motion's proponents.

It also appears to make several misrepresentations to the Court. In particular, it inaccurately claims that in case 18cv429-WQH (JMA), *Ewing v. Readdick*, a particular argument Klein's motion advances was found to be frivolous. In that case, the only document calling Klein's argument frivolous was Ewing's own opposition to Klein's motion

1 to dismiss. Judge Hayes never admonished Klein for advancing a frivolous argument, as
2 Ewing claims. And Judge Hayes later rejected Ewing's argument when he dismissed the
3 complaint.

4 The opposition is over-length and violates this District's legibility requirements. See
5 Civil Local Rule 5.1(a). It also improperly incorporates a letter Ewing mailed to opposing
6 counsel chiding her for purported errors in her motion. There is no good reason why this
7 letter should have been included. See Standing Order, ¶ 14 (ordering attorneys and parties
8 to refrain from sending the Court copies of letters addressed to others). Both the contents
9 of the letter, and the decision to include it only reflect badly on Ewing.

10 At a hearing on July 19, Magistrate Judge Averitte told Ewing to stop clogging up the
11 Court with filings and contentions that do not advance the litigation. He also directed Ewing
12 to stop making ad hominem attacks. Although at the time Ewing said he understood and
13 would abide by Judge Averitte's orders, his opposition flouts them.

14 The Court has authority *sua sponte* to strike impertinent or scandalous matter, see
15 Fed. R. Civ. P. 12(f)(1), and to strike filed documents for violations of rules or Court orders.
16 See Civil Local Rule 83.1(a). The Court therefore **ORDERS** Ewing's opposition (Docket no.
17 152) is **STRICKEN**. The hearing on that motion and other motions, currently on calendar
18 for Monday, August 27, 2018, at 11:30 a.m. is **VACATED**.

19 Ewing may file a new opposition by **September 5, 2018**. If Ewing fails to file an
20 opposition when due, the Court may construe it as his consent to the motion's being granted.
21 See Civil Local Rule 7.1(f)(3)(c). Klein may, if he wishes, file an amended reply brief by
22 **September 12**.

23 Ewing is **ORDERED** to comply with the civility requirements of Civil Local Rule 83.4,
24 and with Fed. R. Civ. P. 11. That applies to the opposition to Klein's motion, and more
25 generally to the way he conducts himself in connection with litigation in this Court.

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1 In other cases, Ewing's authorization to file documents electronically in the Court's
2 CM/ECF system has been revoked for similar abuses. The Court now **REVOKES** his
3 authorization in this case.

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IT IS SO ORDERED.

DATED: August 22, 2018


HONORABLE LARRY ALAN BURNS
United States District Judge