

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Evans v. Eisen

Evans · No. 2:22-cv-0778 AC P · Decided September 3, 2025

SUMMARY

The United States District Court for the Eastern District of California strikes the plaintiff’s filing labeled “Motion to Clarify” because it consists of an unauthorized reply to an answer and improperly filed discovery materials. The court explains that replies to answers require court authorization and that discovery requests and responses generally must not be filed unless required by rule or ordered by the court.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 3, 2025
DOCKET	2:22-cv-0778 AC P
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a pro se state prisoner, filed a document titled “Motion to Clarify for the Court,” which consisted of a reply to a defendant’s answer and discovery requests and responses. The magistrate judge treated the filing as an unauthorized notice with attachments and ordered it stricken.
PRECEDENTIAL VALUE	Unpublished district court order; limited persuasive value.

TOPICS

- discovery dispute
- pleadings
- civil procedure
- summary judgment

PRACTICE AREAS

- civil procedure
- prisoner civil rights

QUESTIONS PRESENTED

- Whether a plaintiff may file a reply to an answer without an order from the court authorizing a reply.

2. Whether discovery requests and responses may be filed with the court before they are used in the proceeding or the court orders their filing.
3. Whether the unauthorized filing and its attachments should be stricken.

HOLDINGS

1. A reply to an answer is not contemplated unless the court orders a reply; therefore, plaintiff's reply was an unauthorized filing.
2. Discovery requests and responses generally must not be filed with the court until they are used in the proceeding or the court orders filing, subject to applicable rules and court orders.
3. The notice and attachments filed at ECF No. 26 are stricken.

KEY QUOTATIONS

“Responses to answers are not contemplated by the Federal Rules of Civil Procedure unless ordered by the court.” (at 2)

“Because the filing is comprised of unauthorized filings, the notice and attachments (ECF No. 26) will be stricken.” (at 3)

FACTUAL BACKGROUND

Plaintiff Ernest Evans is a state prisoner proceeding without counsel. He filed a document labeled “Motion to Clarify for the Court” containing a reply to a defendant’s answer and discovery requests and responses. The court found those materials were unauthorized under the Federal Rules of Civil Procedure and the applicable discovery and scheduling order.

PROCEDURAL HISTORY

Evans filed the challenged document at ECF No. 26 during the pendency of his prisoner civil-rights action. The court concluded that a reply to an answer was not authorized absent an order to reply and that discovery materials generally should not be filed with the court; it therefore struck the notice and attachments.

DISPOSITION

other

CASES CITED

- Woods v. Carey, 684 F.3d 934 (9th Cir. 2012)
- Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1998)
- Stratton v. Buck, 697 F.3d 1004, 1008 (9th Cir. 2012)
- Albino v. Baca, 747 F.3d 1162 (9th Cir. 2014)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 ERNEST EVANS, No. 2:22-cv-0778 AC P 12 Plaintiff, 13 v. ORDER 14
CONNIE EISEN, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner, proceeding without
counsel. Plaintiff has filed a “Motion to 18 Clarify for the Court.” ECF No. 26.

The filing is comprised of plaintiff’s reply to a defendant’s 19 answer and a request for and
responses to discovery. Id. 20 Responses to answers are not contemplated by the Federal Rules of
Civil Procedure unless 21 ordered by the court. Pursuant to Rule 12(a)(1)(C), “[a] party must serve
a rely to an answer 22 within 21 days after being served with an order to reply, unless the order
specifies a different 23 time.” Fed.

R. Civ. P. 12(a)(1)(C). As for discovery, “disclosures under Rule 26(a)(1) or (2) 24 and the
following discovery requests and responses must not be filed until they are used in the 25
proceeding or the court orders filing: depositions, interrogatories, requests for documents or 26
tangible things or to permit entry onto land, and requests for admission.” Fed.

R. Civ. P. 27 5(d)(1)(A). Additionally, the discovery and scheduling order in this case, in pertinent
part, states: 28 ////] Discovery requests shall not be filed with the court except when required by
Local Rules 250.1, 250.2, 250.3, and 250.4...The 2 parties are cautioned that filing of discovery
requests or responses, except as required by rule of court, may result in an order of 3 sanctions,
including, but not limited to a recommendation that the 4 action be dismissed or the answer
stricken.

5 || ECF No. 22 at 5. 6 Although plaintiff labels his filing as a motion, it appears to be a notice of
filing with 7 || attachments. Because the filing is comprised of unauthorized filings, the notice and
attachments g | (ECF No. 26) will be stricken. g || DATED: September 2, 2025 ~ Lhar—e_ 11
UNITED STATES MAGISTRATE JUDGE 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 1
Rand Notice to Plaintiff 2 This notice is provided to ensure that you, a pro se prisoner plaintiff,
“have fair, timely and adequate notice 3 of what is required” to oppose a motion for summary
judgment.

See Woods v. Carey, 684 F.3d 934 (9th Cir. 2012); 4 Rand v. Rowland, 154 F.3d 952, 957 (9th Cir.
1998). The court requires that you be provided with this notice 5 regarding the requirements for
opposing a motion for summary judgment under Rule 56 of the Federal Rules of Civil 6
Procedure. 7 When a defendant moves for summary judgment, the defendant is requesting that the
court grant judgment 8 in defendant’s favor without a trial.

If there is no real dispute about any fact that would affect the result of your case, 9 the defendant
who asked for summary judgment is entitled to judgment as a matter of law, which will end your
case 10 against that defendant. A motion for summary judgment will set forth the facts that the

defendant asserts are not 11 reasonably subject to dispute and that entitle the defendant to judgment.

12 To oppose a motion for summary judgment, you must show proof of your claims.1 To do this, you may 13 refer to specific statements made in your complaint if you signed your complaint under penalty of perjury and if your 14 complaint shows that you have personal knowledge of the matters stated. You may also submit declarations setting 15 forth the facts that you believe prove your claims, as long as the person who signs the declaration has personal 16 knowledge of the facts stated.

You may also submit all or part of deposition transcripts, answers to interrogatories, 17 admissions, and other authenticated documents. For each of the facts listed in the defendant's Statement of 18 Undisputed Facts, you must admit the facts that are undisputed, and deny the facts that are disputed. If you deny a 19 fact, you must cite to the proof that you rely on to support your denial.

See L.R. 260(b). If you fail to contradict the 20 defendant's evidence with your own evidence, the court may accept the defendant's evidence as the truth and grant 21 the motion. 22 The court will consider a request to postpone consideration of the defendant's motion if you submit a 23 declaration showing that for a specific reason you cannot present such facts in your opposition.

If you do not respond 24 to the motion, the court may consider your failure to act as a waiver of your opposition. See L.R. 230(l). 25 If the court grants the defendant's motion, whether opposed or unopposed, judgment will be entered for that 26 defendant without a trial and the case will be closed as to that defendant. 27 1 If the motion for summary judgment concerns the exhaustion of administrative remedies, you must submit proof of specific facts regarding the exhaustion of administrative remedies.

See *Stratton v. Buck*, 697 F.3d 1004, 1008 (9th 28 Cir. 2012); *Albino v. Baca*, 747 F.3d 1162 (9th Cir. 2014).