

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.

OPINION

(PC) Evans v. Eisen

PER CURIAM.

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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).