

FILED

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LABORERS' INTERNATIONAL
UNION OF NORTH AMERICA LOCAL
UNION NO. 783; et al.,

Plaintiffs-Appellees,

v.

HOLLAND & HART, LLP, Counsel for
Defendants; et al.,

Appellants,

v.

MAMMOTH PACIFIC, LP, a California
Limited Partnership; et al.,

Defendants.

No. 17-15209

D.C. No.
2:14-cv-01612-MCE-KJN

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, Jr., District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Submitted March 16, 2018**
San Francisco, California

Before: PAEZ and IKUTA, Circuit Judges, and ADELMAN,** District Judge.

Mammoth Pacific LP and Holland & Hart LLP appeal the district court's decision imposing sanctions in the amount of \$1,500. We have jurisdiction under 28 U.S.C. § 1291.

To the extent the district court based its decision to sanction defendants on the grounds that their filings were frivolous and violated the court's warning not to use footnotes to avoid page limits, the district court did not abuse its discretion. *See Zambrano v. City of Tustin*, 885 F.2d 1473, 1477, 1484 (9th Cir. 1989). But to the extent the district court based its decision on the ground that the defendants' filings exceeded the page limits set by the Pretrial Scheduling Order, it was clearly erroneous. The court failed to recognize that it had set different page limits in its subsequent October 4, 2016 order (30 pages for dispositive motions and responses, 15 for replies), which were not violated by the defendants' 29-page summary judgment motion, and 30-page response. (The 19-page reply brief did exceed the page limit set by the October 4th order.) Because the district court clearly erred in

** The panel unanimously concludes this case is suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2)*.

*** The Honorable Lynn S. Adelman, United States District Judge for the Eastern District of Wisconsin, sitting by designation.

disregarding its October 4th order, we vacate and remand for a determination of whether sanctions are appropriate in light of the correct page limits. Each party will bear its own costs on appeal.

VACATED AND REMANDED.