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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Angel Alberto Garcia,)	No. CV-07-999-PHX-LOA
)	
Plaintiff,)	ORDER AND
)	ORDER TO SHOW CAUSE
vs.)	
)	
Qwest Corporation, a corporation,)	
)	
Defendant.)	
)	

Pro se Plaintiff’s Response to Defendant’s Motion for Summary Judgment is single spaced, hard to read and violates LRCiv 7.1(b) which requires “all documents shall be typed **double-spaced.**” LRCiv 7.1(b) (emphasis added). More significantly, *pro se* Plaintiff failed to file a Statement of Facts mandated by LRCiv 56.1(b) when he filed his Response. Additionally, on May 30, 2008, Defendant filed an Objection, docket # 39, to Plaintiff’s failure to disclose his trial witnesses and exhibits as ordered in the Court’s October 23, 2007 Scheduling Order and as required by Fed.R.Civ.P 26(a)(3). (docket # 34 at 4)

On the Court’s own motion,

IT IS ORDERED that Plaintiff’s Response to Defendant’s Motion for Summary, docket # 44, is **STRICKEN** for non-compliance with the Local Rules. Plaintiff shall re-file his Response with double-spaced lines by **5:00 p.m. on or before Tuesday, September 16, 2008.** The Response shall otherwise also comply with the Local Rules. The same exhibits Plaintiff filed on August 18, 2008 shall not be re-filed anew. Plaintiff’s re-filed Statement of Facts may refer to those exhibits filed on August 18, 2008.

1 **IT IS FURTHER ORDERED** that Plaintiff shall file a separate Statement
2 of Facts that complies in all respects with LRCiv 56.1(b)¹ and the Local Rules on or before
3 **5:00 p.m., Tuesday, September 16, 2008.**

4 **IT IS FURTHER ORDERED** that Plaintiff shall show cause in writing on
5 or before **5:00 p.m., Tuesday, September 16, 2008** why this Court should not sustain
6 Defendant's Objection, docket # 39, and enter an order precluding Plaintiff from calling any
7 witnesses other than himself and using any exhibits at trial, if there is one, or in response to
8 Defendant's Motion for Summary Judgment for not complying with this Court's October 23,
9 2007 Order, docket # 34, that Plaintiff disclose his witnesses and exhibits by May 16, 2008.²
10 See, Rule 26(a)(3) and Rule 37(c)(1), FED.R.CIV.P.; *Yeti by Molly, Ltd. v. Deckers Outdoor*
11 *Corp.*, 259 F.3d 1101, 1106 (9th Cir. 2001); *Fonseca v. Sysco Food Services of Arizona,*
12 *Inc.*, 374 F.3d 840, 846 (9th Cir. 2004).

13 **IT IS FURTHER ORDERED** that Defendant shall file a Reply to
14 Plaintiff's re-filed Response to Defendant's Motion for Summary and a Reply to Plaintiff's
15 Response to Order to Show Cause on or before **5:00 p.m., Tuesday, September 30, 2008.**
16 Defendant's Reply to Plaintiff's Response to Order to Show Cause shall address, among
17 others, whether Plaintiff's untimely or non-disclosure of his witnesses and exhibits is/was
18 substantially justified or harmless.

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20
21 ¹ LRCiv 56.1(b) requires, in relevant part:

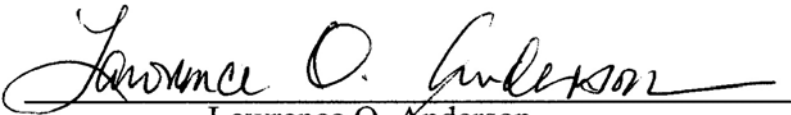
22 [(1)] for each paragraph of the moving party's separate statement of facts, a
23 correspondingly numbered paragraph indicating whether the party disputes the
24 statement of fact set forth in that paragraph and a reference to the specific
25 admissible portion of the record supporting the party's position if the fact is
26 disputed; and (2) any additional facts that establish a genuine issue of material
27 fact or otherwise preclude judgment in favor of the moving party. Each additional
28 fact shall be set forth in a separately numbered paragraph and shall refer to a
 specific admissible portion of the record where the fact finds support. . . .

² It is noted that Defendant timely filed its Rule 26(a)(3) disclosures on May 16, 2008.
(docket # 36)

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Chamber's staff shall promptly fax a copy of this order to defense counsel
at: (303) 813-4501. Plaintiff has not provided the Clerk or the Court with a fax number.

DATED this 2nd day of September, 2008.



Lawrence O. Anderson
United States Magistrate Judge