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7 UNITED STATES DISTRICT COURT  
8 DISTRICT OF ARIZONA

9	Arizona Opera Company, an Arizona non-	)	
10	profit corporation,	)	
		)	
11	Plaintiff,	)	No. CV 06-988-PHX-JAT
12		)	
	vs.	)	<b>PLAINTIFF'S REQUEST FOR</b>
13		)	<b>SUMMARY ADJUDICATION AND</b>
14	AZ Opera Company, an Arizona non-profit	)	<b>ORDER GRANTING MOTION</b>
15	corporation, and John Massaro and Gail	)	<b>FOR SUMMARY JUDGMENT IN</b>
16	Massaro, husband and wife,	)	<b>ACCORDANCE WITH LOCAL</b>
		)	<b>RULE 7.2(i)</b>
17	Defendants.	)	

18 Pursuant to Local Rule LRCiv7.2(i), plaintiff Arizona Opera Company requests  
19 that the Court enter an order granting plaintiff's motion for summary judgment because  
20 Defendants have not filed any opposition in the time allowed under LRCiv 56.1.

21 On March 5, 2007, plaintiff filed and served a motion for summary judgment  
22 against all defendants. See Docket No. 42. This motion was supported by plaintiff's  
23 separate statement of facts, the declaration of David Bolger, testimony from the  
24 preliminary injunction hearing, and numerous exhibits. *Id.* Local Rule LRCiv 56.1(d)  
25 states that any party opposing a summary judgment motion "shall, unless otherwise  
26

1 ordered by the Court, have thirty (30) days after service within which to serve and file a  
2 responsive memorandum in opposition.” Defendants did not seek, and the Court has not  
3 granted, any extension of time to oppose Plaintiff’s motion. Accordingly, Defendants  
4 were required to file any opposition to the motion by no later than April 9, 2007.<sup>1</sup>  
5 Despite being served with the motion and supporting papers, Defendants have filed no  
6 opposition.

7 Pursuant to Local Rule LRCiv 7.2(i), Defendants’ failure to file and serve a timely  
8 opposition “may be deemed a consent to ... the granting of the motion and the Court may  
9 dispose of the motion summarily.” Plaintiff requests that the Court do so in this case and  
10 grant Plaintiff’s motion for summary judgment.

11 **DATED** this 10<sup>th</sup> day of April, 2007.

12 LEWIS AND ROCA LLP

13  
14 By /s/ Sean Garrison

15 Sean D. Garrison

16 Bruce E. Samuels

17 Christy L.E. Hubbard

18 *Attorneys for Plaintiff Arizona Opera Company*

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24 \_\_\_\_\_  
25 <sup>1</sup> Fed. R. Civ. P. 6(e) provided Defendants with an additional 3 days to file and serve an  
26 opposing memorandum because the motion was served on them by First Class Mail. Fed.  
R. Civ. P. 6(a) provides that whenever the last day of a response period falls on a  
weekend day, the response period is extended until the end of the next court day (in this  
case, Monday, April 9, 2007).

**CERTIFICATE OF SERVICE**

1  
2 I hereby certify that on April 10, 2007, I electronically transmitted the attached  
3 document entitled **PLAINTIFF'S REQUEST FOR SUMMARY ADJUDICATION**  
4 **AND ORDER GRANTING MOTION FOR SUMMARY JUDGMENT IN**  
5 **ACCORDANCE WITH LOCAL RULE 7.2(i)** to the Clerk's office using the CM/ECF  
6 System for filing and transmittal of a Notice of Electronic Filing to the following persons  
7 who have registered to receive electronic notice of filings through the CM/ECF system:

8 Gordon S. Bueler ([gsb@buelerjones.com](mailto:gsb@buelerjones.com))  
9 Attorney for Defendants

10  
11 /s/ Sean D. Garrison  
12 An Employee of Lewis and Roca LLP  
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