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2 **UNITED STATES DISTRICT COURT**  
3 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

4 **MICHAEL DILLMAN** and, **STEPHEN**  
5 **DILLMAN,**

6 **Plaintiffs,**

7 **v.**

8 **TUOLUMNE COUNTY, et al.,**

9 **Defendants.**

**1:13-CV-00404 LJO SKO**

**ORDER ACCEPTING PLAINTIFFS’  
LATE-FILED OPPOSITION;  
VACATING HEARING; EXTENDING  
DEFENDANTS’ TIME TO REPLY;  
AND WARNING PLAINTIFFS’  
COUNSEL ABOUT COMPLIANCE  
WITH LOCAL RULES.**

10 The Court has received and reviewed the January 23, 2015 Declaration of Plaintiffs’ counsel,  
11 Joseph L. Wright, which purports to provide an explanation for the fact that Plaintiffs’ opposition to the  
12 pending motion for summary judgment, due January 21, 2015, was filed two days late. Doc. 90. Mr.  
13 Wright explains that he had problems logging into CM/ECF on January 21, 2015, followed by further  
14 problems with his scanner<sup>1</sup> that extended through January 22 and part of January 23, 2015. *Id.* Mr.  
15 Wright failed to follow the clear requirements of Local Rule 134(c), which lays out the procedures to be  
16 followed when a technical failure occurs on the sender’s end. Moreover, Mr. Wright failed to notify  
17 opposing counsel of his difficulties. Among other things, Local Rule 230(c)(2) (specifically applicable  
18 only in case of a Court technical failure) suggests the obvious alternative method of notice to opposing  
19 counsel: service by email, overnight delivery, or other expeditious means appropriate to the  
20 circumstances. Plaintiffs’ counsel did not provide the relevant documents by email to Defendants until  
21 January 23, 2015.

22 Nonetheless, the Court will not strike the Opposition from the record, as this would seriously  
23 prejudice Plaintiffs’ interests. Moreover, the delay in filing will not prejudice Defendants if Defendants

24 \_\_\_\_\_  
25 <sup>1</sup> The Court notes that it is simply not necessary to print and then scan most completed legal documents before uploading  
26 them to CM/ECF. Every major word processing software on the market now comes standard with an option that permits the  
user to “save to” or “print to” the .pdf format required for uploading to CM/ECF. This eliminates the need for a scanner in  
most circumstances and produces a much smaller file for uploading.

1 are afforded additional time to file a reply. Accordingly, the deadline for filing any reply is extended to  
2 **February 3, 2015**. The hearing on the pending motion for summary judgment, currently set for  
3 February 4, 2015, is **VACATED**. The Court will notify the parties if it believes oral argument would aid  
4 resolution of the disputes. Otherwise, the matter will be decided on the papers pursuant to Local Rule  
5 230(g).

6 Plaintiffs' counsel is cautioned that this will be his only warning regarding compliance with the  
7 Local Rules. If his most recent filings are any indication of how he intends to proceed with this case,  
8 counsel is on notice that any and all forms of sanction are on the table, including the striking of  
9 filings/pleadings and/or monetary sanctions. This Court does not have time to deal with an Officer of  
10 the Court who isn't interested in reading and following the rules expected to be followed. If this  
11 happens again, this case will be terminated, and further proceedings should be anticipated in the State  
12 Court in a subsequent case where counsel will be a party.

13 IT IS SO ORDERED.

14 Dated: January 26, 2015

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE