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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REX CHAPPELL,
Plaintiff,
v.
B. FLEMING, et al.,
Defendants.

No. 2:12-cv-00234 MCE AC P

ORDER

On February 5, 2015, the defendants filed a Notice of Request to Seal Documents in which they identified three confidential memoranda that they seek to have sealed. ECF. No. 84-6. In accordance with Local Rule 141, the Request to File Documents Under Seal, proposed order, and the documents to be filed under seal were submitted to the court. Upon review of the request and confidential memoranda, the court finds good cause to grant the defendants’ request to file the unredacted confidential memoranda dated May 11, 2009; September 28, 2009; and February 2, 2010, under seal. However, defendants’ notice states that copies of the request, proposed order, and documents were not provided to plaintiff. ECF. No. 84-6 at 2.

Local Rule 141(b) states that

[e]xcept in matters in which it is clearly appropriate not to serve the “Request to Seal Documents,” proposed order, and/or documents upon the parties, which would include criminal pre-indictment matters, all Requests, proposed orders, and submitted documents

1 shall be served on all parties on or before the day they are submitted
2 to the Court.

3 The rule further dictates that when the request, proposed order, and/or documents covered by the
4 request are not served upon one or more parties, the request “shall set forth the basis for
5 excluding any party from service.” L.R. 141(b). While the request sufficiently explains why
6 plaintiff has not been provided with the unredacted confidential memoranda, it fails to address
7 why he was not provided with copies of the request and proposed order.

8 Additionally, while the court finds good cause for not serving plaintiff with unredacted
9 copies of the three confidential memoranda, there is no indication that defendants have provided
10 plaintiff with redacted copies of the documents. Defendants have offered no explanation as to
11 why measures such as redaction and limited access would be insufficient to address security
12 concerns. The defendants will therefore be given seven days from the date of this order to either
13 serve plaintiff with copies of the request, proposed order, and redacted copies of the three
14 confidential memoranda or explain why providing any or all of these documents is not
15 appropriate.

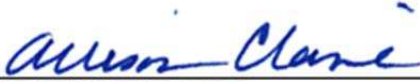
16 Accordingly, IT IS HEREBY ORDERED that:

17 1. Defendant’s Request to File Documents Under Seal is granted and the unredacted
18 confidential memoranda dated May 11, 2009; September 28, 2009; and February 2, 2010, shall be
19 filed under seal.

20 2. Within seven days of the filing of this order, the defendants shall either provide
21 plaintiff with the Request to File Documents Under Seal, proposed order, and redacted copies of
22 the three confidential memoranda or file a response explaining why providing plaintiff with any
23 or all of these documents is not appropriate. If defendants choose to serve plaintiff with some or
24 all of the documents indicated above, they shall promptly file a notice identifying which
25 documents have been provided to plaintiff. If the documents provided to plaintiff include
26 redacted copies of any of the confidential memoranda, a copy of the redacted document(s) should
27 also be provided to the court in the same manner in which the request to file under seal was
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1 submitted. If the defendants believe production of any of the documents is inappropriate and that
2 their response to this order contains sensitive information, their response may be submitted ex
3 parte via email.

4 DATED: February 10, 2015

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6 ALLISON CLAIRE
7 UNITED STATES MAGISTRATE JUDGE

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