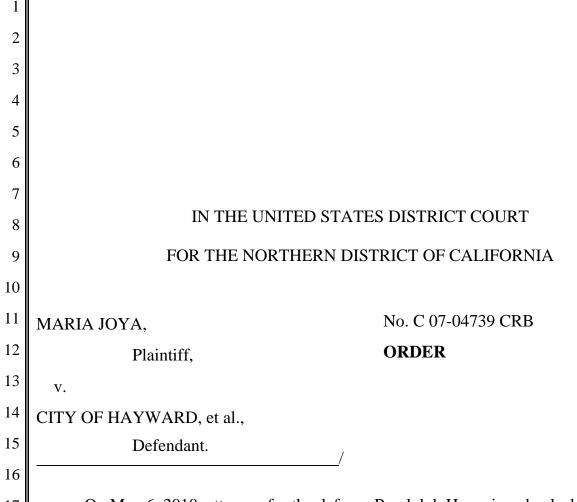
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On May 6, 2010, attorney for the defense Randolph Hom signed a declaration
attesting that as of that date a copy of the defendant's bill of costs "has been served on all
parties" via first class mail. Doc. 133, ex. A. However, when counsel for plaintiff finally
received the bill on May 28, documents attached to it reflected that they had been generated
on May 25. <u>Id.</u> at 3. Therefore, the bill of costs could not have been served via first class
mail as of May 6 because the contents of that bill were not even printed until nearly three
weeks later. Mr. Hom's declaration to the contrary was false.

On May 28, plaintiff moved to strike the bill on the grounds that it was untimely under
Civil Local Rule 54-1 and that Mr. Hom's declaration was false. Mr. Hom failed to respond
to this motion in any way, neither by withdrawing his untimely bill nor otherwise explaining
himself in light of the serious allegations contained in plaintiff's motion.

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In light of this silence, this Court issued on July 20 an order requiring counsel for both parties, in addition to Mr. Hom's supervisor, to appear at a status conference on August 6. On July 22, this hearing was continued by stipulation to August 20.

All told, between the filing of plaintiff's motion to strike and this Court's August 20 status conference, Mr. Hom had more than two months to respond to plaintiff's motion. Although Mr. Hom now claims he believed the local rules precluded him from responding to plaintiff's motion, even this thin excuse fails to explain why, upon being confronted with the fact that his bill of costs was untimely and his declaration to the contrary was false, Mr. Hom did not withdraw the bill. Moreover, had this Court not sua sponte ordered a hearing, this story likely would never have fully come to light.

At the August 20 hearing Mr. Hom offered an entirely uncorroborated explanation. 12 Even if it had been corroborated, such an explanation does not excuse an attorney making a false statement under the penalty of perjury. Mr. Hom well knew when he signed the 13 declaration that a copy had not yet been served.

15 This Court indicated at the hearing that it was inclined to refer the matter to the U.S. 16 Attorney's office for a perjury investigation. Upon reflection, this Court now believes that 17 this issue is better considered as a matter of civil contempt. Therefore, Mr. Hom is ORDERED TO SHOW CAUSE why he should not be held in contempt. A hearing is hereby 18 19 set for September 24 at 8:30am.

However, this order will be dissolved and the hearing vacated if Mr. Hom presents to 20 21 Plaintiff's counsel a cashier's check in the amount of \$2,613.60, paid by his personal funds, by close of business on September 3. This amount will cover counsel's expenses in opposing 22 the bill of costs. Mr. Hom shall advise the Court if and when he does so. 23

IT IS SO ORDERED.

27 Dated: August 26, 2010

CHARLES R. BREYER UNITED STATES DISTRICT JUDGE

For the Northern District of California **United States District Court**

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