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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

AF HOLDINGS LLC,
Plaintiff,
v.
JOE NAVASCA,
Defendant.

Case No. [12-cv-02396-EMC](#) (NJV)

ORDER DENYING PLAINTIFF'S EX PARTE APPLICATIONS

Re: Dkt. Nos. 104, 108

Plaintiff AF Holdings LLC filed two ex parte applications. The first ex parte application (Doc. No. 104) asks for permission to file a sur-reply to Defendant's motion for sanctions, and was filed on the day of the evidentiary hearing. The first ex parte application is denied on the grounds that it was tardy, that Plaintiff offered no valid excuse for the lateness of the application, and that the application does not add any information that was not presented to the court either through briefing or evidence at the hearing. The second ex parte application (Doc. No. 108) asks for permission for Mark Lutz to file an affidavit under seal addressing the issues AF Holdings was ordered to address at the evidentiary hearing, and explaining why Lutz did not appear at the hearing. The second ex parte application is denied on the ground that the August 28, 2013 evidentiary hearing was an adversary proceeding; allowing Lutz to file an affidavit would deprive defense counsel from cross-examining, which would be unjust. In addition, if Lutz wanted to

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explain his absence from the hearing, and AF Holdings' failure to address the issues the court ordered it to be prepared to address, he should have done so much earlier.

IT IS SO ORDERED.

Dated: September 6, 2013



NANDOR J. VADAS
United States Magistrate Judge