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Attorneys for Defendant
 the County of Sonoma

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

GARY PRICE THOMAS,

Case No. CV 12-05607 SI

Plaintiff,

v.

SONOMA COUNTY, et al.,

Defendants.

**DEFENDANT THE COUNTY OF SONOMA'S
 MOTION FOR ADMINISTRATIVE RELIEF
 FROM ORDER ENTERED 6/24/13, OR
 ALTERNATIVELY, TO EXTEND TIME TO
 RESPOND TO ORDER; DECLARATION OF
 ANNE L. KECK; ~~PROPOSED~~ ORDER**

[Local Civil Rules 6-3, 7-11]

Defendant the County of Sonoma ("County") hereby respectfully submits this Motion for Administrative Relief from the Order entered by this Court on June 24, 2013 (Dkt. No. 32, the "Order"), or alternatively, to extend time to respond to the directions contained in that Order. The County brings this motion pursuant to Local Civil Rules 6-3 and 7-11, and asks the Court to dispense with the requirement in the Order for it to file a "signed" declaration of Tracy Rankin, or alternatively, to extend the time to do so through July 2, 2013. For the convenience of the Court, a copy of the Order is attached to the Declaration of Anne L. Keck hereto as Exhibit "A".

I. GENERAL BACKGROUND

On January 16, 2013, the County submitted a combined motion to dismiss and motion for summary judgment (Dkt. No. 4), as well as supporting documents, including the declaration of

1 Tracy Rankin (Dkt. No. 5). Ms. Rankin is the Human Resources Analyst for the Sonoma County
2 Superior Court, who attested in her declaration that none of the individuals named as defendants in
3 the complaint are employees of the County, but rather are State or Superior Court employees.
4 Accordingly, in its motion, the County requests summary judgment on the ground that none of the
5 actions alleged in the complaint were performed by any employee or agent of the County.

6 The County submitted Ms. Rankin's declaration to the Court with an attached attestation
7 from its counsel of record, Deputy County Counsel Anne L. Keck, who attested that "the
8 concurrence in the filing of this document has been obtained from its signatories[sic]." (Dkt. No. 5,
9 at 4.) In fact, Ms. Rankin had authorized the filing of the declaration under her signature via e-mail
10 sent to Ms. Keck on January 16, 2013. (See attached Declaration of Anne L. Keck, Exh. "B".)

11 The initial hearing date on the County's motions, set for February 28, 2013, was vacated
12 pursuant to the reassignment of this case to this Court. (Dkt. No. 15.) Thereafter, the County
13 submitted an amended notice of hearing on the motions, setting them for hearing on April 26, 2013.
14 (Dkt. No. 19.) The Court granted Plaintiff's request to continue that hearing date, and re-set it for
15 May 17, 2013. (Dkt. No. 23.) Thereafter, the Court vacated the hearing date on May 10, 2013, due
16 to Plaintiff's failure to file an opposition to the motions, and issued an Order to Show Cause to
17 Plaintiff. (Dkt. No. 26.) Plaintiff then filed an opposition to the County's motions on May 13, 2013
18 (Dkt. No. 27), to which the County replied on May 21, 2013. (Dkt. No. 29.) No hearing date is
19 currently set on the motions.

20 On June 24, 2013, the Court issued an "Order Re: Defendant's Motion to Dismiss." (Dkt.
21 No. 32.) In the Order, the Court states that the declaration of Tracy Rankin, which the County
22 submitted in support of its motion for summary judgment, is not signed. (Id.) The Court also stated
23 that it is prepared to rule on the County's pending motion, but cannot do so until it files a signed
24 declaration of Tracy Rankin. (Id.) The Court then directed the County to file a signed declaration no
25 later than June 28, 2013, and stated that the motion will be deemed submitted thereafter without oral
26 argument. (Id.)

1 Pursuant to Local Civil Rule 5-1(i)(3), County Counsel obtained e-mail consent from Ms.
2 Rankin to file the declaration under her signature, and so attested. (Dkt. No. 5, at 4.) Counsel does
3 not have an original signature on such declaration in her possession, though can obtain one from Ms.
4 Rankin on or before July 2, 2013. Counsel is unable to contact Ms. Rankin at present, as Ms.
5 Rankin is hiking in a remote area and is not due back at work until July 1, 2013.

6 **II. LEGAL DISCUSSION**

7 The electronic filing of document signed by persons other than the filing attorney is governed
8 by Local Civil Rule 5-1(i), which provides in relevant part:

9 **(3) Others.** In the case of a Signatory who is not an ECF user, or who is an ECF user
10 but whose user ID and password are not utilized in the electronic filing of the
11 document, as in the case of documents requiring multiple signatures, the filer of the
12 document shall attest that concurrence in the filing of the document has been obtained
13 from each of the other Signatories, which shall serve in lieu of their signatures on the
14 document. The filer's attestation may be incorporated into the document itself, or take
15 the form of a declaration attached to the document. The filer shall maintain records to
16 support this concurrence for subsequent production for the Court, if so ordered, or for
inspection upon request by a party, until one year after the final resolution of the
action (including appeal, if any). The filer may attach a scanned image of the
signature page of the document being electronically filed in lieu of maintaining the
paper record for subsequent production if required.

17 (Local Civil Rule 5-1(i)(3).)

18 While the Local Civil Rule requires counsel to "maintain records" that support the
19 signatory's concurrence in the filing of the document, it does not require counsel to obtain or
20 preserve an actual signature on the document. Accordingly, it is the practice of County Counsel to
21 maintain a written record from the signatory approving the filing of the document (usually
22 accomplished through an e-mail verification), but not to require an inked signature on the document
23 itself.

24 Consistent with this practice, County Counsel obtained Ms. Rankin's consent to file her
25 declaration under her signature via e-mail verification. (See Declaration of Anne L. Keck, Exh.
26 "B".) Counsel believes that this process fully satisfies the requirements of Local Civil Rule 5-
27

1 1(i)(3), and thus requests relief from the provisions of the Order requiring the County to submit a
2 “signed” copy of Ms. Rankin’s declaration.

3 Alternatively, County Counsel can obtain an inked signature on the declaration from Ms.
4 Rankin upon her return from her hiking vacation on July 1, 2013. The County requests an additional
5 day in which to file such declaration, through July 2, 2013, to account for any administrative timing
6 issues.

7 **III. CONCLUSION**

8 Based on the foregoing, the County of Sonoma respectfully requests the Court to grant it
9 administrative relief from the Order Re: Defendant’s Motion to Dismiss (Dkt. No. 32), by
10 determining that the attestation attached to the Declaration of Tracy Rankin (Dkt. No. 5) is sufficient
11 to satisfy electronic case filing requirements per Local Civil Rule 5-1(i), or alternatively, to provide
12 the County through and including July 2, 2013, to file a signature to such declaration.

13 Respectfully Submitted,

14 Dated: June 25, 2013

Bruce D. Goldstein, Sonoma County Counsel

16 By: /s/ Anne L. Keck
17 Anne L. Keck, Deputy County Counsel
18 Attorneys for Defendant the County of
19 Sonoma
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DECLARATION OF ANNE L. KECK

I, Anne L. Keck, hereby declare as follows:

1. I am an attorney admitted to practice law in the State of California and before this Court. I am employed as a Deputy County Counsel for the County of Sonoma, and represent Defendant the County of Sonoma in this action. The facts set forth below are based on my own personal knowledge, except where otherwise indicated and if called to testify herein I could and would competently testify thereto.

2. A true and correct copy of the Order Re: Defendant's Motion to Dismiss (Dkt. No. 32) entered in this case on June 24, 2013, is attached hereto as Exhibit "A" for the convenience of the Court.

3. I worked directly with Sonoma County Superior Court Human Resources Analyst Tracy Rankin to prepare her declaration submitted in support of the County's motion for summary judgment as Docket Number 5. Ms. Rankin approved the filing of the final draft of her declaration under her signature via e-mail on January 16, 2013, a true and correct copy of which is attached hereto as Exhibit "B".

4. It is not my practice to request "inked" copies of signatures from declarants or other parties who have approved the filing of a paper under their signature via ECF. Instead, I require and retain a writing (sent via e-mail or otherwise) that verifies the approval of the signatory to the filing of this document. Consistent with this general practice, I do not currently have in my possession Ms. Rankin's inked signature on her declaration.

5. While I am happy to obtain Ms. Rankin's inked signature on her declaration, I have been informed by her immediate supervisor, Deputy Court Executive Officer Cindia Martinez, that Ms. Rankin is currently unavailable as she is on vacation and is hiking in a remote area. Ms. Martinez further informed me that Ms. Rankin is due to return to work on July 1, 2013, and that she will obtain Ms. Rankin's signature on her declaration that day.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

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Executed this 25th day of June, 2013, in Santa Rosa, California.

/s/ Anne Keck

Anne Keck

~~[PROPOSED]~~ ORDER

Pursuant to Defendant the County of Sonoma's foregoing Motion for Administrative Relief from Order Entered 6/24/13, or Alternatively, to Extend Time to Respond to Order, and with good cause appearing,

IT IS HEREBY ORDERED that the Order Re: Motions to Dismiss, entered by this Court on June 24, 2013, as Docket No. 32, is hereby amended as follows (check one):

☐ The Attestation of Anne L. Keck attached to the Declaration of Tracy Rankin in Support of the County of Sonoma's Motion for Summary Judgment (Dkt. No. 5) complies with Local Civil Rule 5-1(i)(3) to verify that the document is deemed signed by Ms. Rankin, and the e-mail verification of Ms. Rankin's approval of and concurrence in the filing of such document under her signature is sufficient to satisfy the requirements of the local rule to deem such declaration signed; accordingly, the County need take no further action with respect to Ms. Rankin's declaration.

OR ALTERNATIVELY,

☒ The County of Sonoma is provided through and including July 2, 2013, in which to file a signature on the Declaration of Tracy Rankin in Support of the County of Sonoma's Motion for Summary Judgment (Dkt. No. 5).

IT IS SO ORDERED.

Dated: 6/27/13



SUSAN ILLSTON
United States District Judge

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PROOF OF SERVICE

I am employed in the County of Sonoma, California; I am over the age of 18 years and not a party to the within action; my business address is 575 Administration Dr., Rm. 105A, Santa Rosa, California. I am readily familiar with my employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service.

On June 25, 2013, following ordinary business practice, I served a copy of **DEFENDANT THE COUNTY OF SONOMA'S MOTION FOR ADMINISTRATIVE RELIEF FROM ORDER ENTERED 6/24/13, OR ALTERNATIVELY, TO EXTEND TIME TO RESPOND TO ORDER; DECLARATION OF ANNE L. KECK; [PROPOSED] ORDER** by placing on that date at my place of business a true copy thereof, enclosed in a sealed envelope, for collection and mailing with the United States Postal Service where it would be deposited with the United States Postal Service that same day in the ordinary course of business, addressed as follows:

Gary Price Thomas
2423 McBride Lane, #6
Santa Rosa, CA 95403

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on June 25, 2013, at Santa Rosa, California.

/s/ Megan Sweeley
Megan Sweeley

I, Anne L. Keck, the ECF User whose identification and password are being used to file this proof of service, hereby attest pursuant to Civil Local Rule 5-1(i) that the concurrence in the filing of this document has been obtained from its signatory.

Dated: June 25, 2013

By:____/s/ Anne L. Keck_____
Anne L. Keck

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GARY PRICE THOMAS,

No. C 12-5607 SI

Plaintiff,

**ORDER RE: DEFENDANT'S MOTION
TO DISMISS**

v.


SONOMA COUNTY, *et al.*,

Defendants.

On January 16, 2013, defendant County of Sonoma filed a motion to dismiss the complaint and a motion for summary judgment. In support of the motion, defendant filed the declaration of Tracy Rankin. The declaration is not signed. After plaintiff failed to file an opposition, the Court issued an order to show cause and vacated the hearing on defendant's motion. Plaintiff then filed an opposition and a response to the order to show cause, stating that he does wish to prosecute this case. Accordingly, the Court is prepared to rule on defendant's pending motion. However, the Court cannot do so until defendant files a signed declaration of Tracy Rankin. Accordingly, the Court directs defendant to file a signed declaration no later than **June 28, 2013**; once the declaration is filed, the motion will be deemed submitted without oral argument.

IT IS SO ORDERED.

Dated: June 24, 2013



SUSAN ILLSTON
United States District Judge

EXHIBIT B

Thomas

Anne Keck

From: Tracy Rankin [trankin@sonomacourt.org]
Sent: Wednesday, January 16, 2013 1:27 PM
To: Anne Keck; Cindia Martinez; Eileen Shired
Subject: RE: Thomas - Declaration of Tracy Rankin in Support of Motion for Summary Judgment_v1

Yes, you do.

Thank you,

*Tracy Rankin
Court Human Resources Analyst
Sonoma County Superior Court
(707) 521-6565*

From: Anne Keck [mailto:Anne.Keck@sonoma-county.org]
Sent: Wednesday, January 16, 2013 1:21 PM
To: Cindia Martinez; Eileen Shired
Cc: Tracy Rankin
Subject: RE: Thomas - Declaration of Tracy Rankin in Support of Motion for Summary Judgment_v1

These changes look great to me.

Do we have Tracy's authority to file under her signature? - Anne

From: Cindia Martinez [mailto:cmartine@sonomacourt.org]
Sent: Wednesday, January 16, 2013 1:17 PM
To: Eileen Shired; Anne Keck
Cc: Tracy Rankin
Subject: Thomas - Declaration of Tracy Rankin in Support of Motion for Summary Judgment_v1
Importance: High

I have made some slight corrections. If they look okay to you, or if you want to "legal ease" the document, please update and resend and we will get it approved for you. We have a meeting at 1:30 which will last till about 3:00 so will be unable during that time to respond. Thanks!

Cindia