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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SARA MCENROE,
Plaintiff,

v.

LOCAL 9400, COMMUNICATION
WORKERS OF AMERICA, AFL-CIO, et
al.,
Defendants.

Case No. 14-cv-03461-HSG

**ORDER REGARDING
SUPPLEMENTAL BRIEFING**

Plaintiff Sara McEnroe filed this action on August 16, 2012, in Sonoma County Superior Court, against Defendants Local 9400, Communications Workers of America, AFL-CIO; District 9, Communications Workers of America, AFL-CIO; and Communications Workers of America, AFL-CIO. Dkt. No. 1. Defendants removed the case to this Court on July 30, 2014. *Id.* In the operative complaint, filed on August 27, 2014, Plaintiff alleges a single cause of action for breach of the duty of fair representation as to Plaintiff’s unlawful termination grievance, which is a “hybrid” claim under § 301 of the Labor Management Relations Act (“LMRA”). Dkt. No. 11.

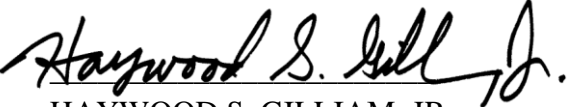
Defendants filed a motion for summary judgment on October 7, 2015. Dkt. No. 41. A hearing on the motion was held on November 12, 2015, at which Plaintiff represented that additional discovery taken since she filed the opposition to the motion for summary judgment demonstrates a genuine dispute of material fact. While the Court doubts that Plaintiff has made the required showing under Rule 56(d) that “for specified reasons, [she] cannot present facts essential to justify [her] opposition,” the Court finds in an abundance of caution that supplemental briefing regarding the additional discovery is warranted to ensure that a decision on the motion for summary judgment is made on the basis of a complete evidentiary record.

Accordingly, Plaintiff is ordered to file a supplemental brief of no more than ten pages,

1 clearly setting out those new facts discovered after the opposition was filed that bear on (1) when
2 the alleged breach of the duty of fair representation occurred; (2) what constituted the alleged
3 breach of the duty of fair representation; and (3) why there is a genuine dispute of material fact
4 regarding whether Defendants breached the duty of fair representation. Plaintiff shall file the
5 supplemental brief by November 30, 2015. Defendants need not file a responsive supplemental
6 brief unless the Court so orders following its review of Plaintiff's filing.

7 **IT IS SO ORDERED.**

8 Dated: November 13, 2015

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11 HAYWOOD S. GILLIAM, JR.
12 United States District Judge
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