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7 Appearing pro se

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 JOHN BERMAN,

11 Plaintiff,

12 v.

13 DAVID MODELL,

14 Defendant.

15 **Case No. 3:15-cv-04895-HSG**

16 **PLAINTIFF'S LETTER AND**  
17 **DECLARATION RE: DKT. 12 AND**  
18 **REQUEST FOR COURT CALL**  
19 **APPEARANCE ON DEC. 10, 2015**

20 **Date:**  
21 **Time:**  
22 **Judge: Hon. Haywood S. Gilliam, Jr.**

23 **Action Removed: October 26, 2015**

24 To the Court:

25 Plaintiff received by mail and read Dkt. 12 on Thanksgiving Day. Plaintiff very much  
26 appreciates the Court's conditional grant of ECF privileges. Below is Plaintiff's declaration,  
27 pursuant to the conditional grant. Plaintiff had previously received a message from the Courtroom  
28 Deputy via a transcribed-to-email voice mail concerning the extension to file. Through a  
combination of factors, including the imperfect computerized transcription and Plaintiff's reading  
on the small screen and just thinking more quickly than accurately, Plaintiff wound up believing

1 that the message was that both papers were due on Nov. 27. (The actual voice mail was  
2 unavailable at the time due to a very poor wireless signal, and the double due date just stuck.)

3 Also in mid-November, Plaintiff had a very rare macbook failure sequence terminating  
4 with main-board failure. Though Plaintiff was well backed up (not perfectly) and the hard drives  
5 were apparently okay, the process of getting files even partially reorganized on a quickly-  
6 purchased, older, cheap, low-memory core duo-macbook just to resume asap, was laborious. And  
7 in the end, Plaintiff did not have all his tools (and what tools he had were not working well with  
8 the low, 2GB memory) because they were not compatible with the core duo set.

9 All that said, and it is a lot, Plaintiff got bogged down in the end checking record references  
10 (something Plaintiff tries to be meticulous about), but document organization on a mere 2GB  
11 memory is near impossible, with Acrobat constantly quitting. In the end, the reply on remand was  
12 late and the other one needed errata.

13 Plaintiff is planning to make a trip to San Francisco tomorrow to get hard copies to the  
14 clerk, though two will be late.

15 Courtcall request: Plaintiff respectfully request courtcall permission for Dec. 10. Getting  
16 to San Francisco and managing Plaintiff's other obligations and managing the city parking are very  
17 arduous for Plaintiff.

18 Plaintiff declares as follows. I, John Berman, declare:

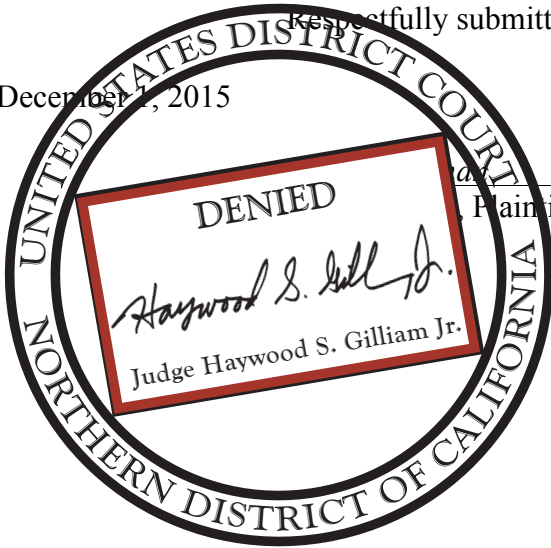
- 19 1. The following facts are based on my personal knowledge, except those facts stated on  
20 information and belief, and as to all such facts stated on information and belief, I am  
21 informed and believe that the same are true and shall so provide the bases of that  
22 information and belief. If called to testify, I would and could do so competently as  
23 follows:
- 24 2. I have read and understood General Order 45. I will attempt to comply with the  
25 General Order and will so attempt to the best of my ability. I state, in full disclosure,  
26 that sometimes financial constraints and the sometimes impossible task, in my  
27 experience, of finding a courier will prevent the hard copies from arriving as required in  
28 the General Order.
3. I declare that the foregoing is true and correct.

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4. Executed this 1<sup>st</sup> day of December 2015 in Sacramento, Sacramento County, California  
under penalty of perjury under applicable laws.

Respectfully submitted,

Dated: December 1, 2015



Plaintiff