

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KERLINE ASTRE,  
Plaintiff,  
v.  
SUSAN MCQUAID, et al.,  
Defendants.

Case No. [3:18-cv-00138-WHO](#)

**ORDER GRANTING MOTION FOR  
RELIEF AND SETTING HEARING**

Re: Dkt. No. 27, 28, 29

Plaintiff Kerline Astre filed a motion for relief from inadvertent misfiling of her opposition to defendant Susan McQuaid’s motion to strike (Dkt. No. 21).<sup>1</sup> Mot. for Relief (Dkt. No. 28). She seeks relief under Federal Rule of Civil Procedure 6(b)(1)(B), which allows the court, in its discretion and for good cause, to extend time “on motion made after the time has expired if the party failed to act because of excusable neglect.” Fed. R. Civ. P. 6(b)(1)(B); *see also* Civil L. R. 6-3. Her counsel indicates that he inadvertently filed Astre’s opposition to McQuaid’s motion to dismiss in place of her opposition to McQuaid’s motion to strike, “probably, at least in significant part” due to his “computer systems[.]” Witteman Decl. ¶ 2 (Dkt. No. 28-1). He discovered the mistake only after reviewing McQuaid’s reply, which noted that Astre’s opposition was “identical” to her opposition to the motion to dismiss. *See* Reply to Mot. to Strike (Dkt. No. 25). Astre attached the correct opposition to Witteman Declaration submitted in support of her request. *See* Opp’n to McQuaid Mot. to Strike (Witteman Decl., Ex. A, Dkt. NO. 28-1 at 4). McQuaid has not filed an opposition.

---

<sup>1</sup> She simultaneously filed a motion to shorten time to on the briefing and hearing schedule for her motion for relief, based on the hearing date for the motions to dismiss and motions to strike. Dkt. No. 29. That motion is MOOTED by this Order.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Having found good cause, the motion is GRANTED. The correct opposition attached to the Witteman Declaration will be considered in adjudicating McQuaid’s motion to strike. If McQuaid wishes to file a reply to the correct opposition, she may do so by **Friday, April 13, 2018.**

In addition, the parties filed a stipulation to continue the hearing date on the motions from April 18 to April 25. Dkt. No. 27. The court has informed the parties that April 25 is not available for hearings. The parties have agreed to hear the motions on April 24, 2018. The hearings on McQuaid’s motions to dismiss and strike (Dkt. Nos. 20, 21), and Findlay’s motions to dismiss and strike (Dkt. Nos. 14, 15) are set for **April 24, 2018 at 9:00 a.m.**

**IT IS SO ORDERED.**

Dated: April 9, 2018

  
\_\_\_\_\_  
William H. Orrick  
United States District Judge