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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

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10 ROBERT CARL PATRICK KEANE, et al.,

Case No: C 07-04894 SBA

11 Plaintiffs,

**ORDER STRIKING IMPROPERLY-
FILED MOTIONS FOR SUMMARY
JUDGMENT**

12 vs.

13 SETH M. MCMULLEN, et al.,

14 Defendants.

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16 Throughout this action, Defendants Seth McMullen and John Silva (collectively
17 “Federal Defendants”) have been represented by the Office of the United States Attorney,
18 which has submitted all filings in this action jointly on behalf of Federal Defendants.¹ On
19 April 17, 2012, Federal Defendants filed two separate motions for summary judgment—
20 one on behalf of McMullen and the other on behalf of Silva— collectively totaling 42
21 pages of briefing. In doing so, it is apparent that Federal Defendants are attempting to
22 circumvent Civil Local Rules, which limits motions to 25 pages in length. Civ. L.R. 7-2(b).
23 Federal Defendants’ motions, therefore, will be stricken from the record. See Swanson v.
24 U.S. Forest Serv., 87 F.3d 339, 345 (9th Cir. 1996) (courts have discretion to strike
25 oversized briefs).

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28 ¹ Paul Accornero also was included among the Federal Defendants; however,
Plaintiffs have dismissed him as a party. Dkt. 148.

1 Notwithstanding Federal Defendants’ violation of the Court’s Local Rules, the Court
2 will allow them an opportunity to file a single summary judgment motion, which conforms
3 in all respects to the applicable rules of procedure. See Smith v. Frank, 923 F.2d 139, 142
4 (9th Cir. 1991) (“Pleadings which are timely filed, but overly long under the local rules
5 should not be rejected without a reasonable, even if conditional opportunity to conform the
6 local rules.”). The parties should endeavor to keep their arguments concise and to the
7 point. “[I]t is typically the shorter briefs that are the most helpful, perhaps because the
8 discipline of compression forces the parties to explain clearly and succinctly what has
9 happened, the precise legal issue, and just why they believe the law supports them.” In re
10 M.S.V., Inc., 892 F.2d 5, 6 (1st Cir. 1989) (noting that briefs exceeding the normal page
11 limits are disfavored); see also Fleming v. County of Kane, State of Ill., 855 F.2d 496, 497
12 (7th Cir. 1988) (“Overly long briefs, however, may actually hurt a party’s case, making it
13 ‘far more likely that meritorious arguments will be lost amid the mass of detail.’”) (citation
14 omitted).

15 IT IS HEREBY ORDERED THAT:

16 1. The motion papers filed in connection with Federal Defendants’ two improper
17 motions for summary judgment are stricken from the record. The Clerk shall strike Docket
18 151, 152, 153, 154, 155 and 156.

19 2. Federal Defendants shall have until May 29, 2012 to file a renewed, single
20 motion for summary judgment. Plaintiffs’ opposition thereto shall be filed by no later than
21 June 12, 2012. Federal Defendants shall file their reply by June 19, 2012. The moving and
22 opposition papers shall be limited to 20 pages, and the reply is limited to 12 pages. The
23 parties are warned that further transgressions of any applicable procedural rule or Order of
24 this Court may result in the imposition of sanctions against counsel or the parties, or both.


25 3. The hearing on Federal Defendant’s motion for summary judgment is
26 CONTINUED from May 22, 2012, to July 10, 2012 at 1:00 p.m. Pursuant to Federal Rule
27 of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court, in its discretion, may
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1 resolve the motion without oral argument. The parties are advised to check the Court's
2 website to determine whether a court appearance is required.

3 4. The parties shall appear for a telephonic Case Management Conference on
4 **July 25, 2012 at 2:45 p.m.** Prior to the date scheduled for the conference, the parties shall
5 meet and confer and prepare a joint Case Management Conference Statement which
6 complies with the Standing Order for All Judges of the Northern District of California and
7 the Standing Orders of this Court. Plaintiffs shall assume responsibility for filing the joint
8 statement no less than seven (7) days prior to the conference date. Plaintiffs' counsel is to
9 set up the conference call with all the parties on the line and call chambers at (510) 637-
10 3559. NO PARTY SHALL CONTACT CHAMBERS DIRECTLY WITHOUT PRIOR
11 AUTHORIZATION OF THE COURT.

12 IT IS SO ORDERED.

13 Dated: May 14, 2012


14 SAUNDRA BROWN ARMSTRONG
15 United States District Judge
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