

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

3
4 LINDA M. KNIGHTEN,

No. C 12-2296 CW

5 Plaintiff,

ORDER DENYING
MOTION FOR LEAVE
TO FILE

6 v.

SUPPLEMENTAL

7 OMNI HOTEL, et al.,

DECLARATION

(Docket No. 42)

8 Defendants.

AND CONTINUING

MOTION HEARING

9 _____/

10 On May 1, 2013, Plaintiff Linda Knighten moved for leave to
11 file a supplemental declaration in opposition to Defendant Omni
12 Hotel's motion for summary judgment. Plaintiff has not explained
13 why she failed to file this evidence with her opposition brief,
14 which was submitted two days earlier and was itself filed four
15 days late. Plaintiff's motion also failed to acknowledge that she
16 never previously disclosed the roughly fifty pages of documents
17 attached to her supplemental declaration, even though she was
18 required to do so under Federal Rule of Civil Procedure 26(a) as
19 part of her initial disclosures.¹ See Declaration of Lisa van
20 Krieken, Ex. B, E-Mail Exchange Between R. Rogers & J.C. Lee.

21 Allowing Plaintiff to submit previously undisclosed evidence
22 at this late stage -- a full month after fact discovery closed and
23 more than two weeks after Defendant filed its opening summary

24 _____
25 ¹ Plaintiff filed an unauthorized reply in support of her
26 administrative motion in which she asserts (without a supporting
27 declaration) that she was prevented from meeting her discovery
28 obligations by the large volume of documents she needed to review. This
does not excuse Plaintiff's failure to comply with Rule 26. If
Plaintiff needed additional time to review and disclose documents, she
should have notified Defendant and moved for an extension of the fact
discovery deadline.

1 judgment brief -- would prejudice Defendant. Accordingly,
2 Plaintiff's motion is DENIED.

3 In addition, because Plaintiff filed her opposition brief
4 late, Defendant's reply brief is now due May 6, 2013 and the
5 hearing on Defendant's motion for summary judgment is CONTINUED to
6 2:00 p.m. on May 23, 2013.

7 IT IS SO ORDERED.

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9 Dated: 5/2/2013


CLAUDIA WILKEN
United States District Judge

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