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

MICHAEL ALLEN STERNI,)
)
 Plaintiff,)
)
 v.)
)
 UNIT SUPERVISOR LAPAGE,)
)
 Defendant.)
 _____)

No. C 12-5145 RMW (PR)
ORDER DENYING WITHOUT
PREJUDICE DEFENDANT’S
MOTION TO FILE UNDER
SEAL

Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. On February 21, 2013, the court issued an order of service upon defendant Unit Supervisor LaPage and directed him to file a dispositive motion or notice that such a motion was unwarranted. After being granted an extension of time within which to file such a motion, on August 22, 2013, defendant filed an administrative motion to file under seal the following documents: (1) motion for summary judgment and accompanying memorandum of points and authorities; (2) declaration of Helen Tierney, MD, in support of motion for summary judgment and compact disc of medical records; (3) declaration of defendant in support of motion for summary judgment; and (4) Rand warning to plaintiff regarding opposing the motion for summary judgment.

The Northern District of California Civil Local Rule 79-5 provides specific instructions on how parties may move to file documents under seal. According to the commentary, “This

1 rule is designed to ensure that the assigned Judge receives in chambers a confidential copy of the
2 unredacted and complete document, annotated to identify which portions are sealable, that a
3 separate unredacted and sealed copy is maintained for appellate review, and that a redacted copy
4 is filed and available for public review that has the minimum redactions necessary to protect
5 sealable information.”

6 Here, defendant has not properly complied with the instructions set forth in Civil Local
7 Rule 79-5(d). In particular, defendant has not filed an unredacted version of the documents in
8 addition to providing a courtesy copy of the same. See Civ. L.R. 79-5(d)(1)(D), (d)(2). Thus,
9 defendant’s motion is DENIED without prejudice. Moreover, defendant initially requested to
10 seal document number 4, the Rand advisement. However, the Rand advisement contains no
11 confidential information, and should not be placed under seal. Defendant is reminded that, “A
12 sealing order may issue only upon a request that establishes that the document, or portions
13 thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the
14 law.” Civ. L.R. 79-5(b). Should defendant choose to re-file an administrative motion to seal,
15 any request to seal documents must be “narrowly tailored to seek sealing only of sealable
16 material.” Id.

17 This order terminates docket number 18.

18 IT IS SO ORDERED.

19 DATED: _____


RONALD M. WHYTE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ALLEN STERNI,
Plaintiff,

Case Number: CV12-05145 RMW

CERTIFICATE OF SERVICE

v.

NAPA STATE HOSPITAL et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 27, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Michael Allen Sterni AL-7692
California Correctional Institution
Facility -D/ Dorm-5/Bunk #46U
Post Office Box 608
Tehachapi, CA 93581

Dated: November 27, 2013

Richard W. Wieking, Clerk
By: Jackie Lynn Garcia, Deputy Clerk