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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JAMES MCGIBNEY, et al.,  
Plaintiffs,  
v.  
THOMAS RETZLAFF,  
Defendant.

Case No. [14-cv-01059-BLF](#)

**ORDER STRIKING DECLARATIONS  
OF NON-PARTY; DENYING MOTION  
FOR RECONSIDERATION**

[Re: ECF 105, 124, 144, 145, 149]

**I. DECLARATIONS OF SUSAN BASKO**

On November 24, 2014 and December 22, 2014, the Court received declarations from non-party Susan Basko, which were docketed as “received” by the Clerk of the Court at ECF 105 and 124 respectively. The Court does not construe these declarations as an attempt on Ms. Basko’s part to intervene in this action, but rather her effort to address the veracity of statements about her set forth in the parties’ papers. Nevertheless, Plaintiffs have filed a motion for Rule 11 sanctions against non-party Ms. Basko, ECF 144, and defendant Thomas Retzlaff—the only defending party in this action—seeks to strike that motion, ECF 149.

In order to clarify any confusion arising out of the Court’s receipt of these declarations, the Court HEREBY STRIKES the Basko declarations (ECF 105 and 124) from the record. The Court shall not consider these declarations—which are, in any event, irrelevant to the issues before the Court—in deciding the pending substantive motions. Plaintiffs’ and Defendant’s respective motions concerning the Basko declarations (ECF 144 and 149) are DENIED as moot.

**II. MOTION FOR RECONSIDERATION OF ORDER PERMITTING TELEPHONIC APPEARANCE**


Plaintiffs’ Motion to Reconsider Allowing a Telephonic Appearance by Thomas Retzlaff,

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ECF 145, which this Court construes as a motion for leave to file a motion for reconsideration pursuant to Civil Local Rule 7-9, is DENIED. Plaintiffs fail to satisfy the requirements of Civil Local Rule 7-9 and furthermore provide no persuasive basis for this Court to reconsider its discretionary decision to permit Defendant to appear by telephone at motion hearings in April.

**IT IS SO ORDERED.**

Dated: February 10, 2015

  
BETH LABSON FREEMAN  
United States District Judge