

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

DENNIS H. HUNZEKER,

Plaintiff,

v.

GREG BUTLER, *et. al.*,

Defendants.

Case No. 4:12-cv-00421-BLW

ORDER

During oral argument on the pending motion for summary judgment, an issue arose regarding the proper way for Rosa Hunzeker to submit her translated affidavit. The Court explained that it may require something more than what has been provided, but that it would give Plaintiff an opportunity to do so given the unique circumstances of this case.

The Court has now fully reviewed both Rosa Hunzeker's affidavit and Jay Callister's (the interpreter) affidavit. Mr. Callister's affidavit indicates that he translated Ms. Hunzeker's affidavit for her, and that she indicated to him that she "understood" the contents of her affidavit. That is not enough. In order for the Court to consider Ms. Hunzeker's affidavit, Mr. Callister's affidavit must indicate that Ms. Hunzeker not only understood the contents of her affidavit, but that (1) the affidavit accurately reflects her statements, and (2) she understood that the statements were being made under oath and subject to penalties of perjury. If Ms. Hunzeker wishes to modify her affidavit in light of

this advisement, she may do so. As suggested at oral argument, the Court will give Plaintiff an opportunity to cure Mr. Callister's affidavit by filing an amended affidavit.

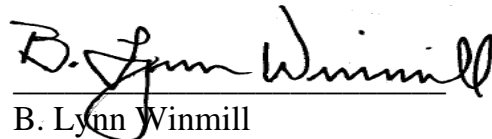
**ORDER**

**IT IS ORDERED:**

1. Plaintiff may file an amended affidavit of Jay Callister to cure the defect indicated above. Otherwise, the Court will strike Ms. Hunzeker's affidavit. The amended affidavit must be filed on or before **January 6, 2014**.



DATED: December 20, 2013



B. Lynn Winmill  
Chief Judge  
United States District Court