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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 THOMAS JAMES WELLS III,

9 Plaintiff,

10 v.

11 V. MAES #5065 Washington State D.O.C.
12 Community Custody Corrections Officer of
Downtown Seattle, and F. REYES #7428
13 Washington State D.O.C. Community Custody
Corrections Officer of Downtown Seattle,

14 Defendants.

Case No. C17-473-JCC-JPD

ORDER DIRECTING SERVICE OF
CIVIL RIGHTS COMPLAINT ON
INDIVIDUAL DEFENDANTS

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16 This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding
17 with this action *pro se* and *in forma pauperis*. The Court previously directed service of the
18 complaint on the individual defendants, who plaintiff identified as Community Corrections
19 Officers with the Washington Department of Corrections. Dkt. 5. However, the Attorney
20 General of the State of Washington, who entered a Notice of Appearance in this case on May 4,
21 2017, determined upon investigation that the individual defendants are not employees of the
22 Washington Department of Corrections but instead “are believed to be officers of the Seattle

23 ORDER DIRECTING SERVICE OF
CIVIL RIGHTS COMPLAINT - 1

1 Police Department for whom the Attorney General’s Office has no authority to appear to
2 defend.” Dkt. 8 at 2. Although the Attorney General’s Office did contact the Seattle City
3 Attorney’s Office as a courtesy to notify them about this lawsuit, no representatives from the
4 City have appeared for the individual defendants. *Id.* at 3.

5 Based upon the new information that the individual defendants, V. Maes and F. Reyes,
6 are employees of the Seattle Police Department, the Court hereby ORDERS as follows:

7 (1) Service by Clerk

8 The Clerk is directed to send the following to the individual defendants named in
9 plaintiff’s complaint, Dkt. 1-1 at 2-3, by first class mail: a copy of plaintiff’s complaint, a copy
10 of this Order, two copies of the notice of lawsuit and request for waiver of service of summons, a
11 waiver of service of summons, and a return envelope, postage prepaid, addressed to the Clerk’s
12 Office.

13 (2) Response Required

14 Defendants shall have **thirty (30) days** within which to return the enclosed waiver of
15 service of summons. A defendant who timely returns the signed waiver shall have **sixty (60)**
16 **days** after the date designated on the notice of lawsuit to file and serve an answer to the
17 complaint or a motion permitted under Rule 12 of the Federal Rules of Civil Procedure.

18 A defendant who fails to timely return the signed waiver will be personally served with a
19 summons and complaint, and may be required to pay the full costs of such service, pursuant to
20 Rule 4(d)(2) of the Federal Rules of Civil Procedure. A defendant who has been personally
21 served shall file an answer or motion permitted under Rule 12 within **thirty (30) days** after
22 service.

1 (3) Filing and Service by Parties, Generally

2 All attorneys admitted to practice before this Court are required to file documents
3 electronically via the Court’s CM/ECF system. Counsel are directed to the Court’s website,
4 www.wawd.uscourts.gov, for a detailed description of the requirements for filing via CM/ECF.
5 All non-attorneys, such as *pro se* parties and/or prisoners, may continue to file a paper original
6 with the Clerk. All filings, whether filed electronically or in traditional paper format, must
7 indicate in the upper right hand corner the name of the magistrate judge to whom the document
8 is directed.

9 For any party filing electronically, when the total of all pages of a filing exceeds fifty
10 (50) pages in length, a paper copy of the document (with tabs or other organizing aids as
11 necessary) shall be delivered to the Clerk’s Office for chambers. The chambers copy must be
12 clearly marked with the words “Courtesy Copy of Electronic Filing for Chambers.”

13 Any document filed with the Court must be accompanied by proof that it has been served
14 upon all parties that have entered a notice of appearance in the underlying matter.

15 (4) Motions, Generally

16 Any request for court action shall be set forth in a motion, properly filed and served.
17 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
18 part of the motion itself and not in a separate document. The motion shall include in its caption
19 (immediately below the title of the motion) a designation of the date the motion is to be noted for
20 consideration upon the Court’s motion calendar.

21 Stipulated and agreed motions, motions to file over-length motions or briefs, motions for
22 reconsideration, joint submissions pursuant to the option procedure established in LCR 37(a)(2),

1 motions for default, requests for the clerk to enter default judgment, and motions for the court to
2 enter default judgment where the opposing party has not appeared shall be noted for
3 consideration on the day they are filed. *See* LCR 7(d)(1). All other non-dispositive motions
4 shall be noted for consideration no earlier than the third Friday following filing and service of the
5 motion. *See* LCR 7(d)(3). All dispositive motions shall be noted for consideration no earlier
6 than the fourth Friday following filing and service of the motion. *Id.*

7 For electronic filers, all briefs and affidavits in opposition to either a dispositive or non-
8 dispositive motion shall be filed and served not later than 11:59 p.m. on the Monday
9 immediately preceding the date designated for consideration of the motion. If a party (i.e. a *pro*
10 *se* litigant and/or prisoner) files a paper original, that opposition must be received in the Clerk's
11 office by 4:30 p.m. on the Monday preceding the date of consideration.

12 The party making the motion may file and serve, not later than 11:59 p.m. (if filing
13 electronically) or 4:30 p.m. (if filing a paper original with the Clerk's office) on the date
14 designated for consideration of the motion, a reply to the opposing party's briefs and affidavits.

15 (5) Motions to Dismiss and Motions for Summary Judgment

16 Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil
17 Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil
18 Procedure should acquaint themselves with those rules. As noted above, these motions shall be
19 noted for consideration no earlier than the fourth Friday following filing and service of the
20 motion.

21 Defendants filing motions to dismiss or motions for summary judge are advised that they
22 MUST serve *Rand* notices concurrently with motions to dismiss based on failure to exhaust

1 administrative remedies and motions for summary judgment so that *pro se* prisoner plaintiffs will
2 have fair, timely and adequate notice of what is required of them in order to oppose those
3 motions. *Woods v. Carey*, 684 F.3d 934, 941 (9th Cir. 2012). The Ninth Circuit has set forth
4 model language for such notices:

5 A motion for summary judgment under Rule 56 of the Federal Rules of
6 Civil Procedure will, if granted, end your case.

7 Rule 56 tells you what you must do in order to oppose a motion for summary
8 judgment. Generally, summary judgment must be granted when there is no
9 genuine issue of material fact – that is, if there is no real dispute about any
10 fact that would affect the result of your case, the party who asked for
11 summary judgment is entitled to judgment as a matter of law, which will
12 end your case. When a party you are suing makes a motion for summary
13 judgment that is properly supported by declarations (or other sworn
14 testimony), you cannot simply rely on what your complaint says. Instead,
15 **you must set out specific facts in declarations, depositions, answers to
16 interrogatories, or authenticated documents, as provided in Rule 56(e),
17 that contradict the facts shown in the defendant’s declarations and
18 documents and show that there is a genuine issue of material fact for
19 trial. If you do not submit your own evidence in opposition, summary
20 judgment, if appropriate, may be entered against you. If summary
21 judgment is granted, your case will be dismissed and there will be no
22 trial.**

23 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added).

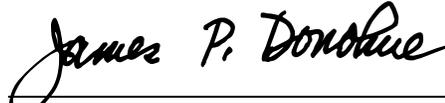
Defendants who fail to file and serve the required *Rand* notice on plaintiff may have their
motion stricken from the Court’s calendar with leave to re-file.

(6) Direct Communications with District Judge or Magistrate Judge

No direct communication is to take place with the District Judge or Magistrate Judge with
regard to this case. All relevant information and papers are to be directed to the Clerk.

1 (7) The Clerk is directed to send a copy of this Order to plaintiff. The Clerk is further
2 directed send a copy of this Order and a courtesy copy of plaintiff's complaint to the Seattle City
3 Attorney's Office by first-class mail.

4 DATED this 28th day of June, 2017.

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7 JAMES P. DONOHUE
8 Chief United States Magistrate Judge
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