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

8 ROBERT H. SMITH, *et al.*,

9 Plaintiffs,

Case No. C17-1457-RSL-MAT

10 v.

11 RYAN W. PHILLIPS, *et al.*,

12 Defendants.

ORDER RE: PLAINTIFFS' PENDING  
MOTIONS

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14 This is a civil rights action brought under 42 U.S.C. § 1983. This matter comes before the  
15 Court at the present time on plaintiffs' motions for alternative dispute resolution, for service of  
16 their complaint on defendants Cracchilo and Seth, and for discovery. The Court, having  
17 considered plaintiffs' motions, and the balance of the record, hereby finds and ORDERS as  
18 follows:

19 (1) Plaintiffs' motion for alternative dispute resolution (Dkt. 31) is DENIED. Plaintiffs  
20 request in the instant motion that this Court appoint a mediator under Local Civil Rule (LCR)  
21 16.2(a), (d)(1), (d)(2), (d)(3), (g) and (h). The Snohomish County defendants<sup>1</sup> oppose plaintiffs'

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23 <sup>1</sup> Defendants Ryan Phillips, Janet Lee Malkow, Brian Emery, and Jose-Angel Vargas are employed by  
Snohomish County and will be referred to as the "Snohomish County defendants." Two other defendants, Robert

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1 motion. (Dkt. 33.) Defendants first assert that they are unable to meaningfully respond to  
2 plaintiffs’ motion because the local rule cited by plaintiffs does not exist. Defendants further assert  
3 that any request for appointment of a mediator is premature. (*See id.*) Defendants are correct that  
4 there is no LCR 16.2 in the Western District of Washington. Assuming, as defendants suggest,  
5 that plaintiffs intended to refer to LCR 39.1, the Court concurs that plaintiffs’ request for a  
6 mediator is premature. The Snohomish County defendants only recently appeared, the City of  
7 Everett defendants have not appeared at all, and the parties have not yet had an opportunity to  
8 conduct any discovery. It therefore seems unlikely that mediation would be at all productive at  
9 this juncture.

10 (2) Plaintiffs’ motion for service of the complaint on defendants Cracchilo and Seth  
11 (Dkt. 32) is STRICKEN. The instant motion was signed by only one of the two plaintiffs in this  
12 action, Robert Smith. Rule 11(a) of the Federal Rules of Civil Procedure provides that “[e]very  
13 pleading, written motion, and other paper must be signed . . . by a party personally if the party is  
14 unrepresented.” Because the motion was not also signed by plaintiff James Phillips, the motion is  
15 procedurally defective and is not properly before the Court. The Court also notes that plaintiffs’  
16 motion appears to be moot as defendants Cracchilo and Seth both returned waivers of service of  
17 summons in which they acknowledge having received copies of plaintiffs’ pleading. (*See* Dkts.  
18 28, 29.)

19 (3) Plaintiffs’ motion for discovery (Dkt. 34) is STRICKEN. The instant motion was  
20 signed by only one of the two plaintiffs in this action, James Phillips. Because the motion was not  
21 also signed by plaintiff Robert Smith, the motion is procedurally defective and is not properly

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23 Cracchilo and Jarrod Seth, are apparently employed by the City of Everett and will be referred to as the “City of  
Everett defendants.” The City of Everett defendants have not yet appeared in this action.

1 before the Court. The Court notes that the motion is also improper because discovery requests are  
2 not to be filed with the Court. *See* Fed. R. Civ. P. 5(d)(1). Plaintiffs are advised to familiarize  
3 themselves with the discovery rules, as set forth in Rules 26-37 of the Federal Rules of Civil  
4 Procedure and the local rules of this Court, before proceeding further with this aspect of their case.

5 (4) Plaintiffs' Notice and Claim for Equal Justice under the Law (Dkt. 37) is  
6 STRICKEN. Once again, plaintiffs have submitted a document signed by only one of the two  
7 named plaintiffs, Robert Smith. The document is therefore procedurally defective and is not  
8 properly before the Court. The Court notes as well that the series of complaints raised therein by  
9 plaintiff Smith are by and large frivolous and warrant no further response.

10 (5) The Clerk is directed to send copies of this Order to plaintiffs, to counsel for  
11 defendants, and to the Honorable Robert S. Lasnik.

12 DATED this 13th day of June, 2018.

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15 Mary Alice Theiler  
16 United States Magistrate Judge  
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