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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

John Thomas Cooper, Jr. and Jonathan McLane,	)	CV 12-208 TUC DCB (lead case)
Plaintiffs,	)	
v.	)	
The City of Tucson, et al.,	)	
Defendants.	)	
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Jonathan McLane,	)	CV 12-781 TUC DCB (consolidated)
Plaintiff	)	<b>SCHEDULING ORDER</b>
v.	)	
Unknown Parties, et al.,	)	
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On December 17, 2012, the Honorable Cindy K. Jorgenson consolidated these two cases and reassigned them to this Court, which was randomly selected to preside over it. The Court has reviewed the record in the two cases, including the minute entry issued by Judge Jorgenson on July 9, 2012. The minute entry reflects that pursuant to the parties' agreement, the Court deferred ruling on the issues raised in the Motion for Order to Show Cause which was a motion filed by the Plaintiff's requesting emergency injunctive relief. The issues are being presented to the Court by motions, as follows: (Doc. 18) Plaintiffs' Motion for Order to Show Cause; (Doc. 22) Defendants' Motion to Dismiss or Alternative Motion for Summary Judgment; (Doc. 25) Plaintiffs' Motion for Partial Summary Judgment, and (Doc. 29) Defendants' Crossmotion for Summary Judgment.

1 Accordingly, the Court defers ruling on Plaintiffs' Motion for Order to Show  
2 Cause (Doc. 3) filed in the now consolidated case: CV 12-781 TUC DCB. As noted by  
3 Judge Jorgenson, all future proceedings shall be in the lead case and further filings shall  
4 be in the lead case: CV 12-208 TUC DCB.

5 The Defendants' Motion for Summary Judgment/Alternative Motion for Summary  
6 Judgment (Doc 22) is fully briefed and ready for disposition by the Court. The Plaintiffs'  
7 Motion for Partial Summary Judgment was responded to by Defendants' Crossmotion for  
8 Summary Judgment (Doc. 29) on November 16, 2012. Accordingly, the Plaintiffs'  
9 Response to the Crossmotion is due December 20, 2012, allowing three days to serve it  
10 by mail, and the Reply in support of their Motion for Partial Summary Judgment is past  
11 due as of December 3, 2012. LRCiv56.1(d). The Court assumes that the Plaintiffs intend  
12 to file a consolidated Response to the Crossmotion for Summary Judgment and Reply in  
13 Support of Motion for Partial Summary Judgment. The Court sets the deadline for filing  
14 the joint Response/Reply for December 31, 2012. Subsequently, Defendants shall file the  
15 Reply in support of the Crossmotion for Summary Judgment, LRCiv 56.1(d), and the case  
16 will be ready for disposition by the Court.

17 **Accordingly,**

18 **IT IS ORDERED THAT THE PLAINTIFFS SHALL TAKE NOTICE OF**  
19 **THIS WARNING.<sup>1</sup>**

20 A Motion for Summary Judgment seeks to have your case dismissed. A motion  
21 for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if  
22 granted, end your case.

23 Rule 56 tells you what you must do in order to oppose a motion for summary  
24 judgment. Generally, summary judgment must be granted when there is no genuine issue  
25 of material fact – that is, if there is no real dispute about any fact that would affect the  
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27 <sup>1</sup>*Rand v. Rowland*, 154 F.3d 952, 962 (9th Cir. 1998) (*en banc*).  
28

1 result of your case, the party who asked for summary judgment is entitled to judgment as  
2 a matter of law, which will end your case. When a party you are suing makes a motion  
3 for summary judgment that is properly supported by declarations (or other sworn  
4 testimony), you cannot simply rely on what your complaint says. Instead, you must set  
5 out specific facts in declarations, depositions, answers to interrogatories, or authenticated  
6 documents, as provided in Rule 56(e), that contradict the facts shown in the Defendants'  
7 declarations and documents and show that there is a genuine issue of material fact for  
8 trial. If you do not submit your own evidence in opposition, summary judgment, if  
9 appropriate, may be entered against you. If summary judgment is granted, your case will  
10 be dismissed and there will be no trial.

11 Rule 56.1(b) of the Local Rules of Civil Procedure also requires that you include  
12 with your response to the Motion for Summary Judgment a separate statement of facts in  
13 opposition to the Motion for Summary Judgment. Your separate statement of facts must  
14 include numbered paragraphs corresponding to the Defendants' ("moving party's")  
15 separate statement of facts:

16 (b) Any party opposing a motion for summary judgment shall file a  
17 statement, separate from that party's memorandum of law, setting forth: (1)  
18 for each paragraph of the moving party's separate statement of facts, a  
19 correspondingly numbered paragraph indicating whether the party disputes  
20 the statement of fact set forth in that paragraph and a reference to the  
21 specific admissible portion of the record supporting the party's position [for  
22 example, affidavit, deposition, discovery response, etc.] if the fact is  
23 disputed; and (2) any additional facts that establish a genuine issue of  
24 material fact or otherwise preclude judgment in favor of the moving party.  
Each additional fact shall be set forth in a separately numbered paragraph  
and shall refer to a specific admissible portion of the record where the fact  
finds support. Each numbered paragraph of the statement of facts set forth  
in the moving party's separate statement of facts shall, unless otherwise  
ordered, be deemed admitted for purposes of the motion for summary  
judgment if not specifically controverted by a correspondingly numbered  
paragraph in the opposing party's separate statement of facts.

25 LRCiv 56.1(b). You must also cite to the specific paragraph in your statement of facts  
26 that supports any factual claims you make in your memorandum of law:

27 (e) Memoranda of law filed in support of or in opposition to a  
28 motion for summary judgment, including reply memoranda, shall include

1 citations to the specific paragraph in the statement of facts that supports  
2 factual assertions made in the memoranda.

3 LRCiv 56.1(e).

4 Additionally, Rule 7.2(e) of the Local Rules of Civil Procedure provides:

5 Unless otherwise permitted by the Court, a motion including its supporting  
6 memorandum, and the response including its supporting memorandum, each  
7 shall not exceed seventeen (17) pages, exclusive of attachments and any  
8 required statement of facts. Unless otherwise permitted by the Court, a  
9 reply including its supporting memorandum shall not exceed eleven (11)  
10 pages, exclusive of attachments. Attachments shall exclude materials  
11 extraneous to genuine issues of material fact or law.

12 LRCiv 7.2(e). Finally, Rule 7.2(i) of the Local Rules of Civil Procedure provides:

13 If a motion does not conform in all substantial respects with the  
14 requirements of this Local Rule, or if the unrepresented party or counsel  
15 does not serve and file the required answering memoranda, or if the  
16 unrepresented party or counsel fails to appear at the time and place assigned  
17 for oral argument, such non-compliance may be deemed a consent to the  
18 denial or granting of the motion and the Court may dispose of the motion  
19 summarily.

20 LRCiv 7.2(i).

21 You must timely respond to all motions. The Court may, in its discretion, treat  
22 your failure to respond to Defendants' Motion for Summary Judgment as a consent to the  
23 granting of that Motion without further notice, and judgment may be entered dismissing  
24 this action with prejudice pursuant to Rule 7.2(i) of the Local Rules of Civil Procedure.

25 *See Brydges v. Lewis*, 18 F.3d 651 (9th Cir. 1994) (*per curiam*).

26 **IT IS ORDERED** that Plaintiff must file the joint Response to Defendants'  
27 Motion for Summary Judgment, with a separate Statement of Facts and supporting  
28 affidavits or other appropriate exhibits, and a Reply in Support of their Motion for Partial  
Summary Judgment, no later than December 31, 2012.

**IT IS FURTHER ORDERED** that Defendants may file a reply within 15 days  
after service of Plaintiff's response.

**IT IS FURTHER ORDERED** that the case shall be deemed ready for disposition  
without oral argument on the day following the date set for Defendants' filing the Reply  
unless otherwise ordered by the Court.

