

Eli Dalton-Webb
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Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF COCHISE

Eli Dalton-Webb, Plaintiff v. CITY OF SIERRA VISTA, a municipal corporation in Arizona, OFFICER E. SLUSSER, R. Hertman, OFFICER S. McHunting, M. Partidge, peace officers of the Sierra Vista Police Department, Defendants	Case No. CV202400628 Assigned to: Hon. David Thorn Civil Rights Violations; Article 2 § 5 of the Arizona Constitution, etc. RE: Motion For Reconsideration; Motion to Strike; Reply to Defendants' Response to Motion for Sanctions
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MOTION FOR RECONSIDERATION

1. Plaintiff filed a Motion for Alternative Means of Service on 27 November 2024.

2. This Court denied this motion, for the sole reason that "The Motion does not have a distribution list indicating that the Plaintiff has provided notice to the Defendants that it was filed thereby providing them with an opportunity to respond to it."

3. Alternative Means of Service is created by Rule 4.1(k), which says "on motion and without notice to the person to be served".

4. Plaintiff was not required to distribute this motion, pursuant to Rule 4.1(k)

1 5. It would be unfair to Plaintiff for Defendants to refuse to appear due to non-
2 service, but appear to argue that the service issue should not be resolved (Rule 4.1(k)
3 would solve service of process issues).
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7 6. Plaintiff asserts that the Defendant Officers have defaulted, and the Rule
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9 4.1(k) Alternative Means of Service Motions are the secondarily requested relief.
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11 **MOTION TO STRIKE**
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14 7. Plaintiff hereby motions to strike Defendants' "RESPONSE TO MOTION
15 FOR ALTERNATIVE SERVICE", as the defense is not entitled to file a response to
16 such motion, as a Rule 4.1(k) motion is rightfully an ex parte motion, and such
17 response is inappropriate.
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22 8. Plaintiff asserts the legal fiction that the Defendants were never notified of
23 the Motion for Alternative Service, because, pursuant to Rule 4.1(k), is "without
24 notice", and pursuant to such legal fiction, the Defense has nothing to respond to
25 because they weren't notified.
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31 9. Allowing the Defendants to respond would prejudice the Plaintiff and this
32 Court (due to judicial economy), as Rule 4.1(k) was designed to resolve service of
33 process issues. It is a ridiculous idea for a Defendant to appear to frustrate service of
34 process resolution, and the Arizona Supreme Court rightfully made Rule 4.1(k) an ex
35 parte motion, for fairness to the Plaintiff, and judicial economy.
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42 10. Plaintiff asserts that the Defendant Officers have defaulted, and the Rule
43 4.1(k) Alternative Means of Service Motions are the secondarily requested relief.
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1 11. Plaintiff requests this Court to make this motion to strike on its own,
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3 pursuant to Rule 12(f)(1), voiding the delays from waiting for the Defense to respond
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5 to this Motion to Strike. This will be a better use of judicial resources.
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7 **REPLY TO DEFENDANTS' RESPONSE FOR SANCTIONS MOTION**
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9 12. Plaintiff hereby clarifies that in Plaintiff's original motion for sanctions,
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11 dated 13 December 2024, Plaintiff never specifically requested financial sanctions. It
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13 was the understanding of the Plaintiff that "sanctions" includes other relief, such as
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15 giving the defense less time to respond, prohibiting the defense from certain conduct
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17 (like filing notices of limited appearance), and other measures. It is at the discretion
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19 of this Court whether or not to provide sanctions and what is appropriate sanctions.
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22 **STATEMENT**
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24 13. This is a game, where the defense is filing a flurry of useless motions, to
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26 keep the Plaintiff busy responding to useless motions and also keeping this Court
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28 busy.
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30 14. Plaintiff requests that this court put a quick end to this "notice of limited
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32 appearance; we don't have to answer to this lawsuit" game that the defense counsel is
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34 playing with the Plaintiff and with this Court. It is a poor use of judicial resources.
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37 15. The best use of judicial resources is to deem Defendant Officers in default
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39 OR grant a Motion for Alternative Means of Service and acknowledge that such
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41 motion is rightfully an ex parte motion. That would put an end to this whole thing.
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44 16. The defendants are government defendants, and are bound by Article 2
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46 Section 11 of the Arizona Constitution. They have less rights than other defendants,
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1 pursuant to Article 2 Section 2 of the Arizona Constitution, in that they have agreed
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3 to the confines of the Arizona Constitution, which includes justice being administered
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5 without unnecessary delay. Other defendants may not necessarily agree with Article 2
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7 Section 11 of the Arizona Constitution, and may wish to delay their defense. Because
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9 the language of Article 2 Section 11 says “without unnecessary delay”, the
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11 government must justify why their delay is “necessary”.
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14 17. Defendants have had knowledge of this lawsuit on 24 October 2024. It is
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16 highly likely that Megan Serinana, a supervisor that has worked in the Sierra Vista
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18 Police Department for about a year, who said she was authorized to receive service of
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20 process, gave the papers to the appropriate persons for processing. On top of that, the
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22 City clerk has given the papers to the defense attorney, which are the same papers for
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24 the peace officers, which is the same defense attorney for the police officers. On top
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26 of that, the defense attorney has access to the court clerk, and can access these
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28 documents directly from the court. There is absolutely no way that the defense
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30 doesn’t have the necessary documents to defend this case. This is all a game of legal
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32 fiction the defense is playing to delay this lawsuit, and there is no actual prejudice to
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34 the defense in any of this.
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38 18. Defendants have had knowledge of this lawsuit on 24 October 2024. On 30
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40 December 2024, that is 67 days. If the defendants are given 60 more days with
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42 voluntary waiver, that is 127 days to respond. That is over 4 months to respond to the
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44 complaint. That is only assuming that the clock starts immediately on 30 December
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46 2024 and this Court immediately takes action same-day. And then on top of that,
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1 based on the history of the defense, they will wait until an application for entry of
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3 default, wait out the entirety of the time to respond, and wait until 14 March 2025 to
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5 file a response, which will be 141 days for the defense to respond.
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7 19. At some point, there needs to be put a stop to the Defense's extreme
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9 delays. Plaintiff hereby requests that the Defendants be required to respond to the
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11 Complaint with the absolute minimum amount of time to respond to the complaint.
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13 They've already had plenty of time to look at the Complaint and prepare.
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15 20. If default is not granted, the only reasonable remedy would be to grant the
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17 Rule 4.1(k) motion, allow the Plaintiff to e-mail the complaint and summons to the
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19 Defendants. Assuming same-day court action, same-day e-mail on 30 December
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21 2024, that would give the Defense 20 more days to respond (21 because the deadline
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23 would be on a Sunday). Assuming this Court immediately grants this request, that
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25 means that the Defense would have had 88 days to prepare for a defense. On top of
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27 that, the Defense, based on their history of abusing it, can wait for an application for
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29 entry of default, and would have another 10 business days to, giving them an actual
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31 deadline of 4 February 2025, which would be 103 days to prepare to defend this
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33 lawsuit.
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36 21. 103 days is way too long already for the Defense to respond. This needs to
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38 end now. Pursuant to Rule Rule 12(a)(1)(A)(i), they should have only had 20 days to
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40 respond.
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This will be sent to:

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SIGNATURE

Submitted respectfully, this 30th day of December, 2024.



Eli Dalton-Webb