

1 Eli Dalton-Webb
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3 Sierra Vista, Arizona 85650
4 email: dw4az@proton.me
5 *Plaintiff*
6

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

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9 **IN AND FOR THE COUNTY OF YAVAPAI**

<p>12 Eli Dalton-Webb, 13 14 Plaintiff 15 16 v. 17 18 CITY OF PRESCOTT, a municipal 19 corporation in Arizona, OFFICER 20 CARON (#517), OFFICER TRUJILLO, 21 SGT. GERLACH, LT. NOVAK, 22 OFFICER BRAMBILA, CHIEF 23 BONNEY, peace officers of the Prescott 24 Police Department, et al., 25 26 Defendants</p>	<p>Case No. S-1300-CV-202500445 Divion: A, Hon. Kristyne Schaaf-Olson Civil Rights Violations; Article 2 § 6 of the Arizona Constitution; A.R.S. § 32- 1101.01; etc. URGENT RE: Third Motion for Special Appointment; Rule 4(d)(2)</p>
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29 To the Honorable Presiding Judge John Napper:
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34 1. This request is made pursuant to Rule 4(d)(2) of the Arizona Rules of Civil
35 Procedure.
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38 2. This request is made to Honorable Presiding Judge John Napper, NOT
39 Honorable Schaaf-Olson, as Arizona Civil Procedure Rule 4(d)(2)(B) states “by filing
40 a motion with the **PRESIDING** superior court judge in the county”. Plaintiff
41 respectfully reads this as it being Honorable John Napper, not Honorable Schaaf-
42 Olson.
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1 3. In light of the Arizona Supreme Court’s decision (CV-25-0111) regarding
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3 this matter yesterday (30 April 2025), it has come to the attention that Plaintiff has
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5 not fully explained all reasons for this Rule 4(d)(2) motion, and that filing another,
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7 more detailed, motion would assist this Court.
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9 4. Plaintiff thanks Honorable Schaaf-Olson for implying to offer a fee waiver
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11 to Plaintiff in the matter of service of process, however, Plaintiff believes a Rule
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13 4(d)(2) would assist him better in this case than the sheriff serving the papers.
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15 5. However, this Court, in their referred-to “waiver of service fees”, only has
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17 the authority to waive fees for service by the constable (or sheriff if there is none,
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19 Plaintiff will refer to both these offices as “sheriff”), and NOT a private process
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21 server. The Plaintiff does not want to (1) use the sheriff to serve the defendants in this
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23 matter; (2) Plaintiff does not want to pay the sheriff to serve the defendants in this
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25 matter; (3) Plaintiff cannot pay a private process server and does not want to bear the
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27 extra expense of paying one.
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30 6. In this civil action, there are basically two methods of service: (1) waiving
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32 service, which the defendant has 60 days to respond (ARCP 4(f)(1), ARCP 12(a)(1)
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34 (A)(ii)); and (2) being served, which the defendant has 20 days to respond (ARCP
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36 12(a)(1)(A)(i)).
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39 7. Expecting the Plaintiff to request the Defendants waive service would
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41 prejudice the Plaintiff, as the Defendant would have an extra 40 days to respond. This
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43 would violate his Arizona Constitutional rights under Article 2 § 11 of the Arizona
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45 Constitution (“Justice in all cases shall be administered openly, and *WITHOUT*
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1 **UNNECESSARY DELAY.**) Additionally, Defendants have no incentive and their
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3 defense attorneys will likely not accept service (under ARCP 4(f)(2)) because they
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5 would get 20 days to respond instead of 60 days to respond (under ARCP 4(f)(1) and
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7 12(a)(1)(A)(ii)).
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10 8. Plaintiff wishes to have Defendants served (not waived service) on 1 May
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12 2025 (although sooner, but this Court has already prejudiced Plaintiff with
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14 wrongfully denied motions), so that the Defendants will respond within 20 days
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16 (ARCP 12(a)(1)(A)(ii)). Should the response from the Defense reveal any correctable
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18 errors to the Plaintiff, he can have his action voluntarily dismissed and re-filed, as this
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20 civil action has a 1-year statute of limitations, pursuant to A.R.S. § 12-821, and if the
21
22 Defendants have 60 days, any re-filed civil actions will be beyond the statute of
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24 limitations. This is why the Plaintiff would be prejudiced by delays in service upon
25
26 the Defendants.
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29 9. Additionally, the Plaintiff does NOT wish to have the sheriff serve the
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31 Defendants, as there is a major conflict-of-interest. The listed Defendants in this civil
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33 action are law enforcement officers of the City of Prescott. An attorney friend of the
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35 Plaintiff (who does not represent him) told him NOT to use the sheriff for service of
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37 process, as that would mean that a law enforcement officer would be serving a
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39 lawsuit with law enforcement as listed defendants. There is a vested interest in the
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41 sheriff intentionally creating errors in service of process and prejudicing the Plaintiff
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43 if the Plaintiff used the sheriff to serve the Defendants in this matter.
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3 10. It should be noted that it is common practice for superior courts to deny fee
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5 waivers and grant fee deferrals. If the Plaintiff is granted a fee deferral in this matter
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7 with the “Fees for service of process by a sheriff, marshal, constable, or law
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9 enforcement agency.” box checked, the Plaintiff still has to pay the sheriff fees
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11 because it would be deferred, not waived. Even though the Plaintiff, on 21 April 2025
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13 checked the box that said “My income is insufficient or is barely sufficient to meet
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15 the daily essentials of life, and includes no allotment that could be budgeted for the
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17 fees and costs that are required to gain access to the court. My gross income as
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19 computed on a monthly basis is 150% or less of the current federal poverty level” and
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21 said that he has a gross monthly income of \$364 and had \$8.24 in his bank accounts,
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23 this Court still deferred (not waived) fees.

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25 11. Plaintiff does not wish to pay the sheriff’s service of process fees, and
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27 assumes this Court will defer (not waive) such fees. If fees are deferred, Plaintiff
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29 would still have to pay for the sheriff’s service of process fees.

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31 12. Additionally, there is no urgency with having the sheriff serve these papers.
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33 Plaintiff would be waiting on the speed of government. They could be understaffed,
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35 or simply intentionally delaying service of process (because they have a vested
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37 interest in intentionally creating errors and there is a serious conflict-of-interest).

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40 13. In conclusion, why Plaintiff does not want to use the sheriff for service of
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42 process: (1) it is the practice of many superior courts to deny fee waivers and grant
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44 fee deferrals in Arizona, meaning the Plaintiff would still have to pay for service of
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46 process for the sheriff; (2) Plaintiff does not wish to pay for the sheriff’s service of
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1 process; (3) there is a serious appearance of impropriety, conflict-of-interest, and
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3 vested interest in intentionally creating errors in service of process of a sheriff serving
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5 a complaint regarding another peace officer; and (4) there will be no speed or urgency
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7 from the sheriff in serving papers in this matter and there will be a vested interest in
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9 intentionally creating delays in this matter.
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11 14. The alternative to using the sheriff for service of process is either (1) hire
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13 and pay a private process server; or (2) seek a special appointment pursuant to Rule
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15 4(d)(2) of the Arizona Rules of Civil Procedure. Plaintiff cannot pay a private process
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17 server, so Plaintiff will need to seek a special appointment pursuant to Rule 4(d)(2).
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20 15. Rule 4(d)(2) of the Arizona Rules of Civil Procedure says the following:
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22 (d) Who May Serve Process.
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24 (2) Special Appointment.
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26 (A) Qualifications. A specially appointed person must be at least 21
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28 years of age and must not be a party, an attorney, or an employee of an
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30 attorney in the action in which process is to be served.
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32 (B) Procedure for Appointment. A party may request a special
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34 appointment to serve process by filing a motion with the presiding
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36 superior court judge in the county where the action is pending. The
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38 motion must be accompanied by a proposed order. If the proposed order
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40 is signed, no minute entry will issue. **SPECIAL APPOINTMENTS**
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43 **SHOULD BE GRANTED FREELY**, are valid only for the cause
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1 specified in the motion, and do not constitute an appointment as a
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3 certified private process server.
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5 16. Plaintiff seeks to have this Rule 4(d)(2) special appointment, so that he can
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7 (1) not pay for sheriff service of process fees; (2) have a process server not have a
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9 vested interest in intentionally creating errors and delays in service of process; (3) not
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11 pay a private process server; (4) have this lawsuit delivered to Defendants with speed;
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13 and (5) have the Defendants respond to this lawsuits within 20 days (ARCP 12(a)(1)
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15 (A)(i)) instead of 60 days (ARCP 12(a)(1)(A)(ii)).
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18 17. To not grant this Rule 4(d)(2) motion would prejudice Plaintiff, and deny
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20 Plaintiff's right to speedy justice under Article 2 § 11. Plaintiff would be denied
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22 equality under Article 2 § 13 of the Arizona Constitution, as a wealthy litigant could
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24 have a private process server immediately serve Defendants, and Plaintiff, Mr.
25
26 Dalton-Webb, is (1) unable to pay a private process server; (2) has a private citizen
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28 who is willing to serve Defendants; (3) the Arizona Rules of Civil Procedure, under
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30 Rule 4(d)(2), allow private citizens who are not certified by the judicial department to
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32 be specially appointed for service of process and requires that "Special appointments
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34 should be granted freely"; and (4) has justice at a slower rate. If this motion is denied,
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36 this Court is violating Article 2 § 13 of the Arizona Constitution by giving faster
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38 justice to wealthy litigants who can hire private process servers than litigants who are
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40 less fortunate.
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44 18. Additionally, if this motion is denied, the Plaintiff would be prejudiced by
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46 this Court by this Court violating Article 6 § 5 ¶ 5 of the Arizona Constitution
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1 because only the Arizona Supreme Court has authority to make rules. Rule 4(d)(2)
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3 requires that Civil Procedure Rule 4(d)(2) motions “should be granted freely”. If this
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5 Court denies this motion, it would violate the Arizona Rules of Civil Procedure,
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7 which would violate the Arizona Supreme Court’s rule-making authority, and the
8
9 state constitution, and prejudice the Plaintiff.
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11 19. Considering the above, Plaintiff hereby moves, for the third time, for this
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13 Court to appoint Adrian Osio, who is over the age of 21, residence address of 4054 N.
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15 Pembroke St, Prescott valley, Arizona 86314, and is not a party, is not an attorney, is
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17 not an employee of an attorney in this action, for service of process within the
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19 meaning of Rule 4(d)(2). Adrian Osio being (1) over the age of 21; and (2) not a
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21 party, not an attorney, and not an employee of an attorney in this action, and therefore
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23 satisfies all the requirements of Rule 4(d)(2) of the Arizona Rules of Civil Procedure,
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25 and so this request for appointment is proper.
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28 20. Nowhere in Rule 4(d)(2) of the Arizona Rules of Civil Procedure does it
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30 require these motions to (1) be dependent on fee waiver or fee deferral of the court;
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32 or (2) have a compelling reason from the movant to the Court in order for the motion
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34 to be granted. Even if the Plaintiff were wealthy, Rule 4(d)(2) does not allow a judge
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36 to not “freely” grant such motion. Plaintiff simply wants to (1) cut cost (which is a
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38 legitimate goal in this civil action), (2) reduce errors, and (3) have access to speedy
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40 justice. This is in-line with this Court’s official policy of “just, speedy, and
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42 inexpensive determination of every action and proceeding”, pursuant to Civil
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44 Procedure Rule 1.
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1 21. Plaintiff respectfully argues that this Court has a burden of coming up with
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3 a compelling reason why this motion should be denied, as opposed to the Plaintiff
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5 giving a compelling reason why this motion should be granted, as Rule 4(d)(2) states
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7 “Special appointments should be granted freely”, and giving the Plaintiff a hard time
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9 in getting this motion granted is in opposition to the “granted freely” policy of the
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11 judicial department.
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14 22. In both denial orders, (1) the assigned-judge and not the presiding judge
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16 ruled on it; and (2) there was no compelling reason why the motion was denied and
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18 therefore the motion was not “granted freely” as the rule requires.
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20 23. Plaintiff further requests continuing permission to use a private process
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22 server, constable, or sheriff under existing Civil Procedure Rule 4(d)(1), in the event
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24 that circumstances or legal strategy of the Plaintiff changes.
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31 Submitted respectfully this day, 1 May 2025,
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35 _____
36 /s/

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38 Eli Dalton-Webb
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