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8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF NEVADA

11 UNITED STATES OF AMERICA,
12
Plaintiff,

13
14 WALKER RIVER PAIUTE TRIBE,
Plaintiff-Intervenor,

15 v.

16
17 WALKER RIVER IRRIGATION DISTRICT,
a corporation, et al.,
18
19 Defendants.

) IN EQUITY NO. C-125-RCJ
) SUBFILE NO. C-125-B
) 3:73-CV-00127-RCJ-WGC
)

) **WALKER RIVER IRRIGATION**
) **DISTRICT'S POINTS AND**
) **AUTHORITIES IN OPPOSITION TO**
) **UNITED STATES' AND WALKER**
) **RIVER PAIUTE TRIBE'S MOTIONS**
) **TO STAY BRIEFING DEADLINE**

20
21 UNITED STATES OF AMERICA,
WALKER RIVER PAIUTE TRIBE,

22 Counterclaimants,

23 v.

24
25 WALKER RIVER IRRIGATION DISTRICT,
et al.,

26 Counterdefendants.
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1 The United States has asked the Court to stay the May 30, 2014 deadline for the United
2 States to respond to Motions to Dismiss filed and joined in by various defendants on March 31,
3 2014. Doc. 1988. The Walker River Paiute Tribe (“Tribe”) filed its own motion to stay the
4 briefing schedule, and joined in the United States’ Motion. Doc. 1989. The United States
5 contends and the Tribe suggests that they are unable to respond to the Motions to Dismiss
6 because of this Court’s Order of January 15, 2014 (Doc. 1968), wherein the Court denied
7 without prejudice the Motion to Admit David L. Negri and Andrew Guss Guarino to the Bar of
8 this Court (Doc. 1919) for the purpose of representing the United States, during their period of
9 employment by the United States as attorneys.¹

11 Although that Order denies Negri and Guarino admission to the Bar of this Court, it
12 does not prohibit them from assisting the Nevada United States Attorneys, or from working
13 with the Tribe’s attorney, who are admitted to that Bar in the preparation of appropriate
14 responses to the Motions to Dismiss. Both the Tenth and Ninth Circuits have recognized that
15 qualified persons not admitted to a particular bar regularly assist attorneys who are licensed
16 before that bar in the representation of clients, and that such assistance does not involve the
17 unlawful practice of law. Examples include unlicensed law clerks, persons awaiting admission
18 to the bar, law professors who are experts in a particular area, and out-of-state lawyers who also
19 may be experts. *See, Dietrich Corporation v. King Resources Company*, 596 F.2d 422, 426

24 ¹ Prior to March 31, 2013, the Walker River Irrigation District asked the Court to vacate the
25 schedule related to those motions, or to hold a status conference so that the manner of service
26 of the motions, responses and replies on unrepresented parties could be clarified. Doc. 1971 at
27 1. The Court did not act on that motion, and the District and others filing motions served
28 unrepresented parties with post card notice. *See*, Doc. 1987. Although the Court’s January 15,
2014 Order was referenced in the District’s Motion as the reason for cancellation by the
Magistrate Judge of a status conference which likely would have clarified the manner of such
service, it was not in any way based upon any contention that the January 15, 2014 Order
rendered the United States unable to respond to motions that would be filed.

1 (10th Cir. 1979); *Winterrowd v. American General Annuity Insurance*, 556 F.3d 815, 824-25
2 (9th Cir. 2009).

3 In connection with that assistance, what is important is that there be a “particular person
4 admitted in that state . . . who, on behalf of the firm, vouched for the work of all of the others
5 and with the client and in the courts did the legal acts defined by that state as the practice of
6 law.” *Dietrich*, 596 F.2d at 426; *see also*, *Winterrowd*, 556 F.3d at 824-25. That admitted
7 person adds and exercises independent professional judgment, and importantly, is an officer of
8 the local court subject to its discipline. *Id.*

10 Here, United States Attorneys and the Tribe’s attorney admitted to the Bar of this Court
11 can receive the assistance of attorneys Negri and Guarino in preparing an appropriate response
12 to the Motions to Dismiss. Those same attorneys can exercise independent judgment, and as
13 officers of this Court and subject to its discipline, determine what is filed with the Court.² The
14 January 15, 2014 Order does not render the United States or the Tribe unable to respond, and
15 the Court should not stay the deadline for that response.
16

17 Dated: April 23, 2014.

18 WOODBURN AND WEDGE

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27 _____
28 ² The Tribe states “upon information and belief, no U.S. attorneys in the Nevada office have
adequate experience in water rights” Doc. 1989 at 2, lns. 10-11. If this is in fact the case,
those U.S. attorneys should make that showing, which appears to be what this Court’s January
15, 2014 Order calls for.

CERTIFICATE OF SERVICE

I certify that I am an employee of Woodburn and Wedge and that on the 23rd day of April, 2014, I electronically served the foregoing *Walker River Irrigation District's Points and Authorities in Opposition to United States' and Walker River Paiute Tribe's Motions to Stay Briefing Deadline* with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following via their email addresses:

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/s/ Holly Dewar
Holly Dewar