

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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4	UNITED STATES OF AMERICA, et al., )	CASE NO. 3:73-cv-00128-MMD-WGC
5	Plaintiffs, )	
6	)	<u>MINUTES OF PROCEEDINGS</u>
7	vs. )	
8	WALKER RIVER IRRIGATION )	
9	DISTRICT, et al. )	
10	Defendants. )	DATED: June 16, 2021
11	_____ )	

12 PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

13 DEPUTY CLERK: Karen Walker REPORTER: Liberty Court Recorder

14 COUNSEL APPEARING: Andrew “Guss” Guarino, Esq., Marisa Hazell, Esq., Tyler  
15 Eastman, Esq, Wes Williams, Jr., Esq., Stacey Simon, Esq., Roderick Walston, Esq., Gordon  
16 DePaoli, Esq., Dale Ferguson, Esq., Don Springmeyer, Esq., Simeon Herskovits, Esq., Iris  
17 Thornton, Esq., Nhu Nguyen, Esq., Brad Johnston, Esq., and Catlin Skulan, Esq.

18 ALSO APPEARING: Lia Griffin, U.S. District Court, Divisional Manager, Reno and James  
19 Bolotin, Esq.

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21 **MINUTES OF PROCEEDINGS: VIDEO STATUS CONFERENCE**

22 10:09 a.m. Court convenes.

23  
24 The court holds today’s status conference to discuss the proposed orders discontinuing  
25 service by mail (ECF No. 930), completion of service (ECF No. 931), and the Unopposed  
26 Motion Application of Mineral County for Special Appointment of Process Server (ECF No.  
27 932).

1 The court addresses the parties and acknowledges the filing of the Proposed Agenda  
2 (ECF Nos. 933) for today's hearing.

3 The court first addresses the Notice of Proposed Order Relating to Completion of  
4 Service (ECF No. 931), which is agenda item number 2. Mr. Herskovits responds to the court's  
5 inquiry regarding Mineral County's second amended complaint and deadline for defendants'  
6 response by indicating defendants who had been previously served will have until  
7 September 28, 2021, to respond to the second amended complaint, and for the newly named  
8 defendants, ninety (90 days) after from completion of service (Proposed Order, ECF No. 931-1,  
9 p. 3, paragraph 3).  
10

11 The court notes that the proposed order (ECF No. 931-1) itemizes the attachments  
12 alphabetically, but the attachments do not contain cover pages to easily identify the alphabetic  
13 attachment. The court requests the parties provide cover pages to identify the attachment in  
14 future filings. Mr. Herskovits apologizes to the court and states he will do so on future filings.  
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16 Mr. DePaoli suggests the second amended complaint not be an attachment to the service  
17 packet to avoid confusion.  
18

19 Ms. Thornton addresses the court's questions provides an explanation as to how service  
20 of the second amended complaint and order with attachments will be completed. Ms. Thornton  
21 also notes that the "Notice in lieu of Summons" (paragraph 2(b), ECF No. 931-1, p. 2) will be  
22 placed on top of the service package which provides the responding defendant with an  
23 explanation as to how and when to respond.  
24

25 Ms. Griffin advises the parties that the procedure for issuing summonses has changed  
26 and explains that the proposed summonses must be completely filled out and electronically filed  
27 for the Clerk's Office to issue the summons.  
28

1           The court notes that the Proposed Order Relating to Completion of Service (ECF No.  
2 931) will not be approved today as it is premature.

3           The court points out typographical errors in ECF No. 931-7, p. 1, line 18 and p. 6, line  
4 13, which refers to “RCJ” as the district judge in the case number and should be “MMD”.

5           Mr. Herskovits addresses a couple of issues with regard to the Proposed Order Relating  
6 to Completion of Service (ECF No. 931). First, Mr. Herskovits and Mr. DePaoli discuss  
7 whether or not attachments F, G and H to ECF No. 931 should accompany the proposed order.  
8 Mr. Herskovits states that attachments F, G and H were attached due to a previous order by the  
9 court in the *3:73-cv-127-MMD-WGC* case to include such documents in the service package but  
10 does not feel it necessary to attach the documents. Mr. DePaoli states that attachments F, G and  
11 H only add confusion to a fairly large package of materials.

12           Mr. DePaoli also suggests the order contain a default provision so if a defendant does  
13 not respond, no default will be entered as in *3:73-cv-127-MMD-WGC*.

14           The court agrees that a default provision shall be added to the proposed order after  
15 paragraph 3(b) (ECF No. 931-1, p. 3) and that attachments G and H (ECF No. 931-7 and 931-8)  
16 can be removed from the final version of the order relating to completion of service; attachment  
17 F will remain.

18           The court and parties discuss the timing of filing the order relating to completion of  
19 service and concern of multiple deadlines to respond to motions to dismiss. After discussion,  
20 the parties agree to leave proposed deadlines to respond to the second amended complaint  
21 intact. Court suggests that defendants meet-and-confer after the second amended complaint is  
22 filed to align responses/motions to dismiss.

23           Court recesses at 11:08 a.m. and reconvenes at 11:17 a.m.

1           The court next discusses the Notice of Filing of Proposed Order Discontinuing Service  
2 by Mail (ECF No. 930) (item number 1 of the Proposed Agenda ECF No. 933) and the timing  
3 of discontinuing service by mail. Mr. Herskovits states that the order should not be approved at  
4 the present time due to description language needing to be added after the second amended  
5 complaint is filed. Mr. Herskovits states that he will confer with the principal defendants  
6 shortly before or as of the filing of the second amended complaint to make sure the descriptive  
7 language is approved.  
8

9           The court notes that the order discontinuing service by mail needs to await the  
10 descriptive language of the second amended complaint but in essence is ready.  
11

12           The court next addresses the Unopposed Motion Application of Mineral County for  
13 Special Appointment of Process Server Under Fed. R. Civ. P. 4(C)(3), and Points and  
14 Authorities in Support Thereof (ECF No. 932). Mr. Herskovits responds to the court's inquiry  
15 regarding the necessity of appointing a process server advising that it defuses problems and/or  
16 issues when serving documents. Mr. Herskovits advises that the process server operates and is  
17 paid by Mineral County.  
18

19           The court **grants** the Unopposed Motion for Application of Mineral County for Special  
20 Appointment of Process Server Under Fed.R.Civ.P. 4(C)(3). Mr. Herskovits directs the court to  
21 the proposed order attached and the order is approved and executed.  
22

23           The court discusses future status conference and when such should take place. The  
24 court reserves tentative video status conferences dates for **July 21, 2021, August 25, 2021,** and  
25 **October 6, 2021, at 10:00 a.m.** The parties are to notify the court if any of the tentative status  
26 conferences are not necessary and such date will be vacated.  
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There being no additional matters to address at this time, court adjourns at 11:49 a.m.

DEBRA K. KEMPI, CLERK OF COURT

By: \_\_\_\_\_ /s/  
Karen Walker, Deputy Clerk