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12 **UNITED STATES DISTRICT COURT**  
13 **FOR THE DISTRICT OF NEVADA**

14 **SAID ELMAJZOUB,**

15 Plaintiff,

16 **SCOTT DAVIS, et al.,**

17 Defendants.

Case No. 3:19-cv-00196-MMD-WGC

**PLAINTIFF'S EMERGENCY  
MOTION FOR CIVIL CONTEMPT**

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1 **Plaintiff's Emergency<sup>1</sup> Motion for Enforcement of the Court's Permanent Injunction**

2 Plaintiff moves the Court to require Defendants' immediate compliance with the  
3 November 11<sup>th</sup> Permanent Injunction. That injunction ordered Defendants to "schedule  
4 weekly Jumu'ah services on Fridays from 12:30 p.m. to 1:45 p.m." *See* Dkt. 91 at 5.  
5 Defendants, however, have indicated that they will be out of compliance with the Court's  
6 order today, explaining that "it will likely not be until next Friday" that they allow Said  
7 Elmazjoub to congregate with other Muslims for Islam's once-a-week religious service.  
8 Exhibit A – Counsel Correspondence. With due respect to our colleagues on the other side,  
9 prison officials are not taking this Court's order seriously, and absent the Court's fulsome  
10 intervention, prison officials will continue to manufacture flimsy, already-adjudicated  
11 excuses as to why they cannot do what the Court has specifically required them to do.

12 **Standard**

13 This Court's order for prison officials to schedule Jumu'ah on a specific day (Friday),  
14 in specific place (the prison's chapel), and during a precise time (1230 to 1:45) is "enforceable  
15 by the power of contempt." *Gunn v. Univ. Comm. to End War in Viet Nam*, 399 U.S. 383, 389  
16 (1970). Whenever there is "*prima facie* evidence of non-compliance," the issuing court is  
17 "empowered to enforce the injunction." *Ollier v. Sweetwater Union High Sch. Dist., No.*  
18 *07CV714-L JMA*, 2014 WL 1028431, at \*2 (S.D. Cal. Mar. 17, 2014).

19 Mr. Elmajzoub may "invoke the court's power" by moving "for civil contempt"  
20 against LCC and its officials, and to prevail, the Court must find, by "clear and convincing  
21 evidence," that these defendants "knew of and violated a specific and definite order of the  
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23 <sup>1</sup> Per local rule 7-4, Counsel for Plaintiff has submitted a declaration to explain the  
24 nature of the emergency and is available to appear, in person or by any other means, at any  
hearing this Court may schedule today to address Defendants' noncompliance.

1 court.” *F.T.C. v. Data Med. Cap., Inc.*, No. SACV 99-1266AHS(EEX), 2009 WL 2059442, at  
2 \*7–8 (C.D. Cal. July 13, 2009).

3 **Argument**

4 The Court’s permanent injunction is a model of clarity. It tells Defendants exactly  
5 what they need to do. Each Friday, from 12:30 to 1:45 pm, all<sup>2</sup> Muslims at LCC may gather  
6 for prayer at the chapel. Hours after the Court entered its permanent injunction, on  
7 November 10<sup>th</sup>, Plaintiff’s counsel brought to Defendants’ attention by email and phone that  
8 they had obligations under the permanent injunction to schedule jumu’ah today and every  
9 following Friday. Defendants responded after-hours to confirm that they intend to violate  
10 the Court’s order later today when they will not allow Elmazjoub and other Muslims from  
11 gathering for Jumu’ah. *See* Exhibit A – Counsel Correspondence (Prison officials “have  
12 informed me they intend to comply with the Court’s Order. However, it will likely not be  
13 until next Friday.”).

14 Defendants’ decision to ignore the Court’s permanent injunction, as the  
15 correspondence with opposing counsel shows, was made despite consultations with counsel  
16 at the Nevada Attorney General’s office. *Id.* Prison officials know of the injunction, they  
17 understand its clear terms, and are choosing not to follow it.

18 This is contempt. The Court’s order did not envision a phase-in period, did not  
19 establish a holiday exception, and the administrative difficulties LCC officials rely upon to  
20 excuse their noncompliance are the same ones this Court previously debunked. And  
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22 <sup>2</sup> The permanent injunction provides one caveat to its weekly injunctive requirement.  
23 Muslims can be excluded from jumu’ah when “circumstances particular to an individual  
24 inmate ... makes attendance impossible.” *Cite.* LCC is not relying on “circumstances  
particular to an individual” to justify its noncompliance, and there are no other exceptions  
or qualifications to the Court’s injunction.

1 Defendants have not moved the Court for any of allowances, exceptions, or other relief from  
2 the permanent injunction. Instead, prison officials are attempting to narrow the injunction  
3 unilaterally and against the Court’s specific commands.

4 Beyond rejecting the specific requirements this Court imposed on them, prison  
5 officials excuse their noncompliance by recycling the same bureaucratic reasons this Court  
6 previously rejected. This Court has variously described these reasons as “without evidentiary  
7 support,” based on nothing more than “conclusory statements” that fail to “even address or  
8 elaborate” about why allowing Muslims to pray Jumu’uah is so difficult. Dkt. 91 at 3. In its  
9 November 11<sup>th</sup> order, the Court assessed those reasons and settled the matter: “Defendants’  
10 speculation about future disruptions or safety risks, without evidentiary support, is  
11 insufficient to meet the exceptionally demanding” least-restrictive means standard.” *Id.*  
12 Defendants’ continued reliance on these excuses foreshadows future compliance issues. A  
13 firm hand now may deter future violations of the Court’s order.

14  
15 **Conclusion**

16 Because the noncompliance is made knowingly and willfully, this Court should  
17 impose a \$10,000 fine for each jumu’ah Defendants fail to schedule. Plaintiffs propose this  
18 amount, because they believe that it is likely to coerce the Nevada Department of  
19 Corrections to comply with the Court’s order and obviate the need for the Court to actually  
20 impose the fine. *See Int’l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 827  
21 (1994) “civil contempt sanctions...are considered to be coercive and avoidable through  
22 obedience”

23 Respectfully submitted,  
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