

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV14-3747 PSG (MRWx)	Date	January 4, 2016
Title	Kristine M. Rodas v. Porsche Cars North America, Inc., <i>et al.</i>		

Present: The Honorable Philip S. Gutierrez, United States District Judge

Wendy Hernandez

Not Reported

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

Not Present

Not Present

Proceedings (In Chambers): Order DENYING Plaintiff's *Ex Parte* Application

This case was removed to federal court on May 15, 2014. The parties have already litigated two motions to dismiss, which were both denied in part and granted in part. *See* Dkt. # 20, 37. Trial is set for May 3, 2016. *See* Dkt. # 56. On December 18, 2015 Plaintiff filed an *ex parte* application seeking to have the case remanded to California Superior Court on the basis of abstention. Dkt. # 59.

The Court denied the *ex parte* application on December 21, 2015. *See* Dkt. # 60. In doing so, the Court articulated the standard used by this circuit to assess applications for *ex parte* relief. *See id.* To justify *ex parte* relief, the moving party must establish (1) that its cause will be irreparably prejudiced if the motion is heard according to regularly noticed procedures; and (2) that the moving party is without fault in creating the crisis that requires *ex parte* relief, or that the crisis occurred as a result of excusable neglect. *Mission Power Engineering Co. v. Continental Casualty Co.*, 883 F.Supp. 488, 492 (C.D. Cal. 1995).

Plaintiff filed another *ex parte* application on December 28, 2015, again seeking to have the case remanded, stayed, or to allow Plaintiff to dismiss the action without prejudice. *See* Dkt. # 61. Plaintiff asks the Court for *ex parte* relief because she contends that by insisting on taking a deposition, Defendant's counsel has "placed [her] in the untenable position of having to front \$38,000.00" for a case that "should be back in state court." *Id.* at 5.

Plaintiff has still not explained how her legal cause will be irreparably damaged if the motion is heard according to regularly noticed procedures. That Plaintiff will have to front her legal bills does not "show why [she] should be allowed to go to the head of the line in front of all other litigants and receive special treatment." *Mission Power*, 883 F. Supp. at 492. This Court's standing order specifies that *ex parte* applications are solely for extraordinary relief and should be used with discretion, *see Standing Order* ¶ 10, and disputes over discovery do not warrant

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such extraordinary relief. Plaintiff is reminded that further abuse of the *ex parte* process will result in sanctions. *See id.*

For the foregoing reasons, Plaintiff's application is DENIED.

IT IS SO ORDERED.