

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF CALIFORNIA
7

8 YVONNE ARCURE, et al.,
9 et al.,
10 Plaintiffs,

CASE NO. CV F 13-0541 LJO BAM

ORDER TO TERM MOTIONS
(Docs. 16-18)

11 vs.

12 CALIFORNIA DEPARTMENT OF
13 DEVELOPMENTAL SERVICES,
14 et al.,

15 Defendants.
16

17 This Court's June 7, 2013 order addressed defendant Department of Developmental
18 Service's ("DDS") motions to dismiss, strike and for a more definite statement. In response to
19 the order, plaintiffs filed their First Amended Complaint ("FAC") as a matter of course under
20 F.R.Civ.P 15(a).

21 U.S. District Judges in the Eastern District of California carry the heaviest caseload in
22 the nation and are unable to devote inordinate time and resources to individual cases and
23 matters. As such, U.S. District Judge Lawrence J. O'Neill relies on U.S. Magistrate Judges to
24 handle civil matters, including trial when parties consent to U.S. Magistrate Judge jurisdiction.
25 The Magistrate Judges' availability is far more realistic and accommodating to parties than that
26 of the Judge O'Neill, who must prioritize criminal and older civil cases over more recently filed
27 civil cases. If the parties consent to Magistrate Judge jurisdiction, the reassigned Magistrate
28 Judge can better accommodate the parties.

1 Moreover, civil trials set before Judge O'Neill trail until he becomes available and are
2 subject to suspension mid-trial to accommodate criminal matters. Civil trials are no longer
3 reset to a later date if Judge O'Neill is unavailable on the original date set for trial. If a trial
4 trails, it may proceed with little advance notice, and the parties and counsel may be expected to
5 proceed to trial with less than 24 hours notice. Also, this Court's Fresno Division randomly
6 and without advance notice reassigns civil actions to U.S. District Judges throughout the nation
7 to serve as visiting judges. In the absence of Magistrate Judge consent, this action is subject to
8 reassignment to a U.S. District Judge from outside the Eastern District of California. Case
9 management difficulties, including law and motion, briefing schedules, trial setting and
10 interruption, are avoided if the parties consent to conduct of further proceedings by a
11 Magistrate Judge.

12 The parties are required to consider, and if necessary, to reconsider consent to one of
13 the Court's Magistrate Judges. A Magistrate Judge consent form is available on this Court's
14 website. The parties and counsel are encouraged to contact United States Senators Diane
15 Feinstein and Barbara Boxer to address this Court's inability to accommodate the parties and
16 this action. For further information regarding handling of this action, the parties may contact
17 staff attorney Gary Green at (559) 499-5683 or email him at ggreen@caed.uscourts.gov.

18 On the basis of good cause, this Court:

19 1. DENIES as moot DDS' motions to dismiss, strike and for a more definite
20 statement (docs 16-18);

21 2. DIRECTS the clerk to term docs. 16-18; and

22 3. ORDERS DDS, no later than July 18, 2013, to file and serve a response to the
23 FAC.

24 ///

25 ///

26 ///

27 ///

28 ///

1 This Court will take no further action on DDS' motions to dismiss, strike and for a more
2 definite statement (docs 16-18).

3
4
5
6 IT IS SO ORDERED.

7 Dated: June 25, 2013

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE