

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

8 YVONNE ARCURE, et al.,

CASE NO. CV F 13-0541 LJO BAM

9 Plaintiffs,

**ORDER TO SHOW CAUSE AND TO
VACATE HEARING**
(Docs. 27-30.)

10
11 vs.
12

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

16 Defendants.
17

18
19 Defendants filed motions to dismiss, strike and severe and set an August 12, 2013
20 hearing in disobedience of Local Rule 230(b). Setting a hearing with less than 28 days notice
21 disparages this Court's rules and case management and puts undue pressure on plaintiffs.
22 Moreover, this Court is obligated to maximize limited judicial resources and to best manage
23 U.S. District Judge Lawrence J. O'Neill's burdensome caseload of more than 1,800 cases.
24 This Court is unable to manage and process cases to suit defendants' whim. Allowing a
25 hearing to proceed without required notice would jeopardize this Court's delicate case
26 management, would devote inordinate resources to this action at the expense of other actions
27 and litigants, and would unnecessarily burden plaintiffs. This Court is unable to devote
28 inordinate efforts and resources to oversee and address defendants' disobedience of Court
rules.

1 On the basis of good cause, this Court:

2 1. VACATES the August 12, 2013 hearing set by defendants in disobedience of
3 Local Rule 230(b);

4 2. ORDERS plaintiffs, no later than August 2, 2013, to file and serve papers to
5 respond to defendants' motions to dismiss, strike and severe (docs. 27-30);

6 3. ORDERS defendants, no later than August 9, 2013, to file and serve optional
7 reply papers;

8 4. ORDERS defense counsel, no later than July 24, 2013, to file and serve papers
9 to show cause why this Court should not impose sanctions on defense counsel and/or
10 defendants for disobedience of Local Rule 230(b); and

11 5. ADMONISHES the parties and counsel that they must obey the Federal Rules
12 of Civil Procedure and this Court's Local Rules and orders and are subject to sanctions as this
13 Court deems appropriate.

14 Pursuant to its practice, this Court will consider defendants' motions to dismiss, strike
15 and severe (docs. 27-30) on the record without oral argument.

16 Judges in the Eastern District of California carry the heaviest caseload in the nation,
17 and this Court is unable to devote inordinate time and resources to individual cases and
18 matters. The parties and counsel are encouraged to contact United States Senators Diane
19 Feinstein and Barbara Boxer to address this Court's inability to accommodate the parties and
20 this action. The parties are required to consider, and if necessary, to reconsider consent to one
21 of the Court's U.S. Magistrate Judges to conduct all further proceedings in that the Magistrate
22 Judges' availability is far more realistic and accommodating to parties than that of U.S. District
23 Judge Lawrence J. O'Neill who must prioritize criminal and older civil cases. A Magistrate
24 Judge consent form is available on this Court's website.

25 Civil trials set before Judge O'Neill trail until he becomes available and are subject to
26 suspension mid-trial to accommodate criminal matters. Civil trials are no longer reset to a later
27 date if Judge O'Neill is unavailable on the original date set for trial. If a trial trails, it may
28 proceed with little advance notice, and the parties and counsel may be expected to proceed to

1 trial with less than 24 hours notice. Moreover, this Court's Fresno Division randomly and
2 without advance notice reassigns civil actions to U.S. District Judges throughout the nation to
3 serve as visiting judges. In the absence of Magistrate Judge consent, this action is subject to
4 reassignment to a U.S. District Judge from outside the Eastern District of California. Case
5 management difficulties, including trial setting and interruption, are avoided if the parties
6 consent to conduct of further proceedings by a U.S. Magistrate Judge.

7
8
9 IT IS SO ORDERED.

10 Dated: July 18, 2013

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