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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANDREA VAN SCOY, et al.,

Plaintiffs,

No. 2:08-cv-02237 MCE KJN

v.

NEW ALBERTSON'S, INC., et al.,

Defendants.

ORDER

Presently before the court is defendants' "Motion to Quash Deposition Subpoena" and "Motion for Protective Orders." Defendants seek to prevent plaintiffs from taking the deposition of non-party witness Donna Breitenbach, as well as the depositions of defendant Save Mart Supermarkets and its employee, Lois Douglas. (Dkt. Nos. 98, 101.) Defendants' motions are currently set to be heard by the undersigned on January 27, 2011.¹

On January 18, 2011, the undersigned issued an order requiring the parties to meet and confer regarding the pending motions in an effort to reach a mutually agreeable resolution of the pending discovery disputes. (Order, Jan. 18, 2011, at 4, Dkt. No. 112.) That order further required the parties to file a Joint Statement re Discovery Disagreement ("Joint Statement") on or

¹ However, the discovery completion date in this case was December 31, 2010.

1 before January 21, 2011. (Id.) Finally, the order required the parties to show cause in writing, on
2 or before January 24, 2011, why the pending motions should not be held in abeyance pending the
3 resolution of a request or motion to modify the existing Status (Pretrial Scheduling) Order. (Id.)
4 On January 21, 2011, the parties filed a Joint Statement (Joint Statement, Dkt. No. 116), and on
5 January 24, 2011, plaintiff filed a statement in response to the order to show cause (Dkt.
6 No. 117.)

7 The Joint Statement indicates that despite two attempts to resolve the present
8 dispute without court intervention, the parties were unable to reach an informal resolution. (Joint
9 Statement at 1-2.) In the Joint Statement, the parties represent that they do not oppose having
10 defendants' motions held in abeyance pending the outcome of a request or motion seeking an
11 order from the district court judge, Judge Morrison C. England, Jr., to reopen discovery. (See id.
12 at 2.) The Joint Statement represents that plaintiff intends to file a motion or request to modify
13 the existing Status (Pretrial Scheduling) Order. (Id.) Plaintiff's January 24, 2011 statement is in
14 accord.

15 In light of the undersigned's January 18, 2011 order, and the representations in the
16 parties' recent filings, the undersigned drops defendants' motions from the law and motion
17 calendar, subject to the re-noticing of those motions at a later date if so desired. The undersigned
18 will consider a request to shorten time on defendants' re-noticed motions, preferably by
19 stipulation of the parties rather than ex parte application. See E. Dist. Local Rule 144. In any
20 event, the parties shall comply with Local Rule 251 insofar as any re-notice motions are
21 concerned.

22 Based on the foregoing, IT IS HEREBY ORDERED that:

23 1. The court's order requiring the parties to show cause why these motions
24 should not be held in abeyance pending Judge England's resolution of a request or motion to
25 modify the existing Status (Pretrial Scheduling) Order (Dkt. No. 112) is discharged.


26 2. Defendants' motion for protective order and motion to quash will be held

1 in abeyance pending Judge England's resolution of a motion, to be filed by plaintiffs, seeking
2 modification of the existing Status (Pretrial Scheduling) Order.

3 3. The hearing on defendants' motions presently set for January 27, 2011, is
4 vacated, subject to re-noticing by defendants.

5 IT IS SO ORDERED.

6 DATED: January 24, 2011

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9 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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