

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

MELISSA BRINCKERHOFF,

Plaintiff,

V.

NO. CIV. S-10-0023 MCE GGH

## TOWN OF PARADISE,

Defendant.

## ORDER

Presently before the court are defendant's ex parte application to figuratively

dismiss or continue plaintiff's motion, filed July 5, 2001, (dkt. # 64), and defendant's motion for protective order, filed July 6, 2011.<sup>1</sup> (dkt. # 69.)

Counsel in this case figuratively have been at each other's throats since this case began. The dispute for this week involves defendant's objection to having plaintiff's motion heard on July 12, 2011, as specially set by court order on June 28, 2011 because plaintiff did not provide defense counsel with her portion of the joint statement in a timely fashion as prescribed by the June 28th order. That order provided that “[e]ach moving party shall have its portion of the joint statement prepared and delivered to the opposing party not later than two days prior to

<sup>1</sup> The schedule and hearing for defendant's motion is not affected by this order.

1 July 7, 2011.” (Dkt. # 61.) Defendant interprets this order to require delivery of plaintiff’s draft  
2 portion to defendant by midnight on July 4. Defendant’s motion for protective order states that  
3 defense counsel received plaintiff’s draft on July 5, 2011 at 8:50 p.m. Plaintiff’s counsel filed a  
4 declaration in opposition to defendant’s ex parte application. (Dkt. # 71).

5                   Defendant’s motion for protective order elaborates by explaining that without  
6 having July 5th available to him to prepare the joint statement, defendant is unable to timely file  
7 the joint statement which is due to be filed by July 7, 2011. Mr. Thorn states that he is obligated  
8 to defend a deposition in another case in Chico on July 7, and tried to move that deposition  
9 without success.<sup>2</sup> He is also scheduled to attend the deposition of defendant’s former human  
10 resources manager in this case on July 8, 2011, leaving insufficient time to prepare and file his  
11 portion of the joint statement.

12                   After holding a telephone conference regarding these matters on July 6, 2011, the  
13 court now issues the following order.

14                   IT IS ORDERED that:

15                   1. Defendant’s ex parte application to dismiss or continue plaintiff’s motion, filed  
16 July 5, 2011, (dkt. # 64), is granted.

17                   2. Plaintiff’s motion to compel and for sanctions, filed June 27, 2011, (dkt. #58),  
18 is continued to July 14, 2011 at 10:00 a.m.

19                   3. Defendant shall file the joint statement for plaintiff’s motion on or before July  
20 11, 2011 at 4:00 p.m. All supporting papers must be attached to the joint statement. If signatures  
21 are not immediately obtainable, the papers may be filed without signatures, with signed copies  
22 filed at a later time.

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25                   <sup>2</sup> According to defendant, the discovery cutoff in the other case is also July 21, 2011.  
26 See Funk v. Town of Paradise, No. Civ. S -09-1000 MCE EFB (TEMP) (Dkt. # 12).

4. Defendant's motion for protective order, filed July 6, 2011 (dkt. # 69), is granted as set forth herein.

DATED: July 6, 2011

/s/ Gregory G. Hollows  
UNITED STATES MAGISTRATE JUDGE

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