

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

Z.F, a minor, by and through his
parents M.A.F and J.F. and
M.A.F. and J.F. individually;
L.H., and J.H., minors, by and
through their parents J.A. and
J.R.H. and J.A. and J.R.H.
individually; A.N., a minor, by
and through his parents, G.N.
and M.R., and G.N. and M.R.
individually,

Plaintiffs, on behalf
of themselves and all
others similarly
situated,

v.

RIPON UNIFIED SCHOOL DISTRICT
(RUSD); RIPON UNIFIED SCHOOL
DISTRICT BOARD OF TRUSTEES; SAN
JOAQUIN COUNTY OFFICE OF
EDUCATION; VALLEY MOUNTAIN
REGIONAL CENTER (VMRC), MODESTO
CITY SCHOOLS, MODESTO CITY
SCHOOLS BOARD OF EDUCATION,
RICHARD JACOBS, Executive
Director of VMRC, in his
official and individual
capacity, TARA SISEMORE-HESTER,
Coordinator for Autism Services
for VMRC, in her official and
individual capacity; VIRGINIA
JOHNSON, Director of Modesto
City Schools SELPA, in her
official and individual
capacity; SUE SWARTZLANDER,
Program Director for Modesto
City Schools, in her official
and individual capacity and Does
1 - 200.,

Defendants.

2:10-cv-00523-GEB-JFM

STATUS (PRETRIAL SCHEDULING)
ORDER AND SETTING FURTHER
STATUS (PRETRIAL SCHEDULING)
CONFERENCE; RULE 4 (m) NOTICE
CONCERNING A COUNTER-
DEFENDANT

1
2 VALLEY MOUNTAIN REGIONAL
3 CENTER, RICHARD JACOBS and TARA
4 SISEMORE-HESTER

5 Counter-claimants,

6 v.

7 M.A.F. and J.A., SPECIAL NEEDS
8 ADVOCATES FOR UNDERSTANDING,
9 and AUTISM REFORM CALIFORNIA,

10 Counter-defendants.
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15 The status (pretrial scheduling) conference scheduled for
16 hearing on October 3, 2011, is vacated since the parties' Joint Status
17 Report filed on September 19, 2011 ("JSR") indicates the following Order
18 should issue.

19 4 (m) NOTICE

20 Counter-claimants state in the JSR that they "may . . . serve
21 counter-defendant Autism Reform California if they discover that this
22 former entity has resumed business in the state of California." (JSR
23 2:4-5.) Counter-claimants are notified under Rule 4(m) of the Federal
24 Rules of Civil Procedure that since Counter-defendant Autism Reform
25 California has not been served with process within the 120 day period
26 prescribed in that Rule it may be dismissed as a defendant unless
27 Counter-claimants explain in a filing due no later than 4:00 p.m. on
28 October 7, 2011 "good cause for the failure" to serve this Counter-
defendant within Rule 4(m)'s prescribed period.

29 DOE DEFENDANTS, SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

30 Plaintiffs state in the JSR that "they will need a minimum of
31 one year to conduct sufficient discovery to identify all 'Doe'

1 defendants." (JSR 2:7-8.) However, this statement does not provide
2 sufficient justification for issuance of a ruling providing Plaintiffs
3 the requested amount of time for this discovery. A sufficient
4 explanation is required "so that the judge can consider whether [the
5 referenced] amendments may properly be sought solely under the Rule
6 15(a) standard, and whether structuring discovery pertinent to the
7 parties' decision whether to amend is feasible." Jackson v. Laureate,
8 Inc., 186 F.R.D. 605, 608 (E.D. Cal. 1999) (internal quotation marks and
9 citation omitted). Since sufficient justification has not been provided
10 concerning why Plaintiffs request "a minimum of one year" to conduct the
11 referenced discovery, Plaintiffs shall conduct discovery pertinent to
12 identifying Doe defendants forthwith. Plaintiffs have ninety (90) days
13 from the date on which this order is filed to file a motion in which
14 leave is sought under Federal Rule of Civil Procedure 15(a) to file an
15 Amended Complaint substituting a named defendant in place of a Doe
16 defendant; the motion shall be noticed for hearing on the earliest
17 available regularly scheduled law and motion hearing date.

18 No further service, joinder of parties, or amendments to
19 pleadings is permitted, except with leave of Court for good cause shown.
20 If leave is not sought as stated, Does 1 through 200 are dismissed from
21 this action.

22 ADDED DEFENDANT'S OPPORTUNITY TO SEEK AMENDMENT OF THIS ORDER

23 If Plaintiffs substitute a named defendant in place of a Doe
24 defendant, a copy of this Order shall be served on that defendant
25 concurrently with the service of process.

26 That defendant has 30 days after said service within which to
27 file a "Notice of Proposed Modification of Status Order." Although a
28 newly-joined party's proposed modification filed within this thirty day

1 period will not have to meet the good cause standard, no further
2 amendments will be permitted, except with leave of Court for good cause
3 shown.

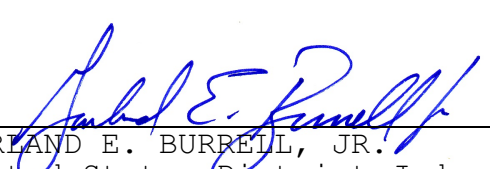
4 CLASS CERTIFICATION MOTION

5 Plaintiffs also state in the JSR that "[a] motion to certify
6 the class will be necessary once the 'doe' defendants are identified and
7 sufficient discovery has been undertaken to determine the size of the
8 class." (JSR 2:21-23.) Plaintiffs do not estimate how much time they
9 desire to conduct discovery concerning the class certification issues.
10 Federal Rule of Civil Procedure 23(c)(1)(A) provides that when a party
11 seeks to sue as a representative of a class, "[a]t an early practicable
12 time . . . the court must determine by order whether to certify the
13 action as a class action." Fed. R. Civ. P. 23(c)(1)(A). Therefore, since
14 Plaintiff does not discuss what is practicable as contemplated by this
15 rule, Plaintiff shall file a motion for class certification no later
16 than April 16, 2012; this motion shall be noticed for hearing on the
17 Court's earliest available regularly scheduled law and motion hearing
18 date.

19 FURTHER STATUS CONFERENCE

20 A further Status (Pretrial Scheduling) Conference is scheduled
21 for hearing on August 6, 2012 at 9:00 a.m. A further joint status report
22 shall be filed no later than fourteen (14) days prior.

23 Dated: September 28, 2011

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26 GARLAND E. BURRELL, JR.
27 United States District Judge
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