

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIAESTATE OF ROBERT (BOBBY) S.
CLIFFORD, et al.,

Plaintiffs,

v.

PLACER COUNTY, et al.,

Defendants.

No. 2:11-CV-02591-MCE-CKD

ORDER

Presently before the Court is a Motion to Amend Pretrial Order (ECF No. 76) filed by the sole remaining Plaintiff, Linda K. Clifford.¹ By way of that Motion, Plaintiff seeks leave to substitute a new retained expert for an expert previously designated. There is currently an interlocutory appeal (ECF No. 72) in this case being considered, however, by the Ninth Circuit, which divests this Court of jurisdiction to proceed to trial. See Chuman v. Wright, 960 F.2d 104, 105 (9th Cir. 1992) (holding that, absent the district court's certification that an interlocutory appeal is frivolous or forfeited, "the district court is automatically divested of jurisdiction to proceed with trial"). Regardless of whether this Court nonetheless retains jurisdiction over pre-trial proceedings, a point the parties dispute, it makes no practical sense, and would result in a waste of scarce resources, to

¹ Having determined that oral argument would not be of material assistance, the Court ordered this Motion submitted on the briefing in accordance with Local Rule 230(g).

1 proceed with such matters here while a potentially dispositive appeal is pending.
2 Accordingly, Plaintiff's Motion (ECF No. 76) is DENIED without prejudice to refile, if
3 appropriate, once the appellate court issues its mandate. This case is STAYED until that
4 same time as well. Finally, not later than ninety (90) days following the date this order is
5 electronically filed, and every ninety (90) days thereafter until the mandate issues, the
6 parties are directed to file joint status reports apprising this Court of the status of the
7 appeal.

8 IT IS SO ORDERED.

9 Dated: June 13, 2016

10 
11 MORRISON C. ENGLAND, JR.
12 UNITED STATES DISTRICT JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28