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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

34,196 RENTABLE SQUARE FEET,
MORE OR LESS, AT 3870 ROSIN
COURT; SACRAMENTO,
CALIFORNIA, et al.,

Defendants.

No. 2:11-cv-03467-KJM-AC

ORDER

This matter is before the court on the motion of defendants Clinton Reilly, individually, and in his capacity as trustee under that Certain Clinton Reilly Family Trust Dated June 8, 2001 (“defendants”) to continue the trial date based on the unavailability of counsel. (ECF 102.) Plaintiff United States of America opposes the motion. (ECF 111.) The court held a hearing on the matter on November 14, 2013, at which Lynn Ernce and Victoria Boesch appeared for plaintiff and Robert Moore for defendants. As explained below, the court continues the trial date to June 9, 2014.

I. STANDARD

Motions for a continuance of the trial are addressed to the sound discretion of the district court, as district courts have “considerable latitude in granting or denying continuances.”

1 *United States v. Pope*, 841 F.2d 954, 956 (9th Cir. 1988). “In assessing the need for a
2 continuance, four factors should be considered: 1) the requesting party’s diligence in preparing
3 his case for trial; 2) the need for the continuance; 3) whether granting the continuance will
4 inconvenience the court and the opposing party, including its witnesses; and 4) the extent to
5 which the party requesting the continuance will suffer harm as a result of the district court’s
6 denial.” *Bailey v. AT&T Wireless Servs. Div.*, 2:99-CV-2522-MCE-EFB, 2007 WL 185496, at *1
7 (E.D. Cal. Jan. 23, 2007) (citing *United States v. 2.61 Acres of Land, More or Less, Situated in*
8 *Mariposa Cnty., State of Cal.*, 791 F.2d 666, 671 (9th Cir. 1985)). “No one of these factors is
9 dispositive; absent a showing of prejudice to the requesting party, a district court's refusal to grant
10 a continuance will not be disturbed on appeal.” *Id.*

11 Here, according to a court order issued on January 2, 2013, a bench trial is set for
12 January 27, 2014. (ECF 66.) On November 8, 2013, defendants filed the instant motion to
13 continue the trial date currently set for January 27, 2014, to a date in late March or early April of
14 2014. (ECF 102 at 2.) Defendants seek a trial continuance because defendants’ counsel will be
15 unavailable on the currently scheduled trial date due to a confirmed trial set in state court. (ECF
16 103 at 1.) Plaintiff opposes the motion, but concedes the defense has a confirmed conflict.
17 (ECFs 111, 112.)

18 After considering the parties’ contentions and the court’s own availability for trial,
19 the court continues the current trial date to **June 9, 2014 at 9:00 a.m.** The court sets a final
20 pretrial conference on **May 1, 2014 at 2:30 p.m.**

21 The court sets the hearing on the motion to exclude (ECF No. 86) for **May 9, 2014**
22 **at 10:00 a.m.**

23 Additionally, after discussion with counsel at hearing, the court refers the case to a
24 court convened settlement conference with Magistrate Judge Kendall J. Newman, who has been
25 identified by random draw, to take place on **January 21, 2014** at 9:00 am in courtroom number
26 25. The parties are directed to submit their confidential settlement conference statements to the
27 Court using the following email address: kjnorders@caed.uscourts.gov. If a party desires to share
28 additional confidential information with the Court, they may do so pursuant to the provisions of

1 Local Rule 270(d) and (e). Statements are due at least 7 days prior to the Settlement Conference.
2 Each party is reminded of the requirement that it be represented in person at the settlement
3 conference by a person able to dispose of the case or fully authorized to settle the matter at the
4 settlement conference on any terms. *See* Local Rule 270.

5 IT IS SO ORDERED.

6 DATED: November 26, 2013.

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10 UNITED STATES DISTRICT JUDGE
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