

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CELTIC INTERNATIONAL, LLC,
Plaintiff,
v.
BNSF RAILWAY COMPANY,
Defendant.

No. 2:14-cv-2158 TLN DAD

ORDER

Defendant.

On July 21, 2015, defendant BNSF Railway Company, (“BNSF”), filed an ex parte application for an order “staying eight depositions and discovery demands sought by [plaintiff] until such time as this Court may hear and rule upon BNSF’s Motion for a Protective Order” and setting BNSF’s motion to quash “for a hearing on August 13, 2015,” before the undersigned. (Dkt. No. 26 at 1-2.) Plaintiff filed an opposition to defendant’s ex parte application on July 22, 2015, (Dkt. No. 28), and defendant filed a reply on July 23, 2015. (Dkt. No. 30.)

Defendant's ex parte application is based, in part, on the argument that the "depositions and document production discovery sought by [plaintiff] is not timely sought within the discovery completion date set forth in the Court's Pretrial Scheduling Order as once continued . . ." (Dkt. No. 26 at 4.) The current date set for the close of discovery in this action, however, is not until August 31, 2015. (Dkt. No. 21.) Moreover, defendant's application indicates that at least one of the depositions at issue "may go forward," but that the parties have a dispute as to the proper

1 location for that deposition. (Dkt. No. 26 at 4-5.) Additionally, the depositions at issue are
2 noticed for July 23, 2015, July 27, 2015 and July 28, 2015, rendering it impossible for the
3 undersigned to hear defendant's motion for a protective order prior to the dates set for the
4 depositions.

5 Accordingly, under the circumstances presented here, the undersigned will not grant
6 defendant's application to stay discovery. That is not to say that the undersigned finds all of
7 defendant's arguments without merit. Instead, the court simply cannot resolve the parties' dispute
8 prior to dates set for the noticed deposition and there is no reason to prohibit the parties from
9 continuing to attempt to resolve their dispute while discovery in this action remains open.

10 The court, however, will set defendant's motion for a protective order for hearing before
11 the undersigned on August 7, 2015. The undersigned anticipates that the parties will continue to
12 attempt to resolve their dispute in good faith and proceed in the manner they believe appropriate
13 until such time as the undersigned may rule on defendant's motion for a protective order.

14 Accordingly, IT IS HEREBY ORDERED that:

15 1. Defendant's July 21, 2015 application for an order staying discovery (Dkt. No.
16 26) is denied.

17 2. Defendant's motion for a protective order shall be heard on **Friday, August 7,**
18 **2015, at 10:00 a.m.**, at the United States District Court, 501 I Street, Sacramento, California, in
19 Courtroom No. 27, before the undersigned.¹ Any party may appear at the August 7, 2015 hearing
20 telephonically if the party pre-arranges such appearance by contacting Pete Buzo, the courtroom
21 deputy of the undersigned magistrate judge, at (916) 930-4128, no later than 48 hours before the
22 hearing; a land line telephone number must be provided.

23 Dated: July 23, 2015

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¹ The parties' Joint Statement re Discovery Disagreement shall be filed on or before July 31,
28 2015. See Local Rule 251(a).