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United States District Court
For the Northern District of California

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

COUNTY OF SANTA CRUZ; et al.,
Plaintiffs,
v.
CENTERS FOR MEDICARE AND
MEDICAID SERVICES,
Defendant.

No. C-07-2889 MMC

**ORDER GRANTING IN PART AND
DEFERRING IN PART RULING ON
DEFENDANT’S MOTION FOR
SUMMARY JUDGMENT; DEFERRING
RULING ON PLAINTIFFS’ MOTION RE:
SPOILIATION**

Before the Court are defendant’s Motion for Summary Judgment and plaintiffs’ Motion Re: Request for Finding of Spoliation of Evidence, each filed September 18, 2009. The matters came on regularly for hearing on October 23, 2009. Colleen Duffy-Smith, Dario de Ghetaldi, and Michael G. Reedy appeared on behalf of plaintiffs, and Jonathan U. Lee appeared on behalf of defendant. Having considered the papers filed in support of and in opposition to the motions, and the arguments of counsel, the Court, for the reasons stated on the record at the hearing, rules as follows:

1. Defendant’s motion for summary judgment is hereby GRANTED to the extent it seeks documents located in the files of defendant Centers for Medicare and Medicaid Services and in the files of Acumen, with the exception of the “new county file” referenced in plaintiffs’ reply in support of plaintiffs’ motion. (See Reply filed Oct. 13, 2009 at 8-9.) To the extent the motion seeks said “new county file” and any documents located

1 in the files of outside contractors Bearing Point and KPMG, ruling thereon is DEFERRED
2 pending the Court's receipt of the below-referenced supplemental filings.

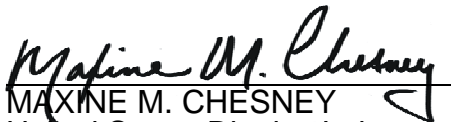
3 2. Ruling on plaintiffs' motion likewise is DEFERRED pending the Court's
4 receipt of the below-referenced supplemental filings.

5 3. Defendant shall file any supplemental declaration(s) no later than November
6 20, 2009; plaintiffs's opposition thereto, if any, shall be filed no later than December 4, 2009
7 and shall not exceed 10 pages in length exclusive of declarations/exhibits; defendant's
8 reply, if any, shall be filed no later than December 11, 2009 and shall not exceed 3 pages in
9 length exclusive of declarations/exhibits. The hearing on the deferred matters will be on
10 December 18, 2009 at 9:00 a.m.

11 4. The Case Management Conference previously scheduled for December 11,
12 2009 is CONTINUED to January 22, 2010. A Joint Case Management Statement shall be
13 filed no later than January 15, 2010.

14 **IT IS SO ORDERED.**

15
16 Dated: October 23, 2009


MAXINE M. CHESNEY
United States District Judge