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UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

KATHLEEN M. LUCAS, et al.,

No. C 11-01581 LB

Plaintiffs,

v.

**ORDER SETTING FURTHER CASE
MANAGEMENT CONFERENCE AND
CONTINUING LAST DAY FOR
HEARING DISPOSITIVE MOTIONS**

HERTZ CORPORATION, et al.,

Defendants.

[Re: ECF No. 77]

On August 21, 2012, in light of Plaintiff's counsel's unavailability and the parties' representation that they were acting "diligently in conducting discovery," the court continued the last day for hearing dispositive motion from October 4, 2012 (the original date) to November 1, 2012. 8/21/2012 Order, ECF No. 64 at 1-2. The parties needed the extension "due to delays in completing discovery including, taking the depositions of . . . defendant witnesses noticed by [P]laintiffs." *Id.* at 1.

On September 19, 2012, the parties sought to extend the last day for hearing dispositive motion from November 1, 2012 to November 15, 2012. Stipulation, ECF No. 69. The court denied the stipulation without prejudice because the date the parties wanted (November 15, 2012) was already the date for the pretrial conference. 9/20/2012 Order, ECF No. 70 at 2.

On September 25, 2012, upon the parties' filing of another stipulation, and again in light of Plaintiff's counsel's unavailability and the parties' representation that they were acting "diligently in conducting discovery," the court continued all of the remaining case management dates, including

1 the last day for hearing dispositive motions. 9/25/2012 Order, ECF No. 74 at 1-2. The parties
2 needed the dates continued because of “calendar conflicts and excusable delays in completing
3 discovery.” *Id.* at 1. Specifically, “[b]ased on the current scheduling of events, [P]laintiff’s counsel
4 will not be able [to] attend the currently scheduled Settlement Conference, nor complete the
5 depositions of [D]efendant’s corporate witnesses in order to oppose [D]efendant’s motions for
6 summary judgment.” *Id.* at 1-2. The court continued, among other dates, the trial date from
7 November 26, 2012 to April 15, 2013, and the last day for hearing dispositive motions from
8 November 1, 2012 to January 17, 2013. *Id.* at 2.

9 Now, the court has received an administrative motion from Defendant Hertz, asking the court to
10 allow it to file a separate statement of undisputed facts, rather than a joint one, in support of its
11 forthcoming summary judgment motion. Administrative Motion, ECF No. 77. Defendant’s counsel
12 represents that, despite his efforts, Plaintiff’s counsel has refused to meet and confer about the
13 undisputed facts. *Id.* at 2-3; Reply, ECF No. 2-3. Plaintiff’s counsel suggests that she is not in a
14 position to stipulate to undisputed facts because she has not yet been able to take the depositions of
15 Defendants’ corporate witnesses. Opposition, ECF No. 78. This is unconvincing given that the
16 court previously provided the parties with additional time to do exactly that, and that no dispute over
17 scheduling them has ever been brought to the court’s attention. It certainly does not appear that the
18 parties have been “diligently” conducting discovery.

19 Accordingly, the court **SETS** a Further Case Management Conference for Thursday, December
20 13, 2012 at 10:30 a.m., during which time the court will discuss this matter with the parties. Lead
21 counsel for Plaintiff (Cynthia McGuinn) and Defendant Hertz (John Ranucci) are **ORDERED** to
22 appear in person.

23 Also, the court once again **CONTINUES** the last day for hearing dispositive motions, this time
24 from January 17, 2013 to February 21, 2013. This means that Defendant need not file its summary
25 judgment motion until after this problem is resolved.

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IT IS SO ORDERED.

Dated: December 7, 2012



LAUREL BEELER
United States Magistrate Judge