

UNITED STATES DISTRICT COURT
For the Northern District of California

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UNITED STATES DISTRICT COURT
Northern District of California
San Francisco Division

JESUS LOPEZ, for himself and as the Guardian
ad Litem for EDGAR LOPEZ, ALEXANDRA
LOPEZ, and GRETSANDY LOPEZ, his minor
children,

No. C 12-03726 LB

**ORDER SETTING NEW BRIEFING
SCHEDULE**

Plaintiff,

v.

[ECF No. 33]

CONTRA COSTA REGIONAL MEDICAL
CENTER and COUNTY OF CONTRA COSTA,

Defendants.

_____ /
This case involves Plaintiff Jesus Lopez’s claims against the Contra Costa Regional Medical Center (“CCRMC”) for violating the Emergency Medical Treatment and Active Labor Act (“EMTALA”), 42 U.S.C. § 1395dd, and state malpractice law after Mr. Lopez’s wife (and his minor children’s mother) died from complications after she gave birth. ECF No. 21.¹ CCRMC moved for summary judgment. Discovery has not closed, and in his opposition, Mr. Lopez points out that he did not have responses to his interrogatories regarding issues raised by his arguments about good-faith admission under EMTALA. Opposition, ECF No. 34 at 9. CCRMC responds that discovery responses would not alter the outcome. Reply, ECF No. 36 at 65.

_____ /
¹ Citations generally are to the Electronic Case File (“ECF”) with pin cites to the electronically-generated page numbers at the top of the document.

1 As the court said in its order denying CCRMC's motion to dismiss, it understands CCRMC's
 2 legal argument that liability ended when Mrs. Lopez was admitted to labor and delivery on the night
 3 of September 29, 2011. The court also recognized the tension between 42 C.F.R. § 489.24(a)(1)(i)'s
 4 absolute cut-off of EMTALA liability at admission and 42 C.F.R. § 489.24(d)(2)(i)'s cut-off of
 5 EMTALA liability for a good-faith admission to stabilize. Given section 489.24(a)(1)(i)'s explicit
 6 cross-reference to section 489.24(d)(2)(i), the court did not resolve the issue at the pleadings stage,
 7 instead electing to wait until summary judgment. The idea was to decide the issue in the context of
 8 the facts. *See* Order, ECF No. 26 at 10-11 & n.11. The court also noted issues of fact appropriate
 9 for summary judgment: (1) whether the delivery department was an emergency department; (2)
 10 whether Mrs. Lopez was a patient before she was admitted to a post-partum floor; (3) whether Mrs.
 11 Lopez had an emergency medical condition that CCRMC detected; and (4) whether the hospital
 12 admitted Mrs. Lopez, knowing that did not have the ability to stabilize her (and thus that the
 13 admission was not made in good faith to stabilize her under the EMTALA). *Id.* at 10-11.

14 Some of these facts have been illuminated by the medical records. Mr. Lopez nonetheless
 15 maintains that he did not have sufficient discovery to address the issue of good faith. The court
 16 understands that CCRMC's position is that it does not matter in the context of what these records
 17 show. Nonetheless, given that fact discovery has not closed, and to ensure a clean record, the court
 18 will not hear a summary judgment motion until after fact discovery has closed. Given that outcome,
 19 the court vacates the November 21 summary judgment hearing, reiterates the previously-set
 20 discovery cut-offs (set based on the parties' input), and sets the following schedule, which includes
 21 dates for new opposition and reply briefs.

Case Event	Date
Fact Discovery Completion Date and Expert Disclosures	1/16/2014
Rebuttal Expert disclosures	1/31/2014
Plaintiff's Opposition Brief	1/31/2014
Defendants' Optional Reply	2/7/2014
Hearing on Summary Judgment Motion	2/20/2014, 9:30 a.m.


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All other deadlines will remain in effect.

IT IS SO ORDERED.

Dated: November 18, 2013



LAUREL BEELER
United States Magistrate Judge