

Honorable Joseph C. Spero
United States Magistrate Judge
United States District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

CC:

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3:12-cv-05743-JCS - Dowell v. Contra Costa County et al

Request for Permission to Appear by Telephone at:
Friday, February 22, 2013 Motion to Dismiss (FRCP 12(b)(6) Hearing

To the Honorable Magistrate Judge Joseph C. Spero,

I, Counsel for Plaintiff Eileen Dowell do hereby submit this late request to be permitted to make a telephonic appearance on Defendants' motion to dismiss Plaintiff's Complaint (FRCP 12(b)(6), currently set for Friday, February 22, 2013. The reason for this late request is as follows:

Following the setting of Defendants' motion, Counsel for Plaintiff inadvertently left the date off of his electronic calendar and inadvertently allowed a felony preliminary examination, in which Counsel represents one of two (2) co-defendants (who both reside out of state in Wisconsin) to be calendared for the same date as Defendants' motion. Said preliminary examination is to be held at 9:00 a.m., in department 10, Superior Court of California, County of Sonoma (Santa Rosa, CA), and is estimated to last one (1) hour.

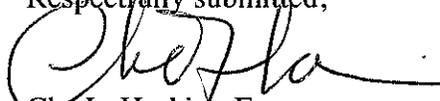
Upon becoming aware of this conflict, Counsel contacted Counsel for Defendants, who indicated their willingness to stipulate to a continuance to March 1, 2013. Plaintiff's Counsel, aware that the criminal matter may resolve, informed Defendants that Counsel would wait until after the February 20, 2013 criminal conference date, to ascertain actual availability for Friday, and Counsel agreed to sign the stipulation requesting a continuance to March 1, 2013, if the criminal case did not resolve on February 20, 2013.

The criminal matter did not resolve, and therefore Counsel sent the stipulation, as indicated above, to Defendants' Counsel, who thereafter indicated that they were no longer available on March 1, 2013, and would not be available until March 29, 2013. After checking

the Court's schedule, Counsel ascertained that this Court will not be in session on March 29, 2013. This Counsel has communicated such unavailability to Defendants' Counsel and requested additional available dates, but have not heard back as of the drafting of this request, but have sent an email request to Defendants' Counsel and have left a voice message with her assistant.

In checking the Court's schedule, Counsel has become aware that the motion that is the subject of this request has been moved to 11:30 a.m. for hearing, allowing for the possibility that this Counsel could participate, and obviate the need for a long continuance, if allowed to appear by telephone. For this reason, Counsel makes this emergency request to appear by telephone, and will be able to be reached at 11:30 a.m. at telephone number: 707/526-0420.

Respectfully submitted,



Che L. Hashim, Esq.
Attorney for Plaintiff
Eileen Dowell

CLH

Dated: 2/21/2013

