

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FABRIENNE ENGLISH,
Plaintiff,
v.
APPLE INC, et al.,
Defendants.

Case No. [3:14-cv-01619-WHO](#)

**ORDER DENYING PLAINTIFF'S
REQUESTS IN THE "OPPOSED
MOTION" AND DENYING AS MOOT
DEFENDANTS' MOTION FOR AN
EXTENSION OF TIME TO OPPOSE
THE REQUESTS**

Re: Dkt. No. 329, 330 and 331

Plaintiff Fabrienne English filed under seal¹ an "Opposed² Motion to Compel Disclosure of Defendants' Portion of Confidential Settlement Conference Letter or Other Shared with the Court by the Magistrate Either Verbally or in Writing Containing Allegations Against Plaintiff and/or her Counsel, Motion for Additional Briefing on Summary Judgment, and Request for Another Summary Judgment Hearing." Dkt. No. 329-4. Despite plaintiff's unfounded contentions to the contrary, Magistrate Judge Laporte did not share with me, verbally or in writing, any disparaging remarks about plaintiff or her counsel, or any information regarding the settlement negotiations at all. Judge Laporte did ask me prior to the settlement conference whether I could think of any reason to continue the settlement conference. I said that I could not. Since I am unaware of "any communications ... concerning attacks or allegations against Plaintiff and her counsel," *id.* at 6, except as plaintiff has now described in Dkt. No. 329, plaintiff's motion

¹ Plaintiff's administrative motion to file under seal will be DENIED without further order of the Court unless Apple files an objection to the order with a compelling reason for sealing within seven days of this order.

² I understand that Apple opposes this motion, and has not yet had an opportunity to file an opposition. *See* Kennedy Decl. ¶ 3 (Dkt. No. 329-6). Given the lack of merit in the motion, I am denying it *sua sponte*.

1 to compel is DENIED.

2 Plaintiff insists that I “should remove [myself] from the case because of taint and bias, and
3 because of the appearance of taint and judicial bias.” *Id.* at 2. I have no personal bias against
4 plaintiff or her counsel. The only “personal knowledge of disputed evidentiary facts” I have
5 comes from the parties’ extensive briefing of and numerous hearings about the issues over the
6 more than two years they have litigated this case before me and is described in my various
7 reasoned orders in this case. Recusal is unnecessary and inappropriate.

8 Plaintiff also moves for additional briefing and a new summary judgment hearing. *Id.*
9 There is no good cause to allow either, and the motion is DENIED. My ruling on Apple’s motion
10 for summary judgment is forthcoming, and English has failed to show how additional briefing or
11 argument will illuminate the disputed issues any further. As for her continued desire to test her
12 phone, I address that issue in the summary judgment order. Suffice it to say, it is the role of the
13 proponent, not the Court, to propose a reliable testing procedure that would form a sufficient basis
14 for an expert with scientific, technical or other specialized knowledge to opine on a material issue
15 in a case where testing is necessary.

16 Defendants’ request for an extension of time to oppose plaintiff’s motions (Dkt. No. 331)
17 is DENIED as moot.

18 **IT IS SO ORDERED.**

19 Dated: January 11, 2017

20 
21 WILLIAM H. ORRICK
22 United States District Judge
23
24
25
26
27
28