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6
 7 UNITED STATES DISTRICT COURT
 8 NORTHERN DISTRICT OF CALIFORNIA
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|----|---|---|---|
| 10 | | | |
| 11 | DMC CLOSURE AVERSION COMMITTEE (DCAC), |) | NO. 14-cv-03636 WHO |
| | BRAZELL H. CARTER, OTIS E. ROUNDS, et al., |) | |
| 12 | Plaintiffs, |) | PLAINTIFFS' EX PARTE |
| | |) | APPLICATION AND |
| 13 | v. |) | DECLARATION FOR ORDER |
| | |) | ENLARGING CASE |
| 14 | JOHN GOIA, INDIVIDUALLY AND IN HIS OFFICIAL |) | MANAGEMENT DEADLINES |
| | CAPACITY AS CONTRA COSTA COUNTY |) | AND CONTINUING CASE |
| 15 | SUPERVISOR FOR DISTRICT 1, ERIC ZELL, |) | MANAGEMENT CONFERENCE |
| | INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY |) | <u>AND PROPOSED ORDER</u> |
| 16 | AS THE PRESIDENT OF THE WEST CONTRA COSTA |) | |
| | HEALTH CARE DISTRICT, et al., |) | DATE: NOVEMBER 7, 2014 |
| 17 | |) | |
| 18 | Defendants. |) | |
| 19 | _____ |) | |

20 I, PAMELA Y. PRICE, hereby apply on behalf of the Plaintiffs in the above-entitled
 21 action for an Order, pursuant to Civil L.R. 7-10, enlarging the Case Management deadlines and
 22 continuing the Case Management Conference for a brief period of time to allow Plaintiffs additional
 23 time to determine who and how they wish to proceed, serve the Defendants and for counsel to meet
 24 and confer regarding a joint Case Management Statement.

25 Dated: November 7, 2014

LAW OFFICES OF PAMELA Y. PRICE

/s/ Pamela Y. Price

 PAMELA Y. PRICE, Attorneys for Plaintiffs

DECLARATION OF PAMELA Y. PRICE

I, PAMELA Y. PRICE, hereby declare:

1. I am an attorney duly licensed to practice law in the State of California, and lead counsel for the Plaintiffs herein. I make this Declaration on personal knowledge in support of Plaintiffs' Ex Parte Application for Order Enlarging Case Management Deadlines and Continuing the Initial Case Management Conference.

2. The Complaint in this action was initially filed on August 12, 2014, with a request for a Temporary Restraining Order and Preliminary Injunction in order to stop the drastic reduction in services offered by Doctor's Medical Center ("DMC") and an announced plan to close DMC. Plaintiffs include residents of West Contra Costa County, doctors and nurses who work at DMC. Plaintiffs appeared individually and as members of the DMC Closure Aversion Committee (DCAC) on behalf of a class of persons adversely impacted by the closure of DMC. Following a hearing, the Court denied the initial application for a TRO on August 12, 2014, and then denied the Motion for a Preliminary Injunction (Doc. #67).

3. The Order Setting Initial Case Management Conference filed on August 13, 2014 set October 22, 2014 as the last day for counsel for the parties to meet and confer regarding initial disclosures, early settlement, ADR process selection, and a discovery plan, as well as file a Joint ADR certification. The Initial Case Management Conference is currently set for **November 12, 2014**. The 120-day statute of limitations for service under Rule 4(m) of the Federal Rules of Civil Procedure expires on December 9, 2014.

4. Plaintiffs respectfully request an Order enlarging the Case Management deadlines until December 17, 2014 and continuing the Case Management Conference until January 7, 2014, on the following schedule:

| EVENT | CURRENT DATE | PROPOSED DATE |
|---|------------------|-------------------|
| Meet and Confer re: Initial Disclosures, Early Settlement, ADR Process Selection and Discovery Plan & File ADR Certificates | October 22, 2014 | December 10, 2014 |

| | | | |
|---|---|-------------------|-------------------|
| 1 | File Rule 26 Case Management Statement & Complete Initial Disclosures | November 5, 2014 | December 17, 2014 |
| 2 | | | |
| 3 | Case Management Conference | November 12, 2014 | January 7, 2014 |

4 5. Good cause exists for this request in that Plaintiffs contemplate filing a First
5 Amended Complaint and Defendants have not been served with the Complaint. Plaintiffs have
6 continued their efforts to stop the closure of DMC through interactions with the named Defendants
7 herein. Plaintiffs have not finalized their determination how they wish to proceed, including who
8 will continue in the lawsuit and whether to include certain Defendants in the proposed First
9 Amended Complaint. Once these decisions have been made, Plaintiffs will serve the First
10 Amended Complaint, and the parties will be in a position to meet and confer and prepare for the
11 initial Case Management Conference. Plaintiffs anticipate that service on all Defendants shall be
12 completed before December 1, 2014.

13 6. On October 8, 2014, Magistrate Judge Donna Ryu issued an Order setting a Case
14 Management Conference in an unrelated matter pending before her for November 12, 2014 at 1:30
15 p.m. On November 4, 2014, I filed an Ex Parte Application to continue that Conference in light of
16 the conflict. Prior to filing the application, it was my understanding that the case might be resolved
17 following a mediation on September 15, 2014 and ongoing negotiations with the mediator. On
18 November 5, 2014, Magistrate Judge Ryu denied my request to continue the Case Management
19 Conference and indicated that I am required to appear on that matter by Courtcall at 1:30 p.m. (*See*
20 *O'Loughlin v. BUSD, et al.*, U.S.D.C. Case No. C13-03715 DMR, Order Denying Motion to
21 Continue Case Management Conference (Docket No. 45); Order Granting Permission to Appear by
22 Telephone At Case Management Conference (Doc. #47).) Based on my experience with
23 transportation in the Bay area, it is not physically possible for me to comply with Magistrate Judge
24 Ryu's Telephonic Appearance Procedures to appear by telephone from a landline in my office in
25 Oakland and then travel to San Francisco to arrive in time to appear in this matter. I do not have
26 access to a landline telephone as required under her procedures in San Francisco.

27 7. Granting this Application will affect this Court's Initial Case Management
28

1 Scheduling Order although it should not result in any significant delay in the proceedings. Good
2 cause exists for this Application, as granting the Application will serve judicial economy by
3 allowing Plaintiffs to serve all Defendants, all Defendants to answer the Complaint, and all parties
4 to meet and confer prior to the filing of a joint Case Management Conference Statement.

5 8. There have been no previous requests for continuance of the meet and confer
6 deadlines or for continuance of the Initial Case Management Conference.

7 I declare under penalty of perjury under the laws of the State of California and the
8 United States that the foregoing is true and correct. If called as a witness in this matter, I could and
9 would testify competently to the facts stated herein.

10 Executed this 12th day of November 2014, at Oakland, California.

11
12 /s/ Pamela Y. Price
PAMELA Y. PRICE, Declarant

13 **ORDER**

14 Pursuant to the foregoing Application and good cause appearing therefore, the Court hereby
15 grants the application and adopts the following proposed schedule for the Initial Case Management
16 Conference:

| EVENT | CURRENT DATE | PROPOSED DATE |
|---|-------------------|----------------------------|
| Meet and Confer re: Initial Disclosures, Early Settlement, ADR Process Selection and Discovery Plan & File ADR Certificates | October 22, 2014 | December 10, 2014 |
| File Rule 26 Case Management Statement & Complete Initial Disclosures | November 5, 2014 | December 17, 2014 |
| Case Management Conference | November 12, 2014 | January 7, 2014 |

24 January 6, 2015

25 **IT IS SO ORDERED.**

26 Dated: November 7, 2014

27 
28 HON. WILLIAM H. ORRICK
U.S. DISTRICT COURT