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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DAVIS, et al.,
Plaintiffs,
vs.
CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION, et
al.,
Defendants.

Case No: C 08-04481 SBA

**ORDER DENYING EX PARTE
APPLICATION TO VACATE TRIAL
DATE**

[Docket 96]

Plaintiffs filed this employment discrimination and retaliation action on September 24, 2008. On December 18, 2009, the Court issued an order staying this action pending the resolution of the ongoing companion State Personnel Board proceedings related to Plaintiffs' whistleblower claim (Plaintiffs' Seventh Cause of Action). Dkt. 67. That order vacated the deadlines set forth in the Court's January 26, 2009 Order for Pretrial Preparation; however, the order indicated that fact discovery was to remain open and set a new fact discovery cut-off date of May 3, 2010. Id.

A further Case Management Conference was held in this matter on July 15, 2010. On July 16, 2010, the Court issued an Order for Pretrial Preparation, setting forth a December 6, 2010 trial date and related deadlines. Dkt. 84. On September 7, 2010, Defendants filed a Motion for Summary Judgment, or in the Alternative, Summary Adjudication. That motion is scheduled for hearing on October 12, 2010.

Also on September 7, 2010, Defendants filed the instant Ex Parte Application to Vacate Trial Date, requesting that the Court vacate the trial date and all pre-trial deadlines pending the resolution of Defendants' Motion for Summary Judgment and the underlying State Personnel Board proceedings. Dkt. 96. In their reply brief supporting their application, Defendants

1 indicate that the State Personnel Board has continued, at Defendants’ request, the October 18-
2 22, 2010 hearing on Plaintiffs’ whistleblower claims to March 7-11, 2011.¹ Dkt. 109 at 2.
3 Plaintiffs have filed a non-opposition to Defendants request to stay this action. Dkt. 99.


4 A district court possesses the inherent power to control its docket and promote efficient
5 use of judicial resources. Dependable Highway Exp., Inc. v. Navigators Ins. Co., 498 F.3d
6 1059, 1066 (9th Cir. 2007) (citing Landis v. North American Co., 299 U.S. 248, 254 (1936)
7 (“[T]he power to stay proceedings is incidental to the power inherent in every court to control
8 the disposition of the causes on its docket with economy of time and effort for itself, for
9 counsel, and for litigants.”) and Leyva v. Certified Grocers of California, Ltd., 593 F.2d 857,
10 863-64 (9th Cir. 1979) (“A trial court may, with propriety, find it is efficient for its own docket
11 and the fairest course for the parties to enter a stay of an action before it, pending resolution of
12 independent proceedings which bear upon the case. This rule applies whether the separate
13 proceedings are judicial, administrative, or arbitral in character, and does not require that the
14 issues in such proceedings are necessarily controlling of the action before the court.”)).

15 Here, the Court notes that this action has been pending since September 24, 2008.
16 Plaintiffs have brought several causes of action independent of their whistleblower claim.
17 Moreover, Defendants have contributed to the delay in the underlying administrative hearing
18 by requesting that it be continued to March 2011. In view of these factors, the efficient use of
19 judicial and the parties’ resources counsels against staying this action. Accordingly,

20 IT IS HEREBY ORDERED that Defendants’ Ex Parte Application to Vacate Trial Date
21 is DENIED. This order terminates Docket 96.

22 IT IS SO ORDERED.

23 Dated: September 28, 2010


SAUNDRA BROWN ARMSTRONG
United States District Judge

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¹ Plaintiffs indicate that they stipulated “in good faith” to move the hearing date to
March 2011.