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UNITED STATES DISTRICT COURT
Northern District of California
Oakland Division

ANNETTE SHARLENE ELDER-EVINS,

No. C 09-05775 LB

Plaintiff,

v.

MICHAEL J. CASEY, et al.

Defendants.

**ORDER RE: (1) THE PARTIES'
STIPULATION TO CONTINUE
COMPETENCY HEARING AND (2)
HEARING ON PLAINTIFF'S
MOTION TO EXCLUDE RECORDS**

On June 28, 2011, Judge Armstrong referred Defendant's motion to determine Plaintiff's competency. Order of Reference, ECF No. 148; *see* Defendant's Motion, ECF No. 115. Since then, Plaintiff's counsel has been appointed for purposes of this competency hearing. The competency hearing has been continued several times: from August 25, 2011, to November 17, 2011, to December 15, 2011, to January 19, 2012, and to its current date of March 15, 2012. Plaintiff's opposition and Defendant's reply briefs have yet to be filed, although they are currently due, per the parties' stipulation, on February 9, 2012 and February 23, 2012, respectively.

The parties have now filed a stipulation seeking a further continuance of the competency hearing. Stipulation, ECF No. 198. The reason for this continuance is the unavailability of Dr. Apostle, whose oral testimony Defendant would like to present at the hearing. *Id.* Good cause being shown, the court will continue the hearing on Defendant's motion to determine Plaintiff's competency. It will be heard on Thursday, May 17, 2012 at 11:00 a.m., which is the court's next available law and motion calendar date that does not appear to conflict with either Dr. Apostle's or

1 Defendant's counsel's schedules, as listed in the parties' stipulation.

2 The court does not find good cause, however, to extend the briefing schedule that the parties
3 chose by stipulation. Accordingly, Defendant's reply brief is still due no later than February 23,
4 2012.

5 In addition to Defendant's motion, Plaintiff filed on February 10, 2012 a motion to exclude
6 records and an objection to Defendant's request for judicial notice. Plaintiff's Motion, ECF No.
7 200. Plaintiff noticed her motion for March 15, 2012. In light of the continuation of the hearing on
8 Defendant's motion, the court will continue the hearing on Plaintiff's motion, too. Plaintiff's motion
9 will be heard on Thursday, May 17, 2012 at 11:00 a.m., and briefing on Plaintiff's motion shall
10 proceed in accordance with this District's Civil Local Rule 7-3.

11 **IT IS SO ORDERED.**

12 Dated: February 10, 2012



LAUREL BEELER
United States Magistrate Judge

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