

1                                    IN THE UNITED STATES DISTRICT COURT  
2                                    FOR THE NORTHERN DISTRICT OF CALIFORNIA

3  
4 YESENIA GUITRON; and JUDI KLOSEK,

No. C 10-3461 CW

5                                    Plaintiffs,

ORDER GRANTING IN  
PART MOTION TO  
CONTINUE TRIAL  
(Docket No. 143)

6                                    v.

7 WELLS FARGO BANK, N.A.; WELLS  
8 FARGO & CO.; PAM RUBIO; and DOES  
1-20,

9                                    Defendants.  
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11                                    Defendant Wells Fargo Bank, N.A. moves to continue the trial  
12 date in this case from February 11, 2013 until July 15, 2013, or  
13 in the alternative, until April 1, 2013. Defendant contends that  
14 the continuance is necessary because one of its witnesses, its  
15 employee Hale Walker, is currently pregnant and is anticipated to  
16 be on leave from January 2013. Plaintiffs Yesenia Guitron and  
17 Judi Klosek oppose a long continuance, but do not oppose a shorter  
18 continuance until March 2012. Plaintiff Klosek has not stated  
19 that she is unavailable for trial during early April 2013.

20                                    Having considered the papers submitted by the parties, the  
21 Court GRANTS the motion in part. The five-day jury trial is  
22 CONTINUED to Tuesday, April 2, 2013 at 8:30 a.m. The final  
23 pretrial conference is CONTINUED to Wednesday, March 20, 2013 at  
24 2:00 p.m.

25                                    Although the Court continues the trial, the Court notes that  
26 Defendant's proffered proof of Ms. Walker's unavailability is  
27 deficient. Defendant is primarily concerned that, by issuing a  
28 subpoena for Ms. Walker during the time she is on leave, it might

1 be liable for interference with her statutorily-protected family  
2 leave. However, the Court, not Defendant, will subpoena her.  
3 Further, Defendant has provided no evidence of the duration of  
4 leave that Ms. Walker intends to take, that it has discussed this  
5 issue with Ms. Walker or that it has tried to establish a leave  
6 schedule with her that would accommodate her testimony.

7 Defendant's evidence of its counsel's unavailability is also  
8 deficient. Defendant has stated that its "lead trial counsel  
9 currently is scheduled to be in trial in other actions in March,  
10 April, May and June." Mot. at 4. Defendant, however, has not  
11 provided any specific dates during which its counsel is scheduled  
12 to be in trial in those months, although Defendant has suggested  
13 setting trial in this matter for the week of April 1, 2013.

14 IT IS SO ORDERED.

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16 Dated: 12/7/2012

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19 CLAUDIA WILKEN  
20 United States District Judge  
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