

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

E-FILED 12-04-2009

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES *ex rel.* DONNA M.
McLEAN and THE STATE OF CALIFORNIA
ex rel DONNA M. McLEAN,

No. C05-01962 HRL

Plaintiffs,

v.

**ORDER GRANTING McLEAN'S EX
PARTE APPLICATION FOR
EXTENSION OF TIME TO
SUBSTITUTE NEW COUNSEL**

THE COUNTY OF SANTA CLARA, THE
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES OF SANTA CLARA
COUNTY, KENNETH BORELLI,
LAWRENCE GALLEGOS, EPIFANIO ("J.R.")
REYNA, TANYA BEYERS, DR. DEE
SCHAFFER, DR. TOMMIJEAN THOMAS,
DR. RICHARD PERILLO and DOES 1-100,

[Docket No. 278]

Defendants.

This court previously permitted conditional withdrawal by relator Donna McLean's third attorney, William Dresser, and granted McLean's request for a stay of these proceedings to permit her time to secure new counsel. (See Docket No. 277, October 9, 2009 Order). On November 25, 2009, a few days before the stay was to automatically expire, relator filed an ex parte application to extend the stay through January 4, 2010. The United States, which declined to intervene in this action, reportedly takes no position on McLean's requested extension. Defendants, however, oppose the motion and request that this case be dismissed as per this court's October 9, 2009 order.

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

Having considered the moving and responding papers, this court does not find good cause for the requested extension. Nonetheless, in the interests of justice it will give relator one last opportunity to retain new counsel. Accordingly, the December 8, 2009 case management conference is vacated, and this action will be stayed through January 4, 2010 at which time the stay will automatically expire. Assuming McLean has secured new counsel: (a) her new attorney(s) shall promptly enter an appearance and substitute into the matter, (b) the parties shall file a status report on January 5, 2010, and (c) a case management conference will be held on January 12, 2010, 1:30 p.m. to discuss the status of the remaining discovery addressed in this court's September 8, 2009 order and the setting of new dates for dispositive motion hearings, the final pretrial conference and trial. If McLean fails to retain new counsel on or before the expiration of the stay, the court intends to dismiss this action, without prejudice to the government. See United States ex rel Stoner v. Santa Clara County Office of Education, 502 F.3d 1116, 1128 (9th Cir. 2007).

SO ORDERED.

Dated: December 4, 2009



HOWARD R. LOYD
UNITED STATES MAGISTRATE JUDGE

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

5:05-cv-01962-HRL Notice has been electronically mailed to:
Joan Eve Trimble joan_trimble@cmwlaw.net, patricia_inabnet@cmwlaw.net
Melissa R. Kinyalocets melissa.kinyalocets@cco.co.scl.ca.us,
marylou.gonzales@cco.sccgov.org
Orley Brandt Caudill , Jr brandt_caudill@cmwlaw.net, christopher_zopatti@cmwlaw.net
Sara McLean sara.mclean@usdoj.gov
Sara Winslow sara.winslow@usdoj.gov, kathy.terry@usdoj.gov
Stephen H. Schmid stephen.schmid@cco.co.santa-clara.ca.us,
marylou.gonzales@cco.sccgov.org
Virginia Stewart Alspaugh Virginia_Alspaugh@cmwlaw.net, Linda_Knobbe@cmwlaw.net,
TheAlspaughs@cox.net
William C Dresser loofwcd@aol.com
William C. Dresser loofwcd@aol.com
Counsel are responsible for distributing copies of this document to co-counsel who have not
registered for e-filing under the court's CM/ECF program.

Copy of order mailed to:
Julia Ann Clayton
California Attorney General's Office
455 Golden Gate Avenue # 11000
San Francisco , CA 94102-7004
Donna McLean
1316 Arroyo Seco Drive
Campbell, CA 95008