UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

ALMA BURRELL, VICKYE HAYTER, MARGARET HEADD, Plaintiffs, v. COUNTY OF SANTA CLARA, DAN PEDDYCORD, RAE WEDEL, MARTY FENSTERSHEIB AND DOES 1 THROUGH 50, INCLUSIVE, Defendants.	Case No.: 11-CV-4569-LHK PRE-TRIAL CONFERENCE ORDER

On May 2, 2013, the Court held a Pre-Trial Conference.

Defendants' Motions in Limine

For the reasons stated on the record and subject to Fed. R. Evid, 403 balancing, the Court ruled as follows on Defendants' Motions in Limine.

Defendants' Motion in Limine No. 2 to Exclude Witnesses Michael Bradford, Terry Pryor and Mary Azah, ECF No. 76:
GRANTED as to Terry Pryor and Mary Azah, and DENIED, subject to Fed. R. Evid. 403 balancing, as to Michael Bradford.

Defendants' Motion in Limine No. 9 to Exclude Evidence of Promotions of Defendants and Other Current and Former County Employees, ECF No. 76:
WITHDRAWN by Defendants in ECF NO. 101.

Defendants' Motion in Limine No. 10 to Exclude Evidence of the Hiring of Employees Who Are Related to Current and Former County Employees, ECF No. 76:
DENIED, subject to Fed. R. Evid. 403 balancing. Subject to Fed. R. Evid. 403 balancing, Defendants may introduce evidence of the hiring of Plaintiff Burrell's daughter-in-law.

Defendants' Motion in Limine No. 11 to Exclude Lay Opinion Testimony that Plaintiffs Were "Discriminated Against" and/or "Retaliated Against", ECF No. 76:
GRANTED as to legal conclusions. DENIED, subject to Fed. R. Evid. 403 balancing, as to all else.

Defendants' Motion in Limine No. 14 to Exclude Evidence of Racial and Gender Composition, ECF No. 76:
GRANTED as untimely. Plaintiffs requested racial and gender composition records from the County on April 10, 2013, long after the close of discovery and completion of briefing on summary judgment.

Defendants' Motion in Limine No. 15 Precluding Plaintiffs' Counsel from Showing Parties and Witnesses Statutes and/or Regulations and Asking Them Questions that Call for Legal Conclusions, ECF No. 76:
GRANTED as to questions calling for legal conclusions, and DENIED, subject to Fed. R. Evid. 403 balancing, as to whether witnesses have ever seen statutes and regulations before.

Defendants' Motion in Limine No. 22 to Exclude Evidence of Plaintiff Vickye Hayter's 2005 Application for Reallocation and the Denial of Same, ECF No. 76:
GRANTED.

Defendants' Motion in Limine No. 24 to Exclude Evidence of Plaintiff Vickye Hayter's 2007 Application for Reclassification and the Denial of Same, ECF No. 76:
GRANTED as to Vickye Hayter's January 2007 application for reclassification and the denial thereof, and DENIED, subject to Fed. R. Evid. 403 balancing, as to Vickye Hayter's December 2007 application for reclassification and the denial thereof.

Defendants' Motion in Limine No. 26 to Exclude Evidence of Qualifications and Experience of Public Health Nurse IIIs Who Are Not Parties to this Action, ECF No. 76:
GRANTED.

Defendants' Motion in Limine No. 27 to Exclude Evidence of Plaintiff Vickye Hayter's Unsuccessful Applications for Public Health Nurse Manager, ECF No. 76:
GRANTED.

Defendants' Motion in Limine No. 28 to Exclude Evidence of Settlement Negotiations Pertaining to Plaintiff Vickye Hayter's Greivance, ECF No. 76:
DENIED, subject to Fed. R. Evid. 403 balancing.

Defendants' Motion in Limine No. 29 to Exclude Evidence of that Plaintiff Vickye Hayter Was Denied Lead Opportunities, ECF No. 76:
GRANTED.

Defendants' Motion in Limine No. 33 to Exclude Evidence of that Human Resources Analyst Kathy Buchanan's Position Paper Was "Suppressed", ECF No. 76:
GRANTED.

Plaintiff shall file a detailed proffer of Vickye Hayter's testimony by 4 p.m. on May 3, 2013. Defendants shall file a response by noon on May 6, 2013.

Psychologist Catherine Reed is excluded for untimely disclosure. Simultaneously, Plaintiff

withdraws this witness from their witness list and substitutes in Psychologist Alex Dimitriu.

Amy Oppenheimer's January 27, 2013 Amended Expert Witness Report and any testimony thereof is excluded as untimely. Amy Oppenheimer may only testify about her timely Preliminary Expert Report of December 21, 2012.

Mark Pashal and Vernon Crawley may only testify about their investigation of Plaintiff Burrell's discrimination claims. Their testimony about their investigation of Vickye Hayter's discrimination claims are excluded pursuant to Fed. R. Evid. 403 because Ms. Hayter's discrimination claims did not survive summary judgment.

Similarly, the testimony of Kathy Buchanan is excluded pursuant to Fed. R. Evid. 403 because Ms. Hayter's discrimination claims did not survive summary judgment.

Trial Management

The parties shall email their Joint Proposed Jury Instructions and their separate proposed Verdict Forms in Word Format to lhkcrd@cand.uscourts.gov by 10 a.m. on Friday, May 3, 2013.

Evidentiary Objection Process
The parties shall exchange lists of witnesses, exhibits, demonstratives, and deposition designations by 8 a.m. two days before the witness is to be called and the exhibits, demonstratives and deposition designations are to be used. That same day the parties shall meet and confer regarding their objections to the same. By 8 a.m. the day before the witness is to be called and the exhibits, demonstratives and deposition designations are to be used, the parties shall file their objections and responses thereto as well as the demonstratives and exhibits to which objections have been filed. That evening the Court will rule on the objections.

However, for demonstratives and exhibits to be used on Monday, May 6, 2013, the parties shall exchange them by noon on Saturday, May 4, 2013, and meet and confer regarding objections that same day. By 9 a.m. on Sunday, May 5, 2013, the parties shall file their objections and responses thereto as well as the demonstratives and exhibits to which objections have been filed.

Evidentiary Objection Limits
The parties are limited to five objections to the other party's opening demonstratives, and a total of three objections to the exhibits, demonstratives, and deposition designations of a witness. A party's objections and responses may not exceed three pages.

Rolling Witness List
By 8 p.m. daily, the parties shall file a rolling list of their next seven witnesses.

Daily Pre-Trial Conferences
The Court will hold a pre-trial conference on Monday, May 6, at 8:30 a.m. and at 8:45 a.m. every day of trial thereafter, unless specified otherwise.

Trial Time Limits
Opening Statements: 40 minutes per side
Evidence: 10 hours per side
Closing Arguments: 1 hour per side

Jury Selection and Preliminary Jury Instructions
The Court will empanel 8 jurors. Each side will have three peremptory challenges. Each side will have 5 minutes for jury voir dire. The parties stipulate that Joint Proposed Jury Instructions Nos. 1-16 shall serve as the Preliminary Jury Instructions in this case.

List of lawyers and witnesses for jury selection[1]

The parties shall file by 5 p.m. on Friday, May 3, 2013, a list of all parties, lawyers, law firms, and witnesses involved in this case for the prospective jurors to use in identifying potential relationships and conflicts. This list should include the days and times of trial. The parties are ordered to bring 20 copies of this document to Court on Monday, May 6, 2013 at 8:30 a.m.

Trial Schedule

9 a.m. to noon and 1-4:30 p.m. May 6, 7, 9, 10, 13, 14, and every day thereafter until the jury completes its deliberation.

IT IS SO ORDERED.

Dated: May 2, 2013

Lucy H. Koh

LUCY H. KOH
United States District Judge

[1] This was not ordered at the Pre-Trial Conference.