

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF COLORADO  
 Judge William J. Martínez

Courtroom Deputy: Deborah Hansen  
 Court Reporter: Gwen Daniel

Date: June 2, 2011

Civil Case No. 09-cv-01681-WJM-MEH

Counsel:

I.P., a Minor, by and through her Mother and  
 Conservator, Cynthia Cardenas,

Lance E. McKinley  
 R. Eric Solem

Plaintiff,

v.

SUSAN E. BIRCH, in her official capacity as  
 the Executive Director of the Colorado  
 Department of Health Care Policy and  
 Financing, and  
 DAVID SMITH, in his official capacity as the  
 Manager of the Benefits Coordination Section  
 in the Colorado Department of Health Care  
 Policy and Financing,

Jennifer L. Weaver

Defendants.

COURTROOM MINUTES

FINAL TRIAL PREPARATION CONFERENCE

02:05 p.m. Court in Session

Appearances

Court's comments

This case is set for a three-day bench trial commencing June 20, 2011.

The Court addresses pending motions.

*Plaintiff's Motion to Allow Plaintiff's Witness Sylvius H. Von Saucken to Testify by Telephone [Doc No. 129]*

02:07 Argument by Mr. McKinley

02:09 Argument by Ms. Weaver

**ORDERED: Plaintiff's Motion to Allow Plaintiff's Witness Sylvius H. Von Saucken to Testify by Telephone [Doc No. 129] is DENIED. Sylvius H. Von Saucken shall appear in person, and he will not be allowed to testify contrary to the Court's Order on the Motions for Summary Judgment [ECF No. 112], and the Court's Order on Defendants' Rule 702 motion [ECF No. 113].**

Court's comments

The Court inquires whether the deposition of James Leventhal has been scheduled.

Mr. Solem advises the Court that they found out James Leventhal will not be available for trial; and therefore, they are striking his name off the Witness List. Ms. Parker, who was originally scheduled to testify, will be the attorney from that office who will be testifying.

Court's comments concerning exhibit stipulations

Mr. Solem's comments

Ms. Weaver's comments

Ms. Weaver agrees with Mr. Solem – that there are not going to be any issues with authenticity of documents, and they will stipulate that the documents, if they are relevant and material, are admissible.

Court's further comments

Counsel have no additional issues or motions requiring the Court's attention at this time.

Ms. Weaver's comments

**ORDERED: Given the extensive briefing of the issues in this case, trial briefs will not be permitted.**

Court's comments

Recent filings continue to reference the successor Defendants in their individual capacity. The Court's ruling on the Motions for Summary Judgment makes clear that the individual Defendants are no longer parties in this case in their individual capacity.

**ORDERED: The parties shall ensure, in all future filings, that the caption of the case reflects the individual Defendants are in the case in their official capacity only.**

Court's comments

Counsel confirm that the settlement conference scheduled before Magistrate Judge Hegarty on June 9, 2011 is still going forward.

Court's further comments concerning settlement

02:20 p.m. Court in Recess  
Hearing concluded  
Time: /15

Clerk's Note:

Counsel were advised before the hearing that an original and **two** copies of the exhibits must be submitted for trial.