

**UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO**

DONALD KAYSER and MARY KAY  
KAYSER,

Plaintiffs,

vs.

PAM JANE McCLARY,

Defendant.

Case No.: 10-00119-REB

**MEMORANDUM DECISION AND  
ORDER RE:**

**DEFENDANT'S MOTION FOR  
LEAVE TO CONDUCT DISCOVERY**  
(Docket No. 87)

**DEFENDANT'S MOTION TO  
RESCHEDULE TRIAL AT A TIME  
DEFENDANT'S COUNSEL IS  
AVAILABLE**  
(Docket No. 90)

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Currently pending before the Court are Defendant's (1) Motion for Leave to Conduct Discovery (Docket No. 87), and (2) Motion to Reschedule Trial at a Time Defendant's Counsel is Available (Docket No. 90). Having carefully reviewed the record and otherwise being fully advised, the Court enters the following Memorandum Decision and Order:

**I. DISCUSSION**

On March 7, 2011, this Court granted Defendant's Motion to Vacate Trial and vacated the March 14, 2011 trial date. *See* 3/7/11 CMO (Docket No. 77). On March 10, 2011, the Court re-set trial for May 16, 2011. *See* Order Setting Trial, p. 1 (Docket No. 79). Defendant now seeks to vacate the May 16, 2011 trial date, arguing: (1) Defendant's counsel has a trial in

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Canyon County scheduled for May 17-19, 2011;<sup>1</sup> (2) Defendant's counsel has a trial in Owyhee County scheduled on May 24, 2011; and (3) Defendant's counsel will have only two attorneys available in mid-May, 2011. *See* Def.'s Mot. to Reschedule Trial, p. 2 (Docket No. 90).

The Court will deny Defendant's Motion to Reschedule Trial (Docket No. 90) at this time, revisiting the issue (if still existing) at the May 5, 2011 pre-trial conference. Relatedly, all deadlines identified in the Court's March 10, 2011 Order Setting Trial remain in effect, unless otherwise ordered by the Court.

In the meantime, Defendant is permitted to depose the three individuals identified in her Motion for Leave to Conduct Discovery (Docket No. 87): (1) Scott Richardson, (2) Maria Squire, and (3) Judy Estes. These individuals are located in Boise, Idaho and would appear to have limited information on discrete issues related to this action. In other words, notwithstanding any difficulties that may exist in scheduling these depositions in time for trial, they should not be particularly time-consuming. The depositions shall take place consistent with the Federal Rules of Civil Procedure. However, the parties are on notice that, (1) given the apparent availability of these deponents for most of the pre-trial period, and (2) given the timing of Defendant's recent request, the Court is not inclined to vacate the existing trial date in the event Defendant is unable to secure the requested depositions before that time.

## **II. ORDER**

Based on the foregoing, IT IS HEREBY ORDERED that Defendant's Motion for Leave to Conduct Discovery (Docket No. 87) is GRANTED, consistent with the rationale outlined

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<sup>1</sup> After the Court re-set the trial date in this action for May 16, 2011, Defendant's counsel's office contacted the undersigned's Staff Attorney, Dan Gordon, to notify the Court of the pending Canyon County action.

above. Moreover, Defendant's Motion to Reschedule Trial at a Time Defendant's Counsel is Available (Docket No. 90) is DENIED at this time. The Court will revisit this latter issue at the currently-schedule pre-trial conference on May 5, 2011.



DATED: April 19, 2011

A handwritten signature in black ink, appearing to read "Ronald E. Bush".

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Honorable Ronald E. Bush  
U. S. Magistrate Judge