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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
SOUTHERN DIVISION

CASA DE MARYLAND, : Civil Action No.  
Plaintiff, : RWT-17-2942  
v. :  
UNITED STATES DEPARTMENT : Greenbelt, Maryland  
OF HOMELAND SECURITY, :  
Defendant. : Wednesday, November 1, 2017  
\_\_\_\_\_/ 2:04 P.M.

TRANSCRIPT OF MOTION PROCEEDINGS  
BEFORE THE HONORABLE ROGER W. TITUS  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF: ELIZABETH J. BOWER, ESQUIRE  
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and  
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and  
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COMPUTER-AIDED TRANSCRIPTION OF STENOTYPE NOTES

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7 FOR THE DEFENDANT: KATHRYN C. DAVIS, ESQUIRE  
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**P-R-O-C-E-E-D-I-N-G-S**

1  
2 THE DEPUTY CLERK: The matter now pending before the  
3 Court is Civil Case Number RWT-17-2942, CASA de Maryland, et al  
4 versus Department of Homeland Security. The matter comes before  
5 this Court for an in court status hearing.

6 Counsel, please identify yourselves for the record.

7 MS. BOWER: Good morning, Your Honor. Elizabeth Bower  
8 of Wilky, Farr and Gallagher on behalf of the plaintiffs.

9 MR. FREEDMAN: Good afternoon, Your Honor. John  
10 Freedman from Arnold Porter Kaye Scholer for the plaintiffs.

11 MR. CORKERY: Good afternoon, Your Honor. Dennis  
12 Corkery from the Washington Lawyers Community for Civil Rights  
13 and Urban Affairs on behalf of plaintiff.

14 MR. QUERESHI: Good morning or good afternoon.  
15 Ajmel Quereshi for Howard University's Civil Rights Law Clinic  
16 for the plaintiffs.

17 MS. DAVIS: Good afternoon, Your Honor. Kathryn Davis  
18 from the Department of Justice on behalf of the defendants. And  
19 with me at counsel table is my colleague, Rachel Westmoreland.

20 THE COURT: Also Main Justice?

21 MS. DAVIS: Yes.

22 THE COURT: This case has been assigned to me and no  
23 response has been filed by the defendants, but appearances have  
24 been entered. So since that nicety has been attended to, I was  
25 able to respond favorably to the letter from Ms. Flores that was

1 sent on October 10th requesting that we have a status conference  
2 to discuss the future of this case and how it's going to be  
3 handled and so forth.

4 Let me ask some questions first just for my  
5 clarification. I have in fact read the Complaint. I have also  
6 looked up and so forth the June 15th, 2012 memorandum that  
7 brings us together, together with the September 5th, 2017  
8 memorandum that also brings us together. So I have an  
9 understanding of what was done or reportedly undone or scheduled  
10 for undoing. So, I think I understand essentially what's going  
11 on in the case.

12 But what I want to ask is this: The letter alludes to  
13 other cases. How many other cases are there out there that are  
14 raising essentially the same issues? Can somebody give us an  
15 update on that?

16 MS. BOWER: Yes, Your Honor. There are cases pending  
17 in three other district courts; the Eastern District of New  
18 York; the Northern District of California; and the District of  
19 Columbia.

20 THE COURT: Northern District of California and the  
21 District of Columbia.

22 MS. BOWER: Correct. And cases in both the Eastern  
23 District of New York and the Northern District of California are  
24 proceeding -- in those districts they're coordinated and  
25 proceeding together.

1 THE COURT: At some point, can you give me the  
2 citations to those cases?

3 MS. BOWER: Yes, we can get those for you.

4 THE COURT: And what about the case in D.C.?

5 MS. BOWER: The case in D.C., as I understand it, is  
6 filed but is currently not proceeding.

7 THE COURT: So it's just like this case, it's filed.

8 MS. BOWER: Correct.

9 THE COURT: And to whom is that case assigned?

10 MR. FREEDMAN: Judge Casey Cooper who is in the middle  
11 of a major terrorism trial.

12 THE COURT: Okay. Yeah, he had a funny thing in the  
13 Washington Post last week about a decision he wrote that I  
14 enjoyed reading.

15 Let me ask you a question. I bear the scars, the deep  
16 scars of having been assigned not once, but two different times  
17 to be the transferee judge of multi-district litigation, which  
18 is a process designed to avoid all kinds of inconsistent  
19 adjudications and so forth.

20 Is this case remotely in the category where all these  
21 cases could be transferred to a single judge so we don't end up  
22 with four different potential decisions in this case.

23 MS. BOWER: We are not in position at this point, Your  
24 Honor, to request MDL treatment for these cases.

25 THE COURT: Well, it can be done by the panel

1 sua sponte after being nudged by somebody, but I mean, as I  
2 said, I'm a veteran to that process. It works well and maybe  
3 not work well in a case like this, maybe it would. I think that  
4 the facts to be discovered in all four cases are essentially the  
5 same, are they not?

6 MS. BOWER: Many of the facts may be the same, Your  
7 Honor, but we think our cases -- the plaintiffs in our case are  
8 uniquely affected relative to the other cases.

9 THE COURT: They may be uniquely affected, but what  
10 I'm saying is, is the action taken by the administration that  
11 brings us together is being attacked on several grounds that  
12 you've asserted and the facts that would support relief to you,  
13 putting aside how it affects individual plaintiffs in your case,  
14 would have to be essentially the same, would it not?

15 MS. BOWER: Most of the facts probably would be the  
16 same, Your Honor.

17 THE COURT: Other than how it affects an individual  
18 plaintiff. I mean, whether this has some estoppel grounds or  
19 administrative procedure act violations or due process, whatever  
20 allegations, those would all have to be supported by the same  
21 essential facts, would they not?

22 MS. BOWER: I'm just thinking through all the things,  
23 Your Honor.

24 Most of the court facts, I think, probably will  
25 overlap between the various cases.

1 THE COURT: Do you have a copy of whatever orders have  
2 been entered by the Eastern District of New York and the  
3 Northern District of California relating to how they're  
4 processing the cases?

5 MS. BOWER: Yes, Your Honor, we do.

6 THE COURT: Are they strangely familiar to each other  
7 or are they completely different?

8 MS. BOWER: They are neither strangely different --  
9 they are neither strange nor the same. There is a hybrid.

10 THE COURT: Are they similar?

11 MS. BOWER: They are similar, they are similar, Your  
12 Honor. In both the New York and California, the courts allow  
13 discovery to proceed and there was a significant amount of  
14 discovery exchanged in both of those cases until it got to a  
15 point where the government filed a mandamus petition challenging  
16 some of the discovery rulings in those cases.

17 Each of those Courts have now entered scheduling  
18 orders to consider provisional relief and Rule 12 motions and in  
19 both courts those motions are proceeding. The schedules are not  
20 identical.

21 So, for example, in the Eastern District of New York,  
22 the government filed its Motion to Dismiss on Friday,  
23 October 27th. The schedule in California currently has the  
24 government's motion and we believe the plaintiff's opening  
25 motion as well due today.

1           We expect that the Rule 12 Motion in New York will be  
2 fully briefed this week. And it's our understanding that the  
3 parties in those cases anticipate a decision pretty quickly  
4 after the motion is briefed. And in California, the schedule  
5 goes through, I believe it's December 8th for reply briefs with  
6 the hearing currently scheduled for December 20th.

7           THE COURT: Well, let me hear from the defendant's as  
8 their views of this case.

9           MS. DAVIS: Thank you, Your Honor. Has plaintiff  
10 counsel has explained to the Court, we do have other related  
11 cases that are pending in other jurisdictions. And my  
12 understanding of the way forward that plaintiff would like to  
13 advance this case is similar to the way those cases proceeded  
14 over the government's objection. And that is to engage in  
15 discovery before the government even has an opportunity to  
16 respond to the complaint.

17           And as counsel explained, unfortunately, those cases  
18 got to such a point where the government had to file mandamus  
19 position in both circuits. And both circuits, the Second and  
20 the Ninth Circuit have stayed all discovery allegations given  
21 the strenuous objections to not just some of the discovery  
22 orders that came out, but all of the discovery orders.

23           And that's because the government's position is that  
24 it should be allowed to respond to the complaint. And it is our  
25 contention in the Eastern District of New York and will be doing

1 in the Northern District of California today is to file a  
2 dispositive motion in response to the complaint challenging both  
3 the jurisdiction to hear the plaintiff's claim as well as the  
4 justiciability of those claims. And given that we have these  
5 threshold issues that will need to be decided by the Court, we  
6 argue that those -- that motion and those decisions need to play  
7 out before we even get to a point where the Court would  
8 entertain discovery request.

9 THE COURT: Well, you say you're on the verge of  
10 filing a dispositive motion in two of the cases?

11 MS. DAVIS: Correct. Well, in the Eastern District of  
12 New York we've already filed a Motion to Dismiss.

13 THE COURT: So how much time would it take you to do  
14 the same motion in the Southern Division of the District of  
15 Maryland since you've already done one?

16 MS. DAVIS: Well, I think there are probably some new  
17 claims in this case that were not addressed by those prior  
18 motions, but if the Court were interested in accelerated  
19 briefing before our normal December 5th response date, I think  
20 we would ask the Court for at least two weeks.

21 THE COURT: Well, here, as I said, I bear the scars  
22 that I've been involved in two MDL's. It doesn't make a lot of  
23 sense to me that there's discovery going on in four different  
24 districts on, essentially, the same problem. There may be legal  
25 theories that are supporting or opposing the complaint, but it's

1 essentially the same facts. And this district has a strong  
2 policy that no discovery until the scheduling order issues,  
3 except in those instances in which the Court is doing something  
4 for, like, jurisdictional discovery that might be appropriate.  
5 But that's done in the context of a Motion to Dismiss that's  
6 pending. And somebody says, I'm moving to dismiss for absence  
7 of jurisdiction. And somebody says, well, I need to do some  
8 discovery to establish jurisdictional facts.

9 I don't know if that's the case here, but it seems to  
10 me that if the defense in this case contemplates that a Motion  
11 to Dismiss either alone or in the alternative for summary  
12 judgment is an appropriate way to address the case, then the  
13 question of whether discovery is needed or not may be measured  
14 after such a motion is filed and the plaintiffs can respond that  
15 we can't respond to the motion to the extent that it's  
16 alternatively a Summary Judgment Motion under -- and submit an  
17 affidavit under 56(d) saying why you need discovery and what is  
18 that discovery.

19 I'm a little reluctant to unleash unbridled discovery  
20 without having a motion in front of me or anything in front of  
21 me. I don't have an answer. I don't have a Motion to Dismiss.  
22 I don't have a Motion for Summary Judgment.

23 So I'm inclined to explore with the parties today  
24 setting up a relatively fast track schedule to get a motion in  
25 front of me and to get it so I can address it, if possible, on

1 an expedited basis because this case has a lot of public  
2 interest to it and it's in the interest of the country that we  
3 resolve these cases as promptly as possible.

4 If I establish a relatively fast track deadline for  
5 the defendants to file whatever motion they're going to file,  
6 are the plaintiffs in a position to respond fairly quickly?

7 MS. BOWER: Yes, Your Honor. Our interest is to get  
8 this case resolved in advance of the March 5th deadline. And so  
9 we, you know, we would propose a schedule that allows us to do  
10 that.

11 With respect to the concerns about unbridled discovery  
12 without a motion pending, you know, we appreciate that there has  
13 been some discovery in the other cases and we do anticipate we  
14 would be able to take advantage of some of that discovery. And  
15 so, we have proposed and discussed with defendants focusing, you  
16 know, narrowly focusing our discovery requests in this case on  
17 those areas where we feel that our case is different than the  
18 other pending cases.

19 THE COURT: Well, let me say what I'm inclined to do.  
20 I'm inclined not to allow any discovery at all until I get a  
21 motion. And when I get that motion, which I'm assuming is going  
22 to be 12(b)6 or -- well, at least 12(b)6. It might be  
23 alternatively 56. I'm not going to make that decision for the  
24 government, but until I have a motion in front of me.

25 Now, ordinarily, under our local rules, that's still

1 not going to give you discovery until I get some understanding  
2 of what's needed, but the -- do you intend to do this in the  
3 alternative for Summary Judgment?

4 MS. DAVIS: I think at this point we anticipate moving  
5 to dismiss under B1 and B6 grounds, or in the alternative  
6 summary judgment.

7 THE COURT: You said the magic words, in the  
8 alternative, summary judgment. I think the easiest way to  
9 resolve this, since I don't want to have burdensome and  
10 duplicative discovery going on in four different districts, I'm  
11 inclined to set a fairly quick deadline for whatever motion  
12 you're going to file, whatever opposition, whatever reply  
13 there's going to be.

14 The opposition can include a 56(d) affidavit saying,  
15 uh-uh, Judge, we can't respond to this motion and here's what we  
16 need discovery on, and it lays it out. And that doesn't prevent  
17 the parties from getting together and talking and saying, okay,  
18 well, we let's agree to this and then I can consider, possibly,  
19 making it go faster.

20 Well, let me look at my calendar. I've got some  
21 medical issues in my life going on that are making me want to  
22 accelerate this case. There's going to be a period of time when  
23 I'm out of commission for a short while and I want to make sure  
24 that I can move this case pretty quickly.

25 It is November 1. Are the defendants in a position to

1 file whatever they're going to file by November 13?

2 MS. DAVIS: Your Honor --

3 THE COURT: I was going to say the 10th, but the 10th  
4 is the Veterans Day and the court is closed.

5 MS. DAVIS: Yes, we are aware of that.

6 Your Honor, I would request that we have until the  
7 16th, if that would be possible. We are planning to file and  
8 I'm told Judge Cooper in the District of Columbia Court that we  
9 will be filing our Motion to Dismiss next week. And so that we  
10 can stagger and have a little less strain on our resources, I  
11 would ask until the 16th.

12 THE COURT: That sounds reasonable. Today is the 1st.

13 Okay. Can the plaintiffs respond to that fairly  
14 quickly? I know that next week is Thanksgiving week, which I  
15 don't want to be the grinch that took away Thanksgiving from  
16 people. Could you respond by the 29th of November, Ms. Bower?

17 MS. BOWER: We could do that. We were just looking at  
18 the calendar though, Your Honor, and if by any chance the  
19 government could accelerate it by a day or two of their motion,  
20 we could possibly get our opposition in before the holiday on  
21 the 22nd.

22 THE COURT: I don't want to do that to you. I know  
23 what it's like to have the family and Thanksgiving and  
24 everything else. I could --

25 How about the 28th for your opposition? That means at

1 least there's a chance of not having us ruin all of Thanksgiving  
2 weekend doing whatever you're going to do by way of opposition.

3 And can I move the defense up to the 15th rather than  
4 the 16th?

5 MS. DAVIS: Yes, Your Honor, I think we can do that.  
6 That's two weeks.

7 THE COURT: All right. So that, I think, gives us a  
8 reasonably concise schedule.

9 And then for a reply, if any, underline if any, the --  
10 how about the the 4th of December?

11 MS. DAVIS: Your Honor, would it be possible to do the  
12 5th?

13 THE COURT: Yeah, we could do the 5th, okay. As I  
14 said, the plaintiff's opposition can include whatever they wish  
15 with regard to a 56(d) affidavit and/or a proposal for some  
16 discovery that you convince me needs to be done.

17 As I said, I'm dealing with a completely blank slate  
18 on what kind of discovery has been done, where, what's left over  
19 and so forth and I'm reluctant to have all kinds of things going  
20 on.

21 Let me take a look at what's going on in my life here.

22 (Pause.)

23 THE COURT: How about a hearing on December 15th?  
24 Anybody got a conflict on that date?

25 MS. DAVIS: I believe that works for the government.

1 THE COURT: Okay.

2 MS. BOWER: And for the plaintiffs, Your Honor.

3 THE COURT: How about -- how about 9:30 and I'll put  
4 it down for two hours? Does that work?

5 Now, I cannot promise you that I can issue a ruling  
6 promptly getting something on December 15th, but this will help  
7 me in the sense that I am going to be out of commission sometime  
8 in January. And if I'm going to get anything done, I need to  
9 get it done quickly.

10 So now, could somebody, I don't care who it is, submit  
11 to me a letter that tells me what are the other three cases; the  
12 name of the cases, the citation of the cases, the status of the  
13 cases. I don't want anything argumentative. Just tell me what  
14 those cases are and what their status is. And are any of those  
15 cases in a posture as specific as mine where they've set a  
16 hearing?

17 MS. DAVIS: I believe in the Northern District of  
18 California they have a hearing date set for dispositive motions  
19 in December. That judge also --

20 THE COURT: Do you remember the date of it?

21 MS. DAVIS: I believe it was -- actually, Your Honor,  
22 I may have --

23 MS. BOWER: December 20th, Your Honor.

24 THE COURT: Excuse me?

25 MS. BOWER: December 20th.

1 THE COURT: December 20. You mean I'll be going  
2 faster than them? Great. They're a little slow out there. You  
3 know how it is.

4 And who is the judge in Northern District of  
5 California?

6 MS. DAVIS: Judge Alsup is coordinating the cases.

7 THE COURT: Alsup?

8 MS. DAVIS: Yes, William Alsup.

9 THE COURT: Okay. And what about the Eastern District  
10 of New York?

11 MS. DAVIS: Judge Garaufis.

12 THE COURT: How do you spell that?

13 MS. DAVIS: G-A-R-A-U-F-I-S.

14 THE COURT: S-I-S?

15 MS. DAVIS: F, as in Frank, -I-S.

16 THE COURT: Okay.

17 MS. DAVIS: And, Your Honor, since the government is  
18 obviously a defendant in all of these cases, we would be able to  
19 provide you with the status of names, citation and current  
20 posture of these cases.

21 THE COURT: Okay. Yeah, just give me a status report  
22 so I understand it.

23 All right. Well, let me just summarize what I believe  
24 I've done today.

25 MS. BOWER: Your Honor, I'm sorry to interrupt. May I

1 just clarify, with respect to discovery, we would ask for  
2 permission to participate in any further discovery that may  
3 occur in the other cases in the event that the stays are lifted  
4 in those jurisdictions.

5 THE COURT: You'll have to ask the judge in those  
6 cases. I can't give that permission.

7 MS. BOWER: I just meant with respect to your  
8 statement regarding no discovery in this case, we wanted to make  
9 sure that that did not preclude us in the event that the parties  
10 and the court in the other jurisdictions were willing to allow  
11 us to attend depositions, that that would be okay.

12 THE COURT: That's up to the parties and the judges in  
13 the other cases, if they'll let you do it. I mean, all I can  
14 tell you is I don't want to have the same person deposed four  
15 times and document request submitted four different times. I  
16 want to make sure that we get this done as efficiently as we  
17 can.

18 Something tells me that this is not a case that  
19 requires six months of discovery. It's a pretty straightforward  
20 case involving the validity of --

21 You know, the Lord giveth and the Lord taketh away.  
22 The Lord gaveth and what is it, June, 2012, and the Lord tooketh  
23 away or said I'm going to propose taking away the September,  
24 2017. What are the rights and liabilities of the parties? I  
25 mean, that -- it's a pretty straightforward case. As long as

1 the complaint may be and all the theories that are spouted  
2 there, is this something as to which the President's discretion  
3 is somehow restricted for the various reasons that you've given  
4 in your complaint.

5           And not having seen one inch, one iota of motion from  
6 defense yet, I don't know what the challenges will be and I  
7 can't forecast what they will be, but my inkling is to think  
8 that this schedule that I have set up could very well put us in  
9 a posture that we may or may not be able to resolve the case on  
10 its merits or not as the case might be.

11           I'm not promising that, but it will be a wonderful way  
12 to finish the work year before we have holiday recesses and so  
13 forth on December 15th, and we're going faster than the Northern  
14 District of California, I'm very proud to say.

15           MS. BOWER: The other bit of housekeeping is just the  
16 administrative record. The government has submitted an  
17 administrative record in some of the other cases. We also have  
18 ABA claims. We would ask that they be --

19           THE COURT: Is that correct that there's an  
20 administrative record that you've prepared?

21           MS. DAVIS: Correct, we've prepared that in both the  
22 EDNY and NE Cal. cases, and so we would be prepared to file that  
23 --

24           THE COURT: Just dump it into what you file here too.  
25 I want to make sure that all four judges have the same script in

1 front of them so that we know what -- you know, I don't want to  
2 have a different record than anybody else does, so --

3 MS. DAVIS: Yes, and we would anticipate --

4 THE COURT: -- I would feel left out if you give  
5 something to another judge that you don't give to me.

6 MS. DAVIS: I don't think you would have to worry  
7 about that.

8 THE COURT: Well, good. I will enter an order then  
9 reflecting the fact that at the request of counsel for  
10 plaintiffs we conducted a scheduling status conference in  
11 person, which I think is much better for a case like this. And  
12 that the Court has set as a order that on or before December 15,  
13 the defendants will file whatever motions they wish to file with  
14 respect to the pending complaint, that the plaintiffs file --  
15 shall file their opposition by November 28th, that the reply  
16 from the defendants will be on or before December 5, and then  
17 I'll have a hearing for two hours on December 15th at 9:30.

18 Since we're in the old new error of CM/ECF and it used  
19 to be when you had to file something, you had to get there by  
20 5:00 o'clock before the clerk's office closed. Now in CM/ECF  
21 people will file things at 11:59.

22 No, we're not doing that. 5:00 p.m. on these dates.  
23 I don't want to have the other side wait until 11:59 to start  
24 thinking about things, so whatever you file, it's 5:00 p.m. And  
25 I -- I'm not going to put this in the order, but I'm

1 expecting -- I think it's counsel for the government in the best  
2 position to do it to give me a summary of what's going on in the  
3 other cases; name, judge, court, status of the case, what's  
4 scheduled, what's not scheduled and so I have -- so that all  
5 other judges are on the same page. The other judges might like  
6 to get the same thing so they will know that I've got this case  
7 and they've got their cases and so forth.

8 All right. Is there anything else for the good of the  
9 order before I recess for the day?

10 MS. BOWER: Would it be helpful, Your Honor, if we  
11 were to provide periodic updates on the status of those pending  
12 cases as well?

13 THE COURT: Sure, yeah. It sounds to me like the case  
14 that's going to be heard first is this one, unless Judge Cooper  
15 wants to go like a rocket sled, right?

16 MS. BOWER: We do anticipate the Court in the Eastern  
17 District of New York to rule on the government's Rule 12 Motion  
18 in the next week or two.

19 THE COURT: Has it been argued?

20 MS. BOWER: It has not been argued. It will be fully  
21 briefed --

22 THE COURT: It's been due on the papers?

23 MS. BOWER: I don't think there's been a schedule set.

24 MS. DAVIS: No, there was no briefing schedule set in  
25 EDNY cases. The government represented that it could file a

1 brief, our dispositive motion by last Friday. And then I  
2 believe after that the court entered its briefing deadlines or  
3 at least an opposition deadline.

4 THE COURT: All right. Well, I wouldn't object if  
5 you make sure the other judges know what the other judge is  
6 doing. So if Judge Allsup wants to know, you know -- it would  
7 be helpful if all four federal judges know what the other ones  
8 are doing. And you're in a better position to communicate that  
9 to all of us. Who knows, this might become an MDL, but we will  
10 see.

11 MS. DAVIS: And, Your Honor, just to note -- I  
12 apologize, but just to note and this is putting the cart before  
13 the horse, so there's no reason to make arguments here today.  
14 But to the extent that plaintiffs do plan to seek discovery  
15 following the filing of our -- the filing of our Motion to  
16 Dismiss, I just wanted to let the Court to know that there may  
17 be some litigation with respect to that issue.

18 The parties before this conference did meet and confer  
19 and we talked about our positions on discovery. And we  
20 represented to the plaintiff that we believe in this type of  
21 case where it is an agency action that's administratively  
22 reviewed that discovery would be inappropriate, but I just  
23 wanted to give the Court the heads up that there might be some  
24 litigation with respect to that issue.

25 THE COURT: Well, all I can tell you is it's very

1 simple. This case doesn't have a motion filed, an answer, it  
2 has nothing filed. And under our rules, there is no discovery  
3 until a scheduling order issues. I'm not issuing one, haven't  
4 issued one, have no intention of issuing one. But what I have  
5 forecasted to the parties is that when the plaintiff's  
6 opposition comes in and if it has a Rule 56(d) affidavit in it,  
7 it's going to need to tell me exactly what needs to be done.

8 Now, you're telling me an administrative record has  
9 been deposited in other courts and will be deposited here, so  
10 check, that's taken care of. The question they're going to have  
11 to tell me then is what do you need beyond that, if anything.

12 And one of two things is going to happen under Rule  
13 56(d). I'm going to look at this and say, you know, I don't  
14 think they can adequately respond to the defense motion without  
15 the following items of discovery. So, I'm either going to deny  
16 it without prejudice to renew it or I'm going to withhold action  
17 on it and give an opportunity for this discovery to be done and  
18 come back in supplemental briefing and so forth.

19 There's an interest in having this case resolved  
20 promptly, so I'm going to try to be as conservative as I can in  
21 providing what's fair and equitable to both sides in terms of  
22 finding about each other's case. But there's not going to be  
23 any discovery until I sign an order that says there is  
24 discovery. So you don't need to mandamus me.

25 MS. DAVIS: I was not implying that.

1 THE COURT: So all right. I will get an order out to  
2 you. Your appearance is entered so you'll be electronically  
3 provided with it. And other than that, I will get an order out  
4 to you and you'll get it shortly.

5 MS. DAVIS: Thank you, Your Honor.

6 MS. BOWER: Thank you, Your Honor.

7 THE COURT: All right. Thank you.

8 (Pause.)

9 THE COURT: There's an open motion in this case on  
10 permission to omit individuals' home addresses from the caption.  
11 Is there any objection to that by the defense?

12 MS. DAVIS: Your Honor, I don't believe we would  
13 object to that request.

14 THE COURT: Okay. Well, I will include in my order a  
15 paragraph that grants this motion. I don't think an order was  
16 submitted. Was an order submitted with it?

17 MS. BOWER: No, it was not.

18 THE COURT: You can trust me to prepare an order then.  
19 I'm preparing an order anyway, so we'll prepare an order that  
20 includes granting that motion, okay.

21 MS. BOWER: Thank you, Judge.

22 THE COURT: All right.

23 (Recess at 2:35 p.m.)

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CERTIFICATE OF COURT REPORTER

I, Linda C. Marshall, certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter.

/s/

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Linda C. Marshall, RPR  
Official Court Reporter

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