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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ALISON N. TERRY,
Plaintiff,
v.
CITY OF SAN DIEGO, and
DOES 1-20,
Defendants.

Civil No.06CV1459 JAH(CAB)
**ORDER FOLLOWING MOTIONS
IN LIMINE HEARING**

On April 18, 2008, this matter came on for hearing the motions *in limine* filed by both parties. Plaintiff appeared personally and was represented by Michael Conger. Defendant was represented by Joe Cordileone. After a thorough review of the pleadings and relevant exhibits submitted by the parties, and after hearing the oral argument presented at the hearing, and for the reasons presented on the record which are incorporated herein by reference, this Court ORDERS as follows:

1. Plaintiff's motion for leave to amend/supplement her complaint to add claims for retaliation by defendant [doc. # 40] is **GRANTED**. Deadlines for completion of discovery and other pretrial proceedings as to the newly added claims shall be scheduled by the magistrate judge;
2. Plaintiff's motion *in limine* # 1 to preclude defendant from presenting evidence in defense of the material allegations contained in the complaint [doc. # 41] is **DENIED**. However, defendant is **ORDERED** to respond to plaintiff's special

1 interrogatory # 4 and plaintiff shall be given the opportunity to conduct discovery
2 as to that response as directed by the magistrate judge;

3 3. Plaintiff's motion *in limine* # 2 [doc. # 42] is **GRANTED** insofar as its seeks
4 preclusion of evidence and argument supporting defendant's issues of law nos. 9
5 and 10. The motion is also **GRANTED** insofar as it seeks preclusion of evidence
6 and argument supporting defendant's issues of law nos. 7, 8 and 11, subject only
7 to evidentiary determinations pursuant to the provisions of Rules 402 and 403 of
8 the Federal Rules of Evidence;

9 4. Plaintiff's motion *in limine* # 3 [doc. # 43] is **GRANTED**. Defendant is precluded
10 from presenting evidence to refute or contest the facts admitted in the answer but
11 shall not be precluded from objecting to irrelevant, inconsequential or unduly
12 prejudicial evidence, pursuant to the provisions of Rules 402 and 403;

13 5. Plaintiff's motion *in limine* # 4 [doc. # 44] is **GRANTED**. Defendant is precluded
14 from presenting expert witness testimony from Paul A. Zimmer at trial in response
15 to evidence presented in support of plaintiff's case-in-chief. However, defendant
16 is not precluded from designating and presenting an expert witness in response to
17 any evidence presented to support plaintiff's newly added retaliation claim(s);

18 6. Defendant's motion *in limine* #1 [doc. # 39] is **DENIED as moot**;

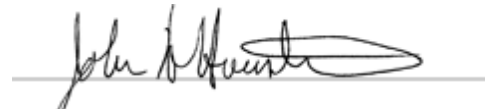
19 7. Defendant's motion *in limine* # 2 [doc. # 39-2] is **DENIED**. Defendant is not
20 precluded, however, from seeking a ruling on this issue pursuant to Rule 50 of the
21 Federal Rules of Civil Procedure after presentation of evidence at trial;

22 8. Defendant's motion *in limine* # 3 [doc. # 39-3] is **DENIED** but plaintiff shall serve
23 upon the Court and defendant an offer of proof **no later than the date required**
24 **for filing the amended proposed pretrial order** concerning the evidence she
25 intends to present to support her "pattern and practice" theory and its nexus to her
26 theory of the case. Defendant may file objections to the scope and relevance of
27 such evidence;

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- 1 9. Defendant's motion *in limine* # 4 [doc. # 39-4] is **DENIED**. However, defendant
2 shall provide plaintiff with the information needed for plaintiff's expert witness to
3 prepare an expert report within ten (10) days and plaintiff shall provide an expert
4 report by this witness within ten (10) days of receipt of the information from
5 defendant. Defendant shall be given the opportunity to depose this witness within
6 the time restraints set by the magistrate judge. Defendant is not permitted to
7 designate a rebuttal expert witness;
- 8 10. Defendant's motion *in limine* # 5 [doc. # 39-4] is **DENIED as moot**;
- 9 11. This matter is referred to the magistrate judge to schedule all further proceedings
10 in this case, including a date for a pretrial conference, in accordance with this
11 Order; and
- 12 12. The pretrial conference is taken off calendar, to be rescheduled at a later date as
13 appropriate.

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15 Dated: April 21, 2008

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17 JOHN A. HOUSTON
18 United States District Judge

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