

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 03-Z-2453 (CBS)

KEITH LANCE,
CARL MILLER,
RENEE NELSON,
NANCY O'CONNOR,

Plaintiffs,

v.

DONETTA DAVIDSON, SECRETARY OF STATE FOR
THE STATE OF COLORADO in her official capacity,

Defendant.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
10/15/04
GREGORY C. LANGHAM,
CLERK

ORDER

Before **EBEL**, Circuit Judge, and **PORFILIO**, Senior Circuit Judge of the United States Court of Appeals for the Tenth Circuit, and **WEINSHIENK**, Senior District Judge of the United States District Court for the District of Colorado.

In our Order dated February 4, 2004, this court stayed these proceedings pending the outcome of the appeal to the United States Supreme Court in People ex rel. Salazar v. Davidson, 79 P.3d 1221 (Colo. 2003). The Supreme Court denied certiorari, and the state court's opinion in Salazar is now final.

On June 14, 2004, Plaintiffs filed an Amended Complaint pursuant to Fed. R. Civ. P. 15(a), since Defendant had yet to file a pleading responsive to

Plaintiffs' original Complaint. We currently have several outstanding motions before us.

First, we GRANT Plaintiffs' Motion to Remove the Stay. We will defer setting a date for Defendant to file her answer or other responsive pleading until after considering the respective schedules proposed by the parties pursuant to paragraphs Fifth and Sixth, below.

Second, we DENY Plaintiffs' Motion for Default.

Third, Defendant's Motion to Consolidate this case with the litigation in Keller v. Davidson, No. 03-1482 (D. Colo. filed Aug. 1, 2003) is DENIED as moot, since the Keller litigation has now been dismissed.

Fourth, we ORDER all parties and Attorney General Salazar to submit simultaneous briefs on Attorney General Salazar's Motion to Intervene in this case. These briefs shall not exceed ten pages in length, and they shall be filed with the court by the close of business on November 12, 2004. Among other things, the parties should address the effect of Attorney General Salazar's entrance of appearance on behalf of Defendant Davidson on Attorney General Salazar's Motion to Intervene.

Fifth, we ORDER the parties to submit a discovery schedule, stipulated if possible, listing the discovery sought by each side and the time frame by which such discovery will be completed. This schedule shall also be submitted to the

court by November 12, 2004. If the parties advocate staged discovery, that should also be explained and supported.

Sixth, we ORDER the parties to submit a proposed plan and schedule for resolution of this case. These submissions, as well, shall be submitted to the court by November 12, 2004.

Dated at Denver, Colorado, this 15th day of October, 2004.

BY THE COURT:

ZITA L. WEINSHIENK, Senior Judge
United States District Court

DAVID M. EBEL, Judge
United States Court of Appeals
for the Tenth Circuit

JOHN C. PORFILIO, Senior Judge
United States Court of Appeals
for the Tenth Circuit