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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

JEFFREY POWERS, et al.,	)	Case No. LA CV 22-08357-DOC
	)	(JEMx)
Plaintiffs,	)	
	)	Los Angeles, California
vs.	)	
	)	Monday, April 8, 2024
DENIS RICHARD MCDONOUGH,	)	
et al.,	)	(2:54 p.m. to 3:05 p.m.)
	)	(3:48 p.m. to 3:51 p.m.)
Defendants.	)	

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TRANSCRIPT OF STATUS CONFERENCE RE DISCOVERY ISSUES  
BEFORE THE HONORABLE DAVID O. CARTER  
UNITED STATES DISTRICT JUDGE

Appearances:	See next page.
Court Reporter:	Recorded; CourtSmart
Courtroom Deputy:	Karlen Dubon
Transcribed by:	Jordan Keilty Echo Reporting, Inc. 9711 Cactus Street, Suite B Lakeside, California 92040 (858) 453-7590

Proceedings recorded by electronic sound recording;  
transcript produced by transcription service.

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1 Los Angeles, California; Monday, April 8, 2024 2:54 p.m.

2 --o0o--

3 (Call to Order)

4 THE COURT: We're on the record in the matter of  
5 Jeffrey Powers versus Denis Richard McDonough? McDonough?

6 UNIDENTIFIED SPEAKER: McDonough.

7 THE COURT: McDonough. It's Case Number 22-08357.  
8 I mean, Counsel, I know you. Just remain seated for a  
9 moment, but let me start with Mr. Du.

10 MR. DU: Good afternoon, your Honor. Tommy Du on  
11 behalf of Plaintiffs.

12 THE COURT: Okay. And just move the microphone a  
13 little bit closer because we have CourtSmart. And would you  
14 repeat that?

15 MR. DU: Good afternoon, your Honor. Tommy Du on  
16 behalf of Plaintiffs.

17 THE COURT: All right. And, please?

18 MR. PIAZZA: Amelia Piazza on behalf of  
19 Plaintiffs.

20 THE COURT: Okay. And your last name is spelled  
21 P-I-A-Z-Z-A?

22 MR. PIAZZA: That's right.

23 THE COURT: Thank you very much.

24 And then Mr. McCormick?

25 MR. MCCORMICK: Sean McCormick for the

1 Intervenor, Bridgeland Resources.

2 THE COURT: Okay. And then Cody?

3 MR. KNAPP: Cody Knapp for the Federal Government.

4 THE COURT: Okay. Brad?

5 MR. ROSENBERG: Brad Rosenberg for the Federal  
6 Defendants.

7 THE COURT: Okay. Let me turn this over to you  
8 folks. What are your thoughts?

9 MR. ROSENBERG: So, I think I have some very good  
10 news to report --

11 THE COURT: Great. Thank you.

12 MR. ROSENBERG: -- to the Court, your Honor. Over  
13 the weekend, we worked hard to resolve the -- the funding  
14 issue which we felt was the last holdup for the processing  
15 of the emails that we discussed late last week. That  
16 funding arrangement is now in place, and the Government is  
17 prepared to start processing those emails immediately.

18 I also had a conversation, not with Mr. Du but  
19 with Mr. Silberfeld, both late last week and before today's  
20 status conference, and we have a proposal for scheduling the  
21 remainder of discovery that we think will accommodate the  
22 Government's need to process these emails and accommodate  
23 both parties' needs to complete discovery while keeping this  
24 case on track, subject to, you know, the Court's concerns  
25 about protecting its calendar --

1 THE COURT: Sure.

2 MR. ROSENBERG: -- in light of the trial.

3 THE COURT: And I've come up with a tentative date  
4 where I'm not moving as many cases just to propose to you,  
5 just for some thought today. It's only a couple of weeks  
6 later.

7 MR. ROSENBERG: And -- and what, your Honor, we  
8 are -- we are contemplated is an extension of the discovery  
9 cutoff --

10 THE COURT: Okay.

11 MR. ROSENBERG: -- in this case until sometime in  
12 June, likely toward the end of June, with some caveats, that  
13 written discovery at least between the Plaintiffs and the  
14 Defendants, you know, the extension will be to allow the  
15 parties to complete their written discovery, rather than  
16 propound new written discovery. So, it lets us complete  
17 what's already out there.

18 The parties can continue to take depositions.

19 THE COURT: Okay.

20 MR. ROSENBERG: You know, we need to take the  
21 depositions of the named Plaintiffs, for example, and I  
22 understand that Plaintiffs probably would want to complete  
23 some of their depositions, especially after the documents  
24 are produced. And, so, that's an efficient path forward in  
25 that regard.

1           We anticipate generally keeping the same summary  
2 judgment briefing schedule that we have now. So, obviously,  
3 discovery would -- would continue past summary judgment.  
4 But, you know, that's a -- I think a sacrifice that the  
5 parties are prepared --

6           THE COURT: Okay.

7           MR. ROSENBERG: -- to make here. And what we  
8 would propose is, you know, there are some details that we  
9 need to work out in this regard, and this is all -- in light  
10 of the news that we received, the good news that we received  
11 about the funding, you know, we need to -- to sit down and  
12 talk to Plaintiffs, and we would propose that the parties  
13 file a proposed stipulation amending the scheduling order in  
14 this case by the end of this week, and that will give us all  
15 an opportunity to -- to think through what the -- the  
16 consequences are for an extension of these discovery cutoffs  
17 and allow us to work productively to do everything we can to  
18 keep this case on track.

19           THE COURT: Okay.

20           MR. DU: That's fine with us, your Honor. Mr.  
21 Silberfeld briefed me, and we are on the same page where we  
22 are not inclined at this point to move the trial date. I  
23 think we remain steadfast with the trial date. The only  
24 thing we're pushing is discovery cutoff such that --

25           THE COURT: Yeah.

1 MR. DU: -- we can review the documents, complete  
2 depositions, et cetera.

3 THE COURT: Let me share something with you. I --  
4 I literally brought a trial schedule for the next year that  
5 you can look at, okay, all my cases. And, first of all,  
6 you're going to go to your son or daughter's -- you're  
7 going, period. You go home and tell your spouse that. You  
8 go home and tell your family that. That's it. Because  
9 remember this is a court trial, and we take one or two extra  
10 days. A jury trial might be different.

11 But the best date for me -- and I'll show you  
12 right now -- would be a modest move to August 13th, and I'll  
13 show you why. I'm literally going to come down there and --  
14 I'm not doing this yet. It's too early, because I'm only  
15 going to move cases one time, but you don't care about June  
16 for a moment. Okay. You care about July. I'll be there in  
17 just a moment. Hang on. July 9th, ready. Back to back.

18 MR. ROSENBERG: What does that mean, ready?

19 THE COURT: That means they're ready for trial.  
20 Now, they can settle at the last moment.

21 MR. ROSENBERG: Other cases?

22 THE COURT: So, I'm -- other cases, exactly. July  
23 16th, ready. And if I was to start moving cases earlier,  
24 I'm afraid I would have to move too many cases to  
25 accommodate you and, plus, one or more of you should

1 complain, "Judge, you moved it from July 23rd to June  
2 something." Okay.

3           So, going backwards in time, if you look at my  
4 calendar, I have what I call a rather lax period because  
5 this person's going to continue, I think. So, from about  
6 August 13th on, look at what I have. I've got nothing  
7 August 13th through the next two weeks, nothing. And on  
8 August 27th, I've got cases that are easily moved because  
9 these are -- are cases with minor amounts involved. And --  
10 and, quite frankly, these cases are easily moved to  
11 September if I do that. So, I've only got one, two, three  
12 cases I have to move all the way up to September 10th.

13           So, if you went from August 13th to September  
14 10th, I'm not calling 20 people. I'm calling three cases,  
15 two and a half months ahead of time. So, it's just a  
16 thought right now, but what I can't do is I can't move that  
17 now and then move it back.

18           So, when you say, we're on track, yeah, we're on  
19 track, okay, because one or two weeks doesn't make a  
20 difference, frankly. Plus, it's a court trial.

21           I need to quietly know what dates --

22           MR. ROSENBERG: I'm actually trying to look that  
23 up right now. I got to --

24           THE COURT: Later on.

25           MR. ROSENBERG: But I probably -- I probably only



1 need, you know, a few days around the weekend, and, so --

2 THE COURT: No. You go home and tell your spouse  
3 and your family. That's it. Okay.

4 I know you said you had some trouble with your  
5 witnesses in August?

6 MR. DU: That's on the --

7 THE COURT: I don't believe it. Let me just be  
8 blunt with you. When you tell me that you have a month of  
9 trial work from August -- or September 23rd (sic) through  
10 August and then you tell me you've got trouble, no, you  
11 don't, because those witnesses would have had to be  
12 available anyway. So, you just get them here. Got it?

13 MR. DU: We'll do what we can, your Honor.

14 THE COURT: No. Am I clear?

15 MR. DU: Yes. Yes, your Honor.

16 THE COURT: Okay. That's it.

17 Now, I'm not moving this yet because we're not  
18 done yet today. But if I do, I'm going to move it one time.  
19 I'm going to call three cases instead of 30 cases, okay.  
20 Then I'm going to -- okay. Now --

21 MR. ROSENBERG: And that was August 13th, your  
22 Honor, is when --

23 THE COURT: Tentatively, hopefully. Now, it may  
24 get off the ground earlier. I can advance this, as -- but  
25 right now I'm thinking how many people do I need to call to

1 give you a straight run, okay. I think we can do that.

2 Now --

3 MR. ROSENBERG: Your Honor --

4 THE COURT: -- I want you to go have a  
5 confidential conversation with those folks over there  
6 because you had four or five things to work on -- hold on.  
7 I'll get to them. You had four or five things to work on,  
8 and I don't know where you're at in terms of our problem  
9 solving. I don't want to take my time right now with that.  
10 I want you to go with the special masters, and I promise you  
11 I'll accommodate you -- although I'll growl at you, I'll  
12 accommodate you in terms of your personal needs. Okay?

13 MR. DU: Yes, your Honor.

14 THE COURT: All right. Now, Counsel, you come  
15 over here because you had something you wanted to say?

16 MR. MCCORMICK: Yes, sir. So, I'm counsel for the  
17 Intervenor, Bridgeland, that was just joined on Friday.

18 THE COURT: Congratulations.

19 MR. MCCORMICK: Thank you, your Honor.

20 THE COURT: Okay.

21 MR. MCCORMICK: So, speaking of personal reasons,  
22 my wife is 35 weeks pregnant and --

23 THE COURT: Oh, my gosh.

24 MR. MCCORMICK: Thank you.

25 THE COURT: Congratulations.

1 MR. MCCORMICK: And I'll be taking paternity leave  
2 from my firm from approximately mid-May through the end of  
3 July. So, certainly --

4 THE COURT: Late.

5 MR. MCCORMICK: -- certainly in August 13th --

6 THE COURT: So, obviously you're in better shape.

7 MR. MCCORMICK: I'm in much better shape in  
8 August.

9 THE COURT: And you'll bring the baby to court.  
10 I'm just joking.

11 MR. MCCORMICK: Well, you'll have to ask my wife  
12 about that.

13 I mean, we would -- from Bridgeland's perspective,  
14 we would appreciate a September trial date, but --

15 THE COURT: No.

16 MR. MCCORMICK: -- August 13th is certainly better  
17 than --

18 THE COURT: I think August is going to work  
19 because September I've got a patent case that's been  
20 pending, and they're estimating three weeks. I've got  
21 another case following that estimated to be another three  
22 weeks. And, so, moving those kinds of cases that are so  
23 expensive -- I think this case has some priority, and you're  
24 the oldest case -- I'm trying to, you know, govern where I  
25 can accommodate my calendar also.

1 Now, I can get this off the ground on July 23rd.  
2 I'm just worried about that and what I've got to go through  
3 to get it off the ground, plus a commitment maybe to another  
4 judge to sit in another part of the country that I made long  
5 ago.

6 So, why don't you go talk to the special masters  
7 because we've got some folks outside, and I'll come back out  
8 here. We'll get you out of here. Okay. Maybe.

9 Why don't you take them back in the jury room back  
10 there. Okay.

11 ALL: Thank you, your Honor.

12 (Proceedings recessed to reconvene.)

13 THE COURT: Okay. So, we're on the record on  
14 CourtSmart finally, right, and the Court has had an informal  
15 conversation with counsel, and the Court's extraordinarily  
16 pleased with the input received from the special masters  
17 who've related to the Court that the parties are working  
18 very well between the Plaintiffs and Government Counsel, and  
19 I want this on the record that you have my genuine  
20 compliments after receiving this input from my special  
21 masters.

22 With your permission and that input that you're  
23 going forward with depositions and procuring the documents,  
24 I'm going to place this matter on calendar on the date of --

25 (Pause to confer with clerk.)

1 THE COURT: April 15th, and I'm going to place you  
2 on at 2:00 o'clock so in case you're coming from Washington,  
3 D.C., you're not -- or New York, you're not taking another  
4 night away from your family. You can fly out in the morning  
5 and work against the clock and if you need a little bit  
6 later time, I'll schedule that so that you can hopefully  
7 catch the same night flight back.

8 If everything's proceeding satisfactorily and you  
9 notify the Court through the special master by 12:00 noon,  
10 which is 3:00 o'clock east coast time, then I will take the  
11 matter off calendar with the representation that you've  
12 communicated with my special masters in this matter and that  
13 they're satisfied with the progress.

14 Is that fair enough?

15 MR. ROSENBERG: Yes, your Honor.

16 THE COURT: Okay. Jim, Daniel, do I need any  
17 further record from your standpoint?

18 JUDGE SMITH: I don't believe so, no.

19 THE COURT: Daniel?

20 MR. GARRIE: No.

21 THE COURT: Folks?

22 MR. ROSENBERG: Logistically, just so I understand  
23 and to avoid unnecessary travel, by noon Pacific Time or  
24 3:00 p.m. Eastern Time on Friday, what is it that we should  
25 do? Should we file -- should we just notify the special

1 masters via email for example?

2 THE COURT: I don't need any -- I don't need  
3 anything formal on the record.

4 MR. ROSENBERG: And then they can --

5 THE COURT: I like to keep it quick and simple.  
6 If you notify my special master -- I'm not asking you to  
7 list every single category, which you'd have to do if you  
8 fill the docket. I just need to know that things are  
9 progressing well enough so we can keep these dates. And I  
10 think if they're -- if we're not off the ground on July 23rd  
11 or 24th, we're off the ground by August 13th at the latest.  
12 Okay. So, we'll keep it right in that summer period, and I  
13 think I can give you a month -- month of time. Okay.

14 Okay. My compliments to you. Go have a good day.

15 ALL: Thank you, your Honor.

16 (Proceedings adjourned.)  
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1 I certify that the foregoing is a correct  
2 transcript from the electronic sound recording of the  
3 proceedings in the above-entitled matter.

4  
5 /s/Jordan Keilty 4/10/2023  
6 Transcriber Date

7 FEDERALLY CERTIFIED TRANSCRIPT AUTHENTICATED BY:

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9 /s/L.L. Francisco  
10 L.L. Francisco, President  
11 Echo Reporting, Inc.

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