

MINUTES

CASE NUMBER: 1:13-CV-00663-LEK-KSC

CASE NAME: Raynette Ah Chong, *individually and on behalf of the class of licensed foster care providers residing in the state of Hawai'i, et al v Patricia McManaman, in her official capacity as the Director of the Hawai'i Department of Human Services*

JUDGE: Leslie E. Kobayashi

REPORTER:

DATE: 08/12/2016

TIME:

COURT ACTION: **EO: COURT'S INCLINATIONS REGARDING DEFENDANT'S MOTIONS IN LIMINE NOS. 1-4**

1. Defendant's Motion in Limine ("MIL") No. 1 to Preclude Expert Opinion of Paul Brewbaker, Ph.D., filed August 2, 2016 [dkt. no. 233]

The Court is inclined to DENY MIL No. 1 and find that: Dr. Brewbaker is qualified as an expert in economics to opine in the areas set forth in his reports and deposition testimony; and that the arguments raised regarding his opinions are more appropriately addressed in cross-examination.

Further, since this matter is a non-jury trial, the potential for any prejudice caused by his opinion testimony is extremely low, subject to any specific admissibility and relevance objections not raised in this motion.

2. Defendant's MIL No. 2 to Preclude Testimony and Evidence from Mary Eschelback (sic) Hansen, Ph.D., filed August 2, 2016 [dkt. no. 234]

The Court is inclined to GRANT IN PART and DENY IN PART MIL No. 2. It is inclined to preclude Dr. Eschelbach Hansen's testimony in the following areas, pursuant to Rules 401 and 403 of the Federal Rules of Evidence, because the testimony and evidence are not relevant and/or any relevance is outweighed by a waste of time presenting such evidence at the trial: (1) implicit cost of supervision; (2) implicit cost of shelter and transportation; and (3) opportunity costs. It is inclined to permit the remainder of Dr. Hansen's testimony as set forth in her Report on Hawaii's Payments to Its Foster Parents and the Cost of Caring for Children in Hawai'i Foster Care and her supplemental and rebuttal reports, subject to any specific admissibility and relevance objections not raised in this motion.

3. Defendant's MIL No. 3 to Preclude Testimony from Witnesses in Categories 4 and 5 of Plaintiffs' Pretrial Statement (Doc 227), filed August 2, 2016 [dkt. no. 235]

The Court is inclined to GRANT IN PART and DENY IN PART Defendant's MIL No. 3. It is inclined to grant the motion to the extent that any witnesses not timely disclosed by name and address as required by Rules 16, 26(a)(1)(A)(i), 26(a)(2), 26(a)(3)(A) and 33 of the Federal Rules of Civil Procedure and deny as to any other respect. Specifically, as to those witnesses for whom discovery was sought as to their identities but not provided prior to disclosure at the pretrial conference before United States Magistrate Judge Kevin S.C. Chang, the Court is inclined to preclude these witnesses as being untimely disclosed and to deny in all other respects.

4. Defendant's MIL No. 4 to Preclude Plaintiffs' from Re-litigating their Shelter Argument, filed August 2, 2016 [dkt. no. 236]

The Court is inclined to GRANT Defendant's MIL No. 4 and to preclude evidence regarding inadequacy of foster care maintenance payment regarding the shelter expense category pursuant to Rules 401 and 403 of the Federal Rules of Evidence because the testimony and evidence are not relevant and/or any relevance is outweighed by a waste of time presenting such evidence at the trial based upon this Court's prior ruling that, as a matter of law, rent, mortgage payments, property taxes and other similar expenses are not part of the shelter expense category.

The parties should appear at the August 15, 2016 hearing prepared to discuss these issues and/or to direct the Court to controlling case law, cited in their memoranda, that either supports or contradicts these matters. The Court emphasizes that these inclinations are intended only to help the parties prepare for oral argument and are not the Court's final decisions in these matters. Rather, the parties are encouraged to raise relevant case law and/or facts, cited in their memoranda, to show the Court why its inclinations are mistaken or correct.

Submitted by: Bernie Aurio, Courtroom Manager

Cassandra Crawford - Activity in Case 1:13-cv-00663-LEK-KSC Ah Chong v. McManaman Link

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U.S. District Court

District of Hawaii

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Case Number: [1:13-cv-00663-LEK-KSC](#)
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Docket Text:

EO: COURTS INCLINATIONS REGARDING DEFENDANTS MOTIONS IN LIMINE NOS. 1-4: [235] MOTION in Limine No. 3, [236] MOTION in Limine No. 4, [233] MOTION in Limine No. 1, [234] MOTION in Limine No. 2. (JUDGE LESLIE E. KOBAYASHI)(bbb)

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