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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

,		}	CASE NO.
	Plaintiff(s),		ORDER SETTING SCHEDULING
			CONFERENCE
v.			Date:
,			Time: 11:00 a.m.
	Defendant(s).	}	Courtroom: 5A

**READ THIS ORDER CAREFULLY. IT DIFFERS IN
SOME RESPECTS FROM THE LOCAL RULES.**

This case has been assigned to Judge Michael W. Fitzgerald. This matter is set for a scheduling conference on the above date. If plaintiff has not already served the operative complaint on *all* defendants, plaintiff shall *promptly* do so and shall file proofs of service within three days thereafter. Defendants also shall timely serve and file their responsive pleadings and file proofs of service within three days thereafter. At the scheduling conference, the Court will set a date by which motions to amend the pleadings or add parties must be heard.

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1 The conference will be held pursuant to Rule 16(b) of the Federal Rules of
2 Civil Procedure. The parties are reminded of their obligations under Rule
3 26(a)(1) to disclose information (without awaiting a discovery request), and under
4 Rule 26(f) to confer on a discovery plan not later than 21 days before the
5 scheduling conference and to e-file a “Joint Rule 26(f) Report” with the Court not
6 later than 14 days before the conference. Mandatory paper chambers copies of
7 the Joint Rule 26(f) Report must be delivered to Judge Fitzgerald’s drop box
8 located outside of the Clerk's office on the fourth floor of the courthouse, 350
9 West First Street, by 12:00 p.m. on the first court day after the e-filing.

10 The Court encourages counsel to agree to begin to conduct discovery
11 actively *before* the Scheduling Conference. At the very least, the parties shall
12 comply fully with the letter and spirit of Rule 26(a) and thereby obtain and
13 produce most of what would be produced in the early stage of discovery, because
14 at the Scheduling Conference the Court will impose strict deadlines to complete
15 discovery.

16 **This Court does not exempt parties appearing *in propria persona* from**
17 **compliance with any of the Local Rules, including Local Rule 16. “Counsel,”**
18 **as used in this order, includes parties appearing *in propria persona*.**

19 **1. Joint Rule 26(f) Report**

20 The Joint Rule 26(f) Report, which shall be filed **not later than 14 days**
21 before the scheduling conference, shall be drafted by plaintiff (unless the parties
22 agree otherwise), but shall be submitted and signed jointly. “Jointly”
23 contemplates a single report, regardless of how many separately-represented
24 parties there are. The Joint Rule 26(f) Report shall specify the date of the
25 scheduling conference on the caption page. It shall report on all matters described
26 below, which include those required to be discussed by Rule 26(f) and Local Rule
27 26:

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- a. Statement of the Case: A short synopsis (not to exceed two pages) of the main claims, counterclaims and affirmative defenses.
- b. Subject Matter Jurisdiction: A statement of the **specific** basis of federal jurisdiction, including supplemental jurisdiction.
- c. Legal Issues: A brief description of the **key legal issues**, including any unusual substantive, procedural or evidentiary issues.
- d. Parties, Evidence, etc.: A list of parties, percipient witnesses and key documents on the main issues in the case. For conflict purposes, corporate parties must identify all subsidiaries, parents and affiliates.
- e. Damages: The realistic range of provable damages.
- f. Insurance: Whether there is insurance coverage, the extent of coverage and whether there is a reservation of rights.
- g. Motions: A statement of the likelihood of motions seeking to add other parties or claims, file amended pleadings, transfer venue, etc.
- h. Manual for Complex Litigation: Whether all or part of the procedures of the Manual for Complex Litigation should be utilized.
- i. Status of Discovery: A discussion of the present state of discovery, including a summary of completed discovery.
- j. Discovery Plan: A detailed discovery plan, as contemplated by Rule 26(f). State what, if any, changes in the disclosures under Rule 26(a) should be made, the subjects on which discovery may be needed and whether discovery should be conducted in phases or otherwise be limited, whether applicable limitations should be changed or other limitations imposed, and whether the Court should enter other orders. A statement that discovery will be conducted as to all claims and defenses, or other vague description, is not acceptable.
- k. Discovery Cut-off: A proposed discovery cut-off date. *N.B.* This means the final day for **completion of discovery**, including

1 resolution of all discovery motions.

- 2 l. Expert Discovery: Proposed dates for expert witness disclosures
3 (initial and rebuttal) and expert discovery cut-off under Rule
4 26(a)(2).
- 5 m. Dispositive Motions: A description of the issues or claims that any
6 party believes may be determined by motion for summary judgment
7 or motion *in limine*.
- 8 n. Settlement/Alternative Dispute Resolution (ADR): A statement of
9 what settlement discussions or written communications have
10 occurred (**excluding any statement of the terms discussed**). If
11 counsel have received a Notice to Parties of Court-Directed ADR
12 Program (Form ADR-08), the case presumptively will be referred to
13 the Court Mediation Panel or private mediation (at the parties'
14 expense). If the parties jointly desire a settlement conference with
15 the assigned magistrate judge, they should so indicate in their report
16 and the matter will be discussed at the scheduling conference. No
17 case will proceed to trial unless all parties, including an officer (with
18 full authority to settle the case) of all corporate parties, have
19 appeared personally at an ADR proceeding.
- 20 o. Trial Estimate: A realistic estimate of the time required for trial and
21 whether trial will be by jury or by court. Each side should specify
22 (by number, not by name) how many witnesses it contemplates
23 calling. If the time estimate for trial given in the Joint Rule 26(f)
24 Report exceeds four court days, counsel shall be prepared to discuss
25 in detail the estimate.
- 26 p. Trial Counsel: The name(s) of the attorney(s) who will try the case.
- 27 q. Independent Expert or Master: Whether this is a case where the
28 Court should consider appointing a master pursuant to Rule 53 or an

1 independent scientific expert. (The appointment of a master may be
2 especially appropriate if there are likely to be substantial discovery
3 disputes, numerous claims to be construed in connection with a
4 summary judgment motion, a lengthy *Daubert* hearing, a resolution
5 of a difficult computation of damages, etc.).

- 6 r. **Timetable: Complete the Schedule of Pretrial and Trial Dates**
7 **form attached as Exhibit A to this Order and attach it to the**
8 **Joint Rule 26(f) Report.** The entries in the “Weeks Before Trial”
9 column reflect what the Court believes are appropriate for most cases
10 and will allow the Court to rule on potentially dispositive motions
11 sufficiently in advance of the pretrial conference. The form is
12 designed to enable counsel to ask the Court to set different (earlier)
13 last dates by which the key requirements must be completed. Each
14 side should write in the month, day, and year it requests for each
15 event. *E.g.*, for the expert discovery cut-off it might be “10/15/12”
16 for plaintiff and “10/29/12” for defendant, if they cannot agree. At
17 the conference, the Court will review this form with counsel. Each
18 entry proposing Court dates shall fall on a Wednesday, except the
19 trial date, which is a Tuesday. Counsel should insure that requested
20 dates do not fall on a holiday. In appropriate cases the Court will
21 order different dates after it hears from counsel. The discovery cut-
22 off date is the last day by which all depositions must be completed,
23 responses to previously-served written discovery must be provided,
24 and motions concerning discovery disputes must be heard. The cut-
25 off date for motions is the last date on which motions must be **heard**,
26 not filed. The Court is not likely to continue this date and will not
27 do so unless the trial date also is continued.

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- 1 s. Other issues: A statement of any other issues affecting the status or
2 management of the case (e.g., unusually complicated technical or
3 technological issues, disputes over protective orders, extraordinarily
4 voluminous document production, non-English speaking witnesses,
5 ADA-related issues, discovery in foreign jurisdictions, etc.) and any
6 proposals concerning severance, bifurcation, or other ordering of
7 proof.

8 The Joint Rule 26(f) Report should set forth the above-described
9 information under section headings corresponding to those in this Order.

10 **2. Scheduling Conference**

11 Scheduling conferences will be held in Courtroom 5A, 350 West First
12 Street. Counsel shall comply with the following:

- 13 a. Participation: Although the Court would prefer lead trial attorney's
14 attendance at the scheduling conference, it is not required. However,
15 if lead trial counsel does not attend, any attorney appearing on his or
16 her behalf must be prepared to discuss the case and authorized to
17 address scheduling with the Court and opposing counsel.
- 18 b. Continuance: A continuance of the scheduling conference will be
19 granted only for good cause.

20 **3. Notice to be Provided by Counsel**

21 Plaintiff's counsel or, if plaintiff is appearing *pro se*, defendant's counsel,
22 shall provide this Order to any parties who first appear after the date of this Order
23 and to parties who are known to exist but have not yet entered appearances.

24 **4. Disclosures to Clients**

25 Counsel are ordered to deliver to their respective clients a copy of this
26 Order and of the Court's trial order, which will contain the schedule that the
27 Court sets at the scheduling conference.

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5. Court’s Website

Copies of this and all other orders of this Court that may become applicable to this case are available on the Central District of California website, at www.cacd.uscourts.gov, under “Judges' Procedures and Schedules.” Copies of the Local Rules are available on the website.¹

The Court thanks the parties and their counsel for their anticipated cooperation in complying with these requirements.

IT IS SO ORDERED.

Dated:

MICHAEL W. FITZGERALD
United States District Judge

¹ They may also be purchased from one of the following:

Los Angeles Daily Journal	West Publishing Company	Metropolitan News
915 East First Street	50 West Kellogg Blvd.	210 South Spring Street
Los Angeles, CA 90012	St. Paul, MN 55164-9979	Los Angeles, CA 90012

JUDGE MICHAEL W. FITZGERALD
SCHEDULE OF PRETRIAL AND TRIAL DATES WORKSHEET

Case No.				
Case Name				
Matter	Plaintiff(s)' Date mo / day / year	Defendant(s)' Date mo / day / year	Court Order	
[] Jury Trial or [] Court Trial (Tuesday at 8:30 a.m.) Duration Estimate: _____ Days				
Final Pretrial Conference [LR 16] and Hearing on Motions <i>In Limine</i> (Wednesday at 11:00 a.m. -- <u>20 days</u> before trial date) Motions <i>In Limine</i> must be filed three (3) weeks before this date; oppositions are due two (2) weeks before this date; no reply briefs.				
Event	Weeks Before Trial	Plaintiff(s)' Date mo / day / year	Defendant(s)' Date mo / day / year	Court Order
Last Date to Hear Motion to Amend Pleadings / Add Parties (Wednesday)				
Non-Expert Discovery Cut-Off (at least 4 weeks before last date to hear motions)	18			
Expert Disclosure (Initial)				
Expert Disclosure (Rebuttal)				
Expert Discovery Cut-Off	14 *			
Last Date to Hear Motions (Wednesday, 10:00 a.m.)	14			
Last Date to Conduct Settlement Conference	12			
<u>For Jury Trial</u> ♦ File Memorandum of Contentions of Fact and Law, LR 16-4 ♦ File Exhibit and Witness Lists, LR 16-5.6 ♦ File Status Report Regarding Settlement ♦ File Motions <i>In Limine</i>	6			
<u>For Jury Trial</u> ♦ Lodge Pretrial Conference Order, LR 16-7 ♦ File Agreed Set of Jury Instructions and Verdict Forms ♦ File Statement Regarding Disputed Instructions, Verdicts, etc. ♦ File Oppositions to Motions <i>In Limine</i>	5			
<u>For Court Trial</u> ♦ Lodge Findings of Fact and Conclusions of Law, LR 52, and Summaries of Direct Testimony	3			

* The parties may choose to cut off expert discovery prior to MSJ briefing.

ADR [LR 16-15] Selection:

☐ Attorney Settlement Officer Panel

☐ Private Mediation

☐ Magistrate Judge (with Court approval)

EXHIBIT A