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8 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

9 UVALDO VALENCIA, et al.,

10)
11) Plaintiffs,

12) v.

13) UNITED STATES OF AMERICA,

14)
15) Defendant.

1: 05-cv-00472 AWI GSA

SCHEDULING ORDER (Fed.R.Civ.P 16)

Pre-Trial Conference:

August 20, 2009 at 8:30 a.m.
Courtroom 2 (AWI), 8th Floor

Trial: October 20, 2009 at 8:30 a.m.
Courtroom 2 (AWI), 8th Floor
3-4 Days
Court Trial

Settlement Conference:

May 4, 2009 at 10:30 a.m.
Courtroom 10 (GSA), 6th Floor

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20 **I. Date of Scheduling Conference**

February 3, 2009.

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22 **II. Appearances of Counsel**

23 Kent Henderson appeared telephonically on behalf of Plaintiff Uvaldo Valencia,
24 Maria Valencia, Abel Valencia, Sotero Valencia and Gustavo Valencia.

25 Todd A. Pickles appeared telephonically on behalf of Defendant United States of
26 America.

1 **III. Consent to the Magistrate Judge**

2 Pursuant to 28 U.S.C. § 636 (c), the parties have not consented in writing to
3 conduct all further proceedings in this case, including trial, before the Honorable Gary S. Austin,
4 U.S. Magistrate Judge.

5 **IV. Pre-Trial Conference Date**

6 The pre-trial conference will be held on **August 20, 2009, at 8:30 a.m.** in
7 Courtroom 2 before the Honorable Anthony W. Ishii. The parties are ordered to file a **Joint**
8 **Pretrial Statement pursuant to Local Rule 16-281(a)(2).** The parties are further directed to
9 submit a digital copy of their pretrial statement in Word Perfect X3¹ format, directly to Judge
10 Ishii's chambers by email at awiorders@caed.uscourts.gov. The parties' attention is directed to
11 **Rules 16-281 and 16-282 of the Local Rules** of Practice for the Eastern District of California, as
12 to the obligations of counsel in preparing for the pre-trial conference. The Court will insist upon
13 strict compliance with those rules.

14 **V. Trial Date**

15 The trial will be held on **October 20, 2009, at 8:30 a.m.** in Courtroom 2 before
16 the Honorable Anthony W. Ishii, United States District Court Judge.

17 A. This is a court trial.

18 B. Parties' Estimate of Trial Time: 3-4 days.

19 The parties' attention is directed to Local Rules of Practice for the Eastern District
20 of California, Rule 16-285.

21 **VI. Settlement Conference**

22 A Settlement Conference is scheduled for **May 4, 2009, at 10:30 a.m.** in
23 Courtroom 10 before the Honorable Gary S. Austin, United States Magistrate Judge. Unless
24 otherwise permitted in advance by the Court, **the attorneys who will try the case** shall appear at
25 _____

26 ¹ If WordPerfect X3 is not available to the parties then the latest version of WordPerfect
27 or any other word processing program in general use for IBM compatible personal computers is
28 acceptable.

1 the Settlement Conference **with the parties** and the person or persons having **full authority** to
2 negotiate and settle the case **on any terms**² at the conference.

3 **CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT**

4 At least five (5) court days prior to the Settlement Conference the parties shall
5 submit, directly to Judge Austin's chambers by e-mail to gsaorders@caed.uscourts.gov, a
6 Confidential Settlement Conference Statement. The statement **should not be filed** with the
7 Clerk of the Court **nor served on any other party**, although the parties may file a Notice of
8 Lodging of Settlement Conference Statement. Each statement shall be clearly marked
9 "confidential" with the date and time of the Settlement Conference indicated prominently
10 thereon.

11 The Confidential Settlement Conference Statement shall include the following:

12 A. A brief statement of the facts of the case.

13 B. A brief statement of the claims and defenses, i.e., statutory or other
14 grounds upon which the claims are founded; a forthright evaluation of the parties' likelihood of
15 prevailing on the claims and defenses; and a description of the major issues in dispute.

16 C. A summary of the proceedings to date.

17 D. An estimate of the cost and time to be expended for further discovery,
18 pretrial and trial.

19 E. The relief sought.

20 F. The party's position on settlement, including present demands and
21 offers and a history of past settlement discussions, offers and demands.

23 ² Insurance carriers, business organizations, and governmental bodies or agencies whose
24 settlement agreements are subject to approval by legislative bodies, executive committees, boards
25 of directors or the like shall be represented by a person or persons who occupy high executive
26 positions in the party organization and who will be directly involved in the process of approval of
27 any settlement offers or agreements. To the extent possible the representative shall have the
authority, if he or she deems it appropriate, to settle the action on terms consistent with the
opposing party's most recent demand.

Should the parties desire a settlement conference, they will jointly request one of the court, and one will be arranged. In making such request, the parties are directed to notify the court as to whether or not they desire the undersigned to conduct the settlement conference or to arrange for one before another judicial officer.

VII. Request for Bifurcation, Appointment of Special Master, or other Techniques to Shorten Trial

The parties have not requested bifurcation.

VIII. Related Matters Pending

The parties have not identified any related matters.

IX. Compliance with Federal Procedure

All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure and the Local Rules of Practice of the Eastern District of California, and to keep abreast of any amendments thereto. The Court must insist upon compliance with these Rules if it is to efficiently handle its increasing case load and sanctions will be imposed for failure to follow the Rules as provided in both the Federal Rules of Civil Procedure and the Local Rules of Practice for the Eastern District of California.

X. Effect of this Order

The foregoing order represents the best estimate of the court and counsel as to the agenda most suitable to dispose of this case. The trial date reserved is specifically reserved for this case. If the parties determine at any time that the schedule outlined in this order cannot be met, counsel are ordered to notify the court immediately of that fact so that adjustments may be made, either by stipulation or by subsequent status conference.

Stipulations extending the deadlines contained herein will not be considered unless they are accompanied by affidavits or declarations, and where appropriate attached exhibits, which establish good cause for granting the relief requested.

Failure to comply with this order may result in the imposition of sanctions.
IT IS SO ORDERED.

Dated: February 3, 2009

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE