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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RONALD L. PORTER,

CASE NO. 1:06-cv-00880-LJO-SMS

Plaintiff,

v.

**ORDER DENYING PARTIES'
STIPULATION TO EXTEND
SCHEDULING DATES**

RAY MABUS, Secretary,
Department of the Navy,

(Doc. 75)

Defendant.

On December 12, 2012, the parties to this action submitted a stipulation to extend the scheduled dates for the filing of dispositive motions, the pre-trial conference, and the trial of this matter. Because of the parties' historic failure to move this nearly seven-year-old case forward and because the stipulation does not comply with the procedures set forth in the prior scheduling order, the Court denies extension of scheduling dates.

Lackadaisical prosecution and defense. The sole issue in this case is whether the EEOC abused its discretion in awarding Plaintiff a lesser amount of attorneys' fees and costs than he requested. This Court dismissed the complaint for lack of jurisdiction on March 2, 2007, and after Plaintiff attempted to amend his complaint, on June 5, 2007. As a result of Plaintiff's appeal, on May 6, 2010, the Ninth Circuit reversed this Court's decision, concluded that a District Court has jurisdiction to hear a case solely addressing the amount of attorneys' fees and costs awarded to a prevailing plaintiff in an EEOC action, and remanded to this Court for further proceedings. Following the appellate court's denial of a petition for rehearing, the remand order

1 took effect on August 19, 2010. The Magistrate Judge conducted two status conferences in
2 November 2010, at which the parties indicated their intent to conduct a deposition of Plaintiff
3 regarding his damages calculation, which was to be followed by a settlement attempt.
4 Thereafter, neither party took any action regarding this case until March 2012, when the District
5 Judge entered an order of intent to close the case for inactivity.

6 Plaintiff, proceeding *pro se*, protested that he had merely been waiting for further
7 instruction from the Court. Ultimately, both parties participated in a scheduling conference on
8 April 10, 2012. The scheduling order, issued April 12, 2012, set dates for discovery completion,
9 November 2, 2012; non-dispositive motion filing deadline, November 9, 2012; dispositive
10 motion filing deadline, December 14, 2012; pretrial conference, February 5, 2013; and jury trial,
11 April 2, 2013. Doc. 65. The Magistrate Judge cautioned both parties, who confirmed their
12 understanding, that in light of this district's extraordinary case loads, the District Judge would
13 permit no modification or extension of the scheduled trial date. The Court and the parties also
14 discussed the likely need for very minimal discovery, in light of the limited scope of Plaintiff's
15 claim for review of the EEOC's order granting attorneys' fees and costs.

16 At no point prior to the expiration of the discovery period on November 2, 2012, did
17 either party advise the Magistrate Judge of any difficulty in the exchange of discovery.
18 Nonetheless, although the scheduling order provided that "no written discovery motions shall be
19 filed without the prior approval of the assigned Magistrate Judge" (Doc. 65 at 12), over ten days
20 after the discovery cut-off, on November 13, 2012, Plaintiff filed a lengthy motion to compel
21 discovery and impose sanctions (Doc. 69), returnable December 5, 2012. The motion failed to
22 comply with the scheduling order's provisions relating to discovery disputes in nearly all
23 regards. On November 28, 2012, following multiple attempts to communicate with
24 Plaintiff regarding the procedural requirements for resolving a discovery dispute, Defendant filed
25 a Joint Statement Re Discovery Dispute (Doc. 72). Defendant represented that it had responded
26 to all of Plaintiff's discovery requests. On November 29, 2012, the Court took Plaintiff's motion
27 under submission.
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