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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD JEREMIAH GILES, III,)
Plaintiff,)
vs.)
SOTO, et al.,)
Defendants.)

No. 1:07-CV-00197-CKJ

ORDER

On January 15, 2009 Plaintiff filed a *pro se* First Amended Complaint [Doc. #13] pursuant to 42 U.S.C. § 1983. Defendants have filed Answers to the Amended Complaint [Doc. #22]. The Court takes the following action in an effort to reach a just adjudication of the Complaint.

IT IS ORDERED that the following deadlines shall govern this action:

- A. If they so choose, counsel for Defendants shall depose Plaintiff, at Defendant's expense, on or before **January 30, 2010**.
- B. All parties are granted until **December 30, 2009**, to move to **join** additional parties or to **amend** their pleadings.
- C. Parties shall disclose a **witness list** on or before **February 26, 2010**. On or before that date, the parties are directed to exchange their complete list of witnesses.

1 D. All **discovery**, including depositions of parties (other than the plaintiff),
2 witnesses and experts shall be completed by **March 31, 2010**. No discovery shall take place
3 after that date without leave of Court upon good cause shown.

4 D. **Dispositive motions** shall be filed on or before **April 30, 2010**.

5 1. Motions shall be submitted upon the record and without oral argument
6 unless otherwise ordered by this Court, pursuant to Local Rules of Practice for the United
7 States District Court, Eastern District of California (“L.R.”) 78-230(m).

8 2. Pursuant to L.R.78-230(m) and L.R. 56-260, parties may file a motion,
9 response, and reply. No additional briefing on a motion is allowed unless leave of Court is
10 granted. Failure to file a response may be deemed a consent to a granting of the motion. A
11 response must be served and filed within eighteen (18) days of service on the motion; the
12 moving party has five (5) court days from service to serve and file a reply. Rule 56 motions
13 for summary judgment and Rule 12(b)(1) motions to dismiss for lack of subject matter
14 jurisdiction provide an exception to the above time limits: the time for a response is 30 days
15 and the time for a reply is 15 days. Unless otherwise permitted by the Court, a motion or
16 response, inclusive of supporting memorandum but exclusive of attachments and statement
17 of facts, shall not exceed 17 pages; a reply shall not exceed 11 pages.

18 3. Any pleading which is submitted with more than one exhibit must be
19 accompanied by a Table of Contents. The exhibits must be indexed with tabs that correspond
20 to the Table of Contents. Absent exigent circumstances, the Court will not consider
21 pleadings which do not conform to these requirements.

22 E. The parties are directed to submit a jointly prepared letter regarding the status
23 of settlement by **January 4, 2010**. The letter shall contain no specific terms of settlement
24 proposals.

25 F. Parties and counsel shall file a **Joint Proposed Pretrial Order** within **thirty**
26 **(30) days after resolution of the dispositive motions** filed after the end of discovery. If no
27 such motions are filed, a Joint Proposed Pretrial Order will be due on or before **May 1, 2010**.
28 The content of the proposed pretrial order shall include, but not be limited to, that prescribed

1 in the **Form of Pretrial Order** attached hereto. If the parties and counsel are unable to
2 prepare a joint proposed pretrial order, a separate proposed pretrial order shall be submitted
3 to the Court accompanied by a statement why the preparation of the joint proposed pretrial
4 order could not be completed through written correspondence.

5 1. Pursuant to Federal Rule 37(c), the Court will not allow the parties to
6 offer any exhibits, witnesses or other information that were not previously disclosed in
7 accordance with the provisions of this Order and the Federal Rules of Civil Procedure or not
8 listed in the Proposed Pretrial Order, except for good cause.

9 G. Motions for extensions of any of the deadlines set forth above shall be
10 governed by Fed.R.Civ.P. 16, L.R. 6-144. A motion for continuance shall be filed prior to
11 the expiration of the deadline. The schedule set forth in this Order may only be modified
12 with leave of Court and upon a showing of good cause. *See* Fed.R.Civ.P. 16(b); *Johnson v.*
13 *Mammoth Recreation, Inc.*, 975 F.2d 604 (9th Cir. 1992) (requiring a showing of good cause
14 under Rule 16 to amend complaint beyond scheduling order deadline). Additionally, any
15 motion for continuance of a discovery deadline, including a stipulation, shall set forth
16 specifically what discovery has been conducted to date, the discovery to be completed, and
17 the reasons why discovery has not been completed within the deadline.

18 This order contemplates that each party will conduct discovery in such a manner to
19 complete, within the deadline, any and all discovery. "Last minute or eleventh hour"
20 discovery which results in insufficient time to undertake additional discovery and which
21 requires an extension of the discovery deadline will be met with disfavor, and could result
22 in denial of an extension, exclusion of evidence, or the imposition of other sanctions.

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

,
Plaintiff,
vs.
,
Defendants.

No. 1: -CV- -CKJ

PROPOSED JOINT PRETRIAL ORDER

Pursuant to the Scheduling Order entered _____, 20__, following
is the Joint Proposed Final Pretrial Order to be considered at the pretrial conference.

A. COUNSEL FOR THE PARTIES

Plaintiff(s):

Defendant(s):

B. STATEMENT OF JURISDICTION

Cite the statute(s) that gives the Court jurisdiction, and whether jurisdiction is
disputed.

(E.g.: Jurisdiction in this case is based on diversity of citizenship under Title 28
U.S.C. § 1332. Jurisdiction is (not) disputed.)

C. NATURE OF ACTION

Provide a concise statement of the type of case, the cause of action, and the relief
sought.

1 (E.g.: This is a products liability case wherein the plaintiff seeks damages for personal
2 injuries sustained when he fell from the driver’s seat of a forklift. The plaintiff
3 contends that the forklift was defectively designed and manufactured by the defendant
4 and that the defects were a producing cause of his injuries and damages.)

5 **D. CONTENTIONS OF THE PARTIES**

6 With respect to each count of the complaint, counterclaim or cross-claim, and to any
7 defense, affirmative defense, or the rebuttal of a presumption where the burden of
8 proof has shifted, the party having the burden of proof shall list the elements or
9 standards that must be proved in order for the party to prevail on that claim or
10 defense.

11 (E.g.: In order to prevail on this products liability case, the plaintiff must prove the
12 following elements . . .)

13 (E.g.: In order to defeat this products liability claim based on the statute of repose, the
14 defendant must prove the following elements . . .)

15 **E. STIPULATIONS AND UNCONTESTED FACTS**

16 **F. CONTESTED ISSUES OF FACT AND LAW**

17 **G. LISTS OF WITNESSES**

18 A jointly prepared list of witnesses, identifying each as either plaintiff’s or
19 defendant’s and indicating whether a fact or expert witness, must accompany this
20 proposed order.

21 A brief statement as to the testimony of each expert witness must be included.

22 **H. LIST OF EXHIBITS**

23 Each party must submit with this proposed order a list of numbered exhibits, with a
24 description of each containing sufficient information to identify the exhibit, and
25 indicating with an objection to its admission is anticipated.

26 Exhibits should be marked according to instructions received from the court.

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1 **I. MOTIONS IN LIMINE**

2 Motions in limine shall be filed and served upon each party with this proposed order.
3 Any opposition shall be filed and served within ten (10) days.

4 **J. LIST OF ANY PENDING MOTIONS**

5 **K. PROBABLE LENGTH OF TRIAL**

6 **L. FOR A BENCH TRIAL**

7 Proposed findings of fact and conclusions of law shall be served and filed on each
8 party with this proposed order.

9 **M. FOR A JURY TRIAL**

10 Stipulated jury instructions shall be filed thirty (30) days before trial. Instructions
11 which are not agreed upon, and a concise argument in support of the instruction, shall
12 be filed and served upon each party thirty (30) days before trial. Objections to the
13 non-agreed upon instructions shall be filed and served upon each party within ten (10)
14 days.

15 **N. CERTIFICATION**

16 The undersigned counsel for each of the parties in this action do hereby certify and
17 acknowledge the following:

- 18 1. All discovery has been completed.
- 19 2. The identity of each witness has been disclosed to opposing counsel.
- 20 3. Each exhibit listed herein: (a) is in existence; (b) is numbered; and (c) has been
21 disclosed and shown to opposing counsel.

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O. ADOPTION

The Court may adopt this proposed Joint Pretrial Order at the Pre-Trial Conference or subsequent hearing.

DATED this _____ day of _____, 20____.

APPROVED AS TO FORM AND CONTENT

Attorney for Plaintiff

Attorney for Defendant