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

|                             |   |                                      |
|-----------------------------|---|--------------------------------------|
| RONALD L. PORTER,           | ) | 1:07-cv-00825-AWI-SMS                |
|                             | ) |                                      |
| Plaintiff,                  | ) | <b>SCHEDULING CONFERENCE ORDER</b>   |
|                             | ) |                                      |
| vs.                         | ) | Supplemental Discovery Deadline:     |
|                             | ) | 1/31/12                              |
| RAY MABUS, Secretary of the | ) |                                      |
| Navy,                       | ) | Non-Dispositive Motion               |
|                             | ) | Filing Deadline: 5/11/12             |
| Defendant.                  | ) |                                      |
| _____                       | ) | Dispositive Motion                   |
|                             | ) | Filing Deadline: 8/3/12              |
|                             | ) |                                      |
|                             | ) | Pre-Trial Conference Date:           |
|                             | ) | 9/28/12, 8:30am, Ctrm. 2/ <b>AWI</b> |
|                             | ) |                                      |
|                             | ) | Trial Date: 11/6/12, 8:30am,         |
|                             | ) | Ctrm. 2/ <b>AWI</b> (8-10 days)      |

1. Date of Scheduling Conference:  
October 21, 2011.

2. Appearances of Counsel:  
Elaine W. Wallace, Esq., appeared telephonically on  
behalf of plaintiff.

Assistant United States Attorney J. Earlene Gordon  
appeared telephonically on behalf of defendant.

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1           3.    The Pleadings:

2            A.    Summary of the Pleadings.

3                    The present action arises out of an employment  
4 dispute between plaintiff and defendant while working at  
5 defendant's facility in China Lake, CA. Plaintiff alleges  
6 reprisal, age discrimination, and hostile environment claims rooted  
7 in both Title VII and the Age Discrimination in Employment Act  
8 ("ADEA"), on June 7, 2007 (Doc. 1). Plaintiff claims defendant  
9 discriminated against him on the basis of his age and/or retaliated  
10 against him for prior EEO activity, and that he was subjected to a  
11 hostile work environment.

12                   Specifically, plaintiff alleges the following  
13 discriminatory and/or retaliatory acts (Nos. 1-8 are alleged to be  
14 related to plaintiff's administrative claim, DON 00-60530-003.  
15 Nos. 9-13 are said to be related to plaintiff's administrative  
16 claim, DON 01-60530-011):

17                   1.    Separating plaintiff from employment on or  
18 about November 19, 1999, pursuant to a Reduction in Force ("RIF")  
19 without registering plaintiff to obtain all benefits under the RPL,  
20 PL, and/or PPP prior to the effective date of the 1999 RIF.

21                   2.    Giving plaintiff only a level 3 [fully  
22 successful] performance evaluation for the period ending on July  
23 31, 1999, and failure to follow rules regarding bonuses.

24                   3.    Denying plaintiff's request for reconsideration  
25 of his separation through RIF on or about April 26, 2000.

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1                   4.    Being repeatedly denied higher performance  
2 ratings or the opportunity to receive such ratings, as well as  
3 being denied the opportunity to obtain numerous other positions at  
4 China Lake, from 1996 through 1999.

5                   5.    Unfairly administering its 1999 RIF with  
6 respect to plaintiff's retention rights.

7                   6.    Creating a continual hostile environment based  
8 on his prior protected activities by, among other things, harassing  
9 him by way of denying higher performance ratings and not selecting  
10 him to certain employment positions prior to and after the 1999  
11 RIF.

12                   7.    Unfairly designating plaintiff's position for  
13 abolishment for the 1999 RIF.

14                   8.    Unfairly implementing the Demonstration  
15 Project's procedures to discriminate and/or retaliate against  
16 plaintiff.

17                   9.    Not properly registering him in the Priority  
18 Placement Program ("PPP") and/or Re-employment List ("RPL")  
19 maintained by its Human Resources Services Center on or about  
20 October 24, 2000, as well as failing to comply with its PPP, the  
21 Repromotion Priority List ("RP"), nor its Merit Promotion Policy,  
22 or other employee protections, after the 1996 RIF which impacted  
23 his standing in the 1999 RIF, and not properly registering him in  
24 the PPP and/or RPL maintained by its Human Resources Services  
25 Center, as well as failing to comply with its PPP, the Repromotion  
26 Priority List ("RP"), nor its Merit Promotion Policy, or other  
27 employee protections through and including the 1999 RIF.

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1                   10. Not following its RP, PPP, and/or RPL by  
2 placing plaintiff into a non-existent position, and failed to  
3 follow Navy policy regarding filling vacant jobs by failing to  
4 offer him a position at China Lake subsequent to the 1999 RIF, as  
5 well as failing to inform him of open positions, inform him of  
6 positions being filled, or assist him in qualifying for such  
7 positions through RP, PPP, or RPL.

8                   11. Failing to follow appropriate laws, rules,  
9 policies, and guidances regarding the RPL, RP, and PPP when  
10 conducting its RIF by, among other things, failing to provide  
11 plaintiff the opportunity to obtain outstanding performance  
12 reviews, assigning Navy employees to perform the RIF Review that  
13 had previously handled prior administrative complaints raised by  
14 plaintiff, and failing to properly follow its own performance  
15 review procedures.

16                   12. Filling any position after the 1999 RIF for  
17 which plaintiff was qualified, using Naval EEO employees to make  
18 such decisions who had previously worked on previous administrative  
19 complaints filed by plaintiff, and not clearly addressing plaintiff  
20 not being offered this position in a subsequent administrative  
21 report of investigation.

22                   13. Engaging in actions which deny plaintiff  
23 employment at China Lake up to the present.

24                   Plaintiff's Contentions

25                   Plaintiff's complaint and the court decisions best  
26 define the issues. Defendant's defenses are part of the subject of  
27 outstanding discovery disputes.

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1 C. Contested Facts.

2 (1) All other facts.

3 5. Legal Issues:

4 A. Uncontested.

5 (1) Ray Mabus is automatically substituted in for  
6 Donald C. Winters under FRCP 25(d) as the successor Secretary of  
7 Navy, the proper defendant pursuant to 42 U.S.C. §2000e-16(c).

8 (2) Venue.

9 B. Contested.

10 (1) All legal issues identified in plaintiff's  
11 complaint.

12 (2) The extent this Court has jurisdiction over the  
13 subject matter of plaintiff's claims.

14 (3) The extent defendant is liable pursuant to  
15 plaintiff's age discrimination claims.

16 (4) The extent defendant is liable pursuant to  
17 plaintiff's retaliation claims.

18 (5) The extent defendant is liable pursuant to  
19 plaintiff's hostile work environment claims.

20 (6) The extent defendant is liable with respect to  
21 any of plaintiff's claims.

22 (7) The extent plaintiff has suffered damages as  
23 alleged in his complaint.

24 6. Consent to Magistrate Judge Jurisdiction:

25 This case will not be assigned for all purposes,  
26 including trial, to the Honorable Sandra M. Snyder, United States  
27 Magistrate Judge, as the parties do not so consent.

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1           7.     Pre-Trial Motion Schedule:

2           All Non-Dispositive Pre-Trial Motions, including any  
3 discovery motions, shall be filed on or before May 11, 2012, and  
4 are customarily be heard on Wednesdays at 10:00 a.m. in Courtroom  
5 No. 1 on the Eighth Floor before the Honorable Sandra M. Snyder,  
6 United States Magistrate Judge. **NOTE:** It is the policy of Judge  
7 Snyder's chambers that a hearing date first be cleared with  
8 chambers staff at (559) 499-5692 prior to the filing of any non-  
9 dispositive motions and supporting documents. Judge Snyder's  
10 chambers also requires prompt courtesy copies in excess of 25/50  
11 pages in compliance with **Local Rule 133(f)**. **Counsel must also**  
12 **comply with Local Rule 251 with respect to discovery disputes or**  
13 **the motion will be denied without prejudice and dropped from**  
14 **calendar.**<sup>1</sup>

15           In scheduling such motions, the Magistrate Judge may  
16 grant applications for an order shortening time pursuant to Local  
17 Rule 144. However, if counsel does not obtain an order shortening  
18 time, the notice of motion *must* comply with Local Rule 251.

19           Counsel may appear, and argue non-dispositive motions,  
20 telephonically, provided a (written) request to so appear is  
21 presented to Magistrate Judge Snyder's chambers staff (559-499-  
22 5692) no later than five (5) court days prior to the noticed  
23

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24           <sup>1</sup> Local Rule 251(a) ~ **revised 12/1/09** ~ requires a joint statement re discovery disagreement be filed  
25 seven (7) days before the scheduled hearing date (i.e., the Wednesday before the customary Wednesday  
26 hearing). Any motion(s) will be dropped from calendar IF the statement is not filed OR timely filed AND  
27 courtesy copies of any and all motions, including the 251 stipulation, declarations, and exhibits, properly  
28 tabbed, fastened, and clearly identified as a "Courtesy Copy (to avoid inadvertent, duplicative, and/or  
erroneous filing by court staff), exceeding twenty-five (25) pages pursuant to Local Rule 133(f), are not  
delivered to the Clerk's Office at 9:00 a.m. on the fourth (4<sup>th</sup>) FULL day (or Thursday) prior to the (customary)  
hearing (on Wednesday).

1 hearing date. **ALL Out-of-town counsel are strongly encouraged to**  
2 **appear telephonically via a single conference call to chambers.** If  
3 two or more attorneys request to appear telephonically, then it  
4 shall be the obligation and responsibility of the moving party(ies)  
5 to make prior arrangements for the single conference call with an  
6 AT&T operator, IF counsel do not have conference call capabilities  
7 on their telephone systems, and to initiate the call to the court.

8 Regarding discovery disputes, no written discovery  
9 motions shall be filed without the prior approval of the assigned  
10 Magistrate Judge. A party with a discovery dispute must first  
11 confer with the opposing party in a good faith effort to resolve by  
12 agreement the issues in dispute. If that good faith effort is  
13 unsuccessful, the moving party shall then seek a prompt hearing  
14 with the assigned Magistrate Judge by telephone or in person. If  
15 the hearing is to be conducted by telephone, the Courtroom Deputy  
16 Clerk will inform counsel of the date and time of the hearing, and  
17 it shall be the responsibility of the moving party to initiate the  
18 telephonic conference call to chambers. The recording of  
19 telephonic hearings or conferences with the Court is prohibited,  
20 except with prior permission of the Court. The request for a  
21 hearing with a judicial officer carries with it a professional  
22 representation by the attorney that a conference has taken place  
23 and that s/he has made a good faith effort to resolve the dispute.

24 The attorneys or unrepresented parties shall supply the  
25 assigned Magistrate Judge with the particular discovery materials  
26 (i.e., objectionable answers to interrogatories) that are needed to  
27 understand the dispute.

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1           If the assigned Magistrate Judge decides that motion  
2 papers and supporting memoranda are needed to satisfactorily  
3 resolve the discovery dispute, such papers shall be filed in  
4 conformity with Rule 7. Such motions shall (1) quote in full each  
5 interrogatory, question at deposition, request for admission, or  
6 request for production to which the motion is addressed, or  
7 otherwise identify specifically and succinctly the discovery to  
8 which objection is taken or from which a protective order is  
9 sought; and, (2) the response or objection and grounds therefor, if  
10 any, as stated by the opposing party.

11           Unless otherwise ordered by the Court, the complete  
12 transcripts or discovery papers need not be filed with the Court  
13 pursuant to subsection (c) of this rule unless the motion cannot be  
14 fairly decided without reference to the complete original.

15           All Dispositive Pre-Trial Motions shall be filed on or  
16 before August 3, 2012, and are heard on Mondays at 1:30 p.m. in  
17 Courtroom No. 2 on the Eighth Floor before the Honorable Anthony W.  
18 Ishii, United States District Judge. In scheduling such motions,  
19 counsel shall comply with Local Rules 230 and 260.

20           **Motions for Summary Judgment or Summary Adjudication**

21           Prior to filing a motion for summary judgment or motion  
22 for summary adjudication, the parties are **ORDERED** to meet, in  
23 person or by telephone, and confer to discuss the issues to be  
24 raised in the motion.

25           The purpose of the meeting shall be to: (1) avoid filing  
26 motions for summary judgment where a question of fact exists; (2)  
27 determine whether the respondent agrees that the motion has merit  
28 in whole or in part; (3) discuss whether issues can be resolved

1 without the necessity of briefing; (4) narrow the issues for review  
2 by the Court; (5) explore the possibility of settlement before the  
3 parties incur the expense of briefing a summary judgment motion;  
4 (6) arrive at a joint statement of undisputed facts.

5           The moving party shall initiate the meeting and provide a  
6 draft of the joint statement of undisputed facts. In addition to  
7 the requirements of Local Rule 260, the moving party shall file a  
8 joint statement of undisputed facts.

9           In the notice of motion, the moving party shall certify  
10 that the parties have met and conferred as ordered above or set  
11 forth a statement of good cause for the failure to meet and confer.

12           8. Pre-Trial Conference Date:

13           September 28, 2012 at 8:30 a.m. in Courtroom No. 2 on the  
14 Eighth Floor before the Honorable Anthony W. Ishii, United States  
15 District Judge.

16           Ten (10) days prior to the Pretrial Conference, the  
17 parties shall exchange the disclosures required pursuant to  
18 F.R.Civ.P. 26(a)(3).

19           The parties are ordered to file a **JOINT Pretrial**  
20 **Statement pursuant to Local Rule 16-281(a)(2)**. The parties are  
21 further ordered to submit a digital copy of their Joint Pretrial  
22 Statement in WordPerfect X3<sup>2</sup> format to Judge Ishii's chambers by  
23 e-mail to [AWIOrders@caed.uscourts.gov](mailto:AWIOrders@caed.uscourts.gov).

24           Counsels' attention is directed to **Rules 16-281 and 16-**  
25 **282 of the Local Rules** of Practice for the Eastern District of  
26 California as to the obligations of counsel in preparing for the

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27           <sup>2</sup> If WordPerfect X3 is not available to the parties, then the latest version of WordPerfect, or any other  
28 word processing program in general use for IBM compatible personal computers, is acceptable.

1 Pre-Trial Conference. **The Court will insist upon strict compliance**  
2 **with those Rules.**

3 9. Trial Date:

4 November 6, 2012 at 8:30 a.m. in Courtroom No. 2 on the  
5 Eighth Floor before the Honorable Anthony W. Ishii, United States  
6 District Judge.

7 A. Plaintiff has requested a jury trial. Defendant  
8 contends that some of the relief requested is equitable in nature,  
9 and must be decided by the Court.

10 B. Counsels' Estimate of Trial Time:

11 8-10 days.

12 C. Counsels' attention is directed to **Rule 16-285 of**  
13 **the Local Rules** of Practice for the Eastern District of California.

14 10. Request for Bifurcation, Appointment of Special Master,  
15 or other Techniques to Shorten Trial:

16 Not applicable at this time.

17 11. Related Matters Pending:

18 On or about June 16, 2007, plaintiff filed its Notice of  
19 Related Cases in this action (Doc. 6), wherein it identified the  
20 following cases as being possibly related to this action:

21 Porter v. England, Secretary of the Navy  
22 1:03-cv-06291-AWI-SMS

23 Porter v. Winters, Secretary of the Navy  
24 1:06-cv-00880-LJO-SMS

25 12. Compliance with Federal Procedure:

26 The Court requires compliance with the Federal Rules of  
27 Civil Procedure and the Local Rules of Practice for the Eastern  
28 District of California. To aid the Court in the efficient  
administration of this case, all counsel are expected to

1 familiarize themselves with the Federal Rules of Civil Procedure  
2 and the Local Rules of Practice for the Eastern District of  
3 California, and to keep abreast of any amendments thereto. The  
4 Court must insist upon compliance with these Rules if it is to  
5 efficiently handle its increasing caseload. Sanctions will be  
6 imposed for failure to follow the Rules as provided in both the  
7 Fed.R.Civ.P. and the Local Rules.

8 13. Compliance with Electronic Filing Requirement:

9 On January 3, 2005, the United States District Court for  
10 the Eastern District of California became an electronic case  
11 management/filing district (CM/ECF). Unless excused by the Court,  
12 or by Local Rule, attorneys shall file all documents electronically  
13 as of January 3, 2005, in all actions pending before the court.  
14 While Pro Se Litigants are exempt from this requirement, the court  
15 will scan in all documents filed by pro se litigants, and the  
16 official court record in all cases will be electronic. Attorneys  
17 are required to file electronically in pro se cases. More  
18 information regarding the Court's implementation of CM/ECF can be  
19 found on the court's web site at [www.caed.uscourts.gov](http://www.caed.uscourts.gov), including  
20 the Court's Local Rules, the CM/ECF Final Procedures, and the  
21 CM/ECF User's Manual.

22 While the Clerk's Office will not refuse to file a  
23 proffered paper document, the Clerk's Office will scan it and, if  
24 improperly filed, notify the Court that the document was filed in  
25 an improper format. An order to show cause (OSC) may be issued in  
26 appropriate cases regarding an attorney's disregard for the  
27 requirement to utilize electronic filing, or other violations of  
28 these electronic filing procedures. See L.R. 110, L.R. 133(d)(3).

1 All counsel must be registered for CM/ECF. On-line  
2 registration is available at [www.caed.uscourts.gov](http://www.caed.uscourts.gov). Once  
3 registered, counsel will receive a login and password in  
4 approximately one (1) week. Counsel must be registered to file  
5 documents on-line. See L.R. 135(g). Counsel are responsible for  
6 knowing the rules governing electronic filing in the Eastern  
7 District. Please review the Court's Local Rules available on the  
8 Court's web site.

9 14. Effect of this Order:

10 The foregoing Order represents the best estimate of the  
11 Court and counsel as to the agenda most suitable to bring this case  
12 to resolution. The trial date reserved is specifically reserved  
13 for this case. If the parties determine at any time that the  
14 schedule outlined in this Order cannot be met, counsel are ORDERED  
15 to notify the Court *immediately* so that adjustments may be made,  
16 either by stipulation or by subsequent status conference.

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

21 Scheduling orders are vital to the Court's case  
22 management. Scheduling orders "are the heart of case management,"  
23 *Koplve v. Ford Motor Co.*, 795 F.2d 15, 18 (3<sup>rd</sup> Cir. 1986), and are  
24 intended to alleviate case management problems. *Johnson v. Mammoth*  
25 *Recreations, Inc.*, 975 F.2d 604, 610 (9<sup>th</sup> Cir. 1992). A "scheduling  
26 conference order is not a frivolous piece of paper, idly entered,  
27 which can be cavalierly disregarded without peril." *Johnson*, 975  
28 F.2d at 610.

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THEREFORE, FAILURE TO COMPLY WITH THIS ORDER SHALL RESULT  
IN THE IMPOSITION OF SANCTIONS.

IT IS SO ORDERED.

Dated: November 15, 2011

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE