

1 District Court Judges of the Fresno Division of the Eastern District of California now have the
2 heaviest caseload in the nation. As a result, each District Judge schedules multiple trials to begin on
3 each available trial date. Civil cases will trail and begin as soon as a courtroom is cleared. The law
4 requires that the Court give any criminal trial priority over civil trials or any other matter. A civil trial
5 set to begin while a criminal trial is proceeding will trail the completion of the criminal trial.

6 The Court cannot give advance notice of which cases will trail or for how long because the
7 Court does not know which cases actually will go to trial or precisely how long each will last. Once
8 your trial date arrives, counsel, parties and witnesses must remain on 24-hour-stand-by until a court
9 opens. Since continuance to a date certain will simply postpone, but not solve, the problem,
10 continuances of any civil trial under these circumstances will no longer be entertained, absent a
11 specific and stated finding of good cause. The Court will use its best efforts to mitigate the effect of
12 the foregoing and to resolve all cases in a timely manner.

13 One alternative is for the parties to consent to a United States Magistrate Judge conducting all
14 proceedings, including trial and entry of final judgment, pursuant to 28 U.S.C. § 28 U.S.C. 636(c),
15 Federal Rule of Civil Procedure 73, and Local Rule 305. The Eastern District Magistrate Judges, all
16 experienced former trial lawyers, use the same jury pool and same court facilities as United States
17 District Court Judges. Since Magistrate Judges do not conduct felony trials, they have greater
18 flexibility and schedule firm trial dates. Judgment entered by a United States Magistrate Judge is
19 appealable directly to the United States Court of Appeal for the Ninth Circuit. (While there are
20 scheduling benefits to consenting to Magistrate Judge jurisdiction, substantive rulings and decisions
21 will not be affected by whether a party chooses to consent or not.)

22 As another response to its large caseload, the Fresno Division of the Eastern District of
23 California is assigning cases, whenever possible, to Article III District Court Judges from around the
24 nation as Visiting Judges. Pursuant to the Local Rules, Appendix A, such reassignments will be
25 random, and the parties will receive no advance notice before their case is reassigned to an Article III
26 District Court Judge from outside of the Eastern District of California.

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Accordingly, it is HEREBY ORDERED that:

1. The Clerk's Office shall send to the parties consent/decline forms;
2. Within twenty (20) days from the date of service of this order, the parties may return the consent form to the Court; and
3. After the twenty (20) day deadline, if both parties have not consented to magistrate judge jurisdiction the matter will be set for jury trial before the undersigned.

IT IS SO ORDERED.

Dated: October 1, 2015

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE