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5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
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8 ANTHONY DEAN SLAMA,

CASE NO. 1:08-cv-00810-AWI-SKO

9 Plaintiff,

**ORDER SETTING PRE-TRIAL
CONFERENCE AND TRIAL DATES**

10 v.
11

12 CITY OF MADERA, et al.,

13 Defendants.
14
15 _____ /

16 On March 1, 2013, counsel for Plaintiff Anthony Dean Slama ("Plaintiff") and Defendants
17 City of Madera, et al. ("Defendants") submitted a Joint Scheduling Report (Doc. 155) providing
18 proposed pre-trial conference and trial dates pursuant to the Court's January 30, 2013, order in
19 preparation for the March 26, 2013, scheduling conference. (Doc. 150, 154.)

20 The parties have indicated that they expect the trial to last five days and have proposed trial
21 dates beginning the week of July 2, 9, or 16, 2013. (Doc. 155, p. 2.) District Judge Anthony W. Ishii
22 has multiple trials currently set for those weeks and thus is not available for trial on the dates
23 proposed by the parties.

24 The first available date without a trial presently scheduled on District Judge Ishii's calendar
25 is November 13, 2013. As such, the trial in this action is reset for November 13, 2013, and the pre-
26 trial conference is reset for October 2, 2013.

27 The parties are informed that District Court Judges in the Fresno Division of the Eastern
28 District of California now have the heaviest caseload in the nation, and that each judge will be

1 scheduling multiple trials to begin on each available trial date. Civil cases will "trail" other cases
2 with little or no notice. Moreover, since the law requires that criminal trials be given priority, if a
3 civil trial such as this one is set to begin while a criminal trial is proceeding, the civil trial will trail
4 the completion of the criminal trial. Additionally, in response to its large caseload, the Fresno
5 Division of the Eastern District of California will be assigning its cases, whenever possible, to
6 Article III District Court Judges from around the nation as Visiting Judges. Pursuant to the Local
7 Rules of the United States District Court, Eastern District of California, Appendix A, such
8 reassignments will be random and without advance notice.

9 The parties are reminded of the availability of the United States Magistrate Judge to conduct
10 all proceedings in this action. A Magistrate Judge is available to conduct trials, including entry of
11 final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73, and Local Rule
12 305. The same jury pool is used by both United States Magistrate Judges and District Court Judges.
13 Since Magistrate Judges do not conduct felony trials, they have greater flexibility in scheduling firm
14 dates.

15 As such, the parties are once again informed that, if they consent to Magistrate Judge
16 jurisdiction, Magistrate Judge Sheila K. Oberto will be able to set firm pre-trial conference and trial
17 dates, and will also be able to provide a trial date prior to November 2013. District Judge Ishii has
18 previously informed the parties that he cannot guarantee that the dates set will not be continued due
19 to his heavily impacted trial calendar. (*See* Doc. 142.) Thus, the dates provided in this scheduling
20 order are not firm, as the trial could trail other trials or be reassigned at random to a Visiting Judge.
21 The Court encourages the parties to consider consenting to Magistrate Judge jurisdiction for all
22 further proceedings in this matter, including trial.

23 Accordingly, IT IS HEREBY ORDERED that:

- 24 1. The Scheduling Conference set for March 26, 2013, is VACATED;
- 25 2. The pre-trial conference is RESET for October 2, 2013, at 8:30 a.m. in Courtroom 2
26 before District Judge Ishii; and

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3. The trial is RESET for November 13, 2013, at 8:30 a.m. in Courtroom 2 before District Judge Ishii.

IT IS SO ORDERED.

Dated: March 21, 2013

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE