1					
2					
3					
4					
5	5 UNITED STATES DISTRICT COURT				
6	EASTERN DISTRICT OF CALIFORNIA			LIFORNIA	
7)		
8	PAMELA SN	MITH, et al.,) 1:09 C	2V 01641 LJO DLB	
9	Plaintiffs,) SCHEI	SCHEDULING ORDER (Fed.R.Civ.P 16)	
10) Discov	Discovery Deadlines: Initial Disclosures: January 4, 2010 Non Expert: January 28, 2011 Expert: February 25, 2011	
11)		
12	RICHARD PIERCE) Non-Dispositive Motion Deadlines:		
13	Defendant	Defendant.)	Filing: March 21, 2011 Hearing: April 18, 2011	
14) Dispositive Motion Deadlines:	itive Motion Deadlines:	
15				Filing: April 25, 2011 Hearing: May 25, 2011	
16 17			Settlen	hent Conference:	
17				April 13, 2011 at 10:00 a.m. Courtroom 9	
10			Pre-Tri	al Conference: June 28, 2011 at 8:30 a.m.	
20				Courtroom 4	
21			Trial:	August 8, 2011 at 8:30 a.m. Courtroom 4 JT 5 to 7 days	
22					
23	I. Date of Scheduling Conference December 21, 2009. II. Appearances of Counsel				
24					
25					
26		M. Scott Fontes appeared on behalf of Plaintiffs.			
27	Kevin Reager appeared on behalf of Defendant.				
28	1				

2

6

7

8

9

10

11

17

1

III. **Discovery Plan and Cut-Off Date**

The parties are ordered to exchange the initial disclosures required by Fed .R. Civ. 3 P. 26(a)(1) on or before January 4, 2010.

4 The parties are ordered to complete all discovery pertaining to non-experts on or 5 before January 28, 2011 and all discovery pertaining to experts on or before February 25, 2011.

The parties are directed to disclose all expert witnesses, in writing, on or before January 28, 2011, and to disclose all supplemental experts on or before February 7, 2011. The written designation of experts shall be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A) and (B) and shall include all information required thereunder. Failure to designate experts in compliance with this order may result in the Court excluding the testimony or other evidence offered through such experts that are not disclosed pursuant to this order.

12 The provisions of Fed. R. Civ. P. 26(b)(4) and (5) shall apply to all discovery 13 relating to experts and their opinions. Experts must be fully prepared to be examined on all 14 subjects and opinions included in the designation. Failure to comply will result in the imposition 15 of sanctions, which may include striking the expert designation and preclusion of expert 16 testimony.

IV. **Pre-Trial Motion Schedule**

18 All Non-Dispositive Pre-Trial Motions, including any discovery motions, shall be 19 filed no later than March 21, 2011 and heard on or before April 18, 2011. Non-dispositive 20 motions are heard on Fridays at 9:00 a.m., before the Honorable Dennis L. Beck, United States Magistrate Judge in Courtroom 9. Counsel must comply with Local Rule 37-251 with respect to discovery disputes or the motion will be denied without prejudice and dropped from calendar.

In scheduling such motions, the Magistrate Judge may grant applications for an order shortening time pursuant to Local Rule 6-142(d). However, if counsel does not obtain an order shortening time, the notice of motion *must* comply with Local Rule 37-251.

Counsel may appear and argue non-dispositive motions by telephone, providing a written request to so appear is made to the Magistrate Judge's Courtroom Clerk no later than five 3 (5) court days before the noticed hearing date. In the event that more than one attorney requests to appear by telephone then it shall be the obligation of the moving part(ies) to arrange and 4 5 originate a conference call to the court.

All Dispositive Pre-Trial Motions shall be filed no later than April 25, 2011 and heard no later than May 25, 2011, in Courtroom 4 before the Honorable Lawrence J. O'Neill, United States District Court Judge. In scheduling such motions, counsel shall comply with Local Rules 78-230 and 56-260.

1

2

6

7

Motions for Summary Judgment or Summary Adjudication

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

The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the issues for review by the court; 5) explore the possibility of settlement before the parties incur the expense of briefing a summary judgment motion; 6) to arrive at a joint statement of undisputed facts.

The moving party shall initiate the meeting and provide a draft of the joint statement of undisputed facts. In addition to the requirements of Local Rule 56- 260 the moving party shall file a joint statement of undisputed facts.

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

1

V.

Pre-Trial Conference Date

2 June 28, 2011 at 8:30 a.m. in Courtroom 4 before Judge O'Neill. 3 The parties are ordered to file a Joint Pretrial Statement pursuant to Local 4 Rule 16-281(a)(2). The parties are further directed to submit a digital copy of their pretrial 5 statement in Word Perfect X3¹ format, directly to Judge O'Neill's chambers by email at LJOOrders@caed.uscourts.gov. 6 7 Counsels' attention is directed to Rules 16-281 and 16-282 of the Local Rules of 8 Practice for the Eastern District of California, as to the obligations of counsel in preparing for the 9 pre-trial conference. The Court will insist upon strict compliance with those rules. VI. 10 **Trial Date** August 8, 2011 at 8:30 a.m. in Courtroom 4 before the Honorable Lawrence J. 11 12 O'Neill, United States District Court Judge. 13 A. This is a jury trial. 14 B. Counsels' Estimate of Trial Time: 5 to 7 days. C. Counsel's attention is directed to Local Rules of Practice for the Eastern 15 16 District of California, Rule 16-285. 17 VII. **Settlement Conference** 18 A Settlement Conference is scheduled for April 13, 2011 at 10:00 a.m. in 19 Courtroom 9 before the Honorable Dennis L. Beck, U.S. Magistrate Judge. 20 Unless otherwise permitted in advance by the Court, the attorneys who will try 21 the case shall appear at the Settlement Conference with the parties and the person or persons 22 having **full authority** to negotiate and settle the case **on any terms**² at the conference. 23 24 ¹ If WordPerfect X3 is not available to the parties then the latest version of WordPerfect or any other word processing program in general use for IBM compatible personal computers is 25 acceptable. 26 ² Insurance carriers, business organizations, and governmental bodies or agencies whose

28

27

settlement agreements are subject to approval by legislative bodies, executive committees, boards

1	CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT				
2	At least five (5) court days prior to the Settlement Conference the parties shall				
3	submit, directly to Judge Beck's chambers by e-mail to DLBOrders@caed.uscourts.gov, a				
4	Confidential Settlement Conference Statement. The statement should not be filed with the				
5	Clerk of the Court nor served on any other party, although the parties may file a Notice of				
6	Lodging of Settlement Conference Statement Each statement shall be clearly marked				
7	"confidential" with the date and time of the Settlement Conference indicated prominently				
8	thereon.				
9	The Confidential Settlement Conference Statement shall include the following:				
10	A. A brief statement of the facts of the case.				
11	B. A brief statement of the claims and defenses, i.e., statutory or other				
12	grounds upon which the claims are founded; a forthright evaluation of the parties' likelihood of				
13	prevailing on the claims and defenses; and a description of the major issues in dispute.				
14	C. A summary of the proceedings to date.				
15	D. An estimate of the cost and time to be expended for further discovery,				
16	pretrial and trial.				
17	E. The relief sought.				
18	F. The party's position on settlement, including present demands and				
19	offers and a history of past settlement discussions, offers and demands.				
20	VIII. <u>Request for Bifurcation, Appointment of Special Master, or other</u>				
21	<u>Techniques to Shorten Trial</u>				
22	Not applicable at this time.				
23					
24					
25	of directors or the like shall be represented by a person or persons who occupy high executive positions in the party organization and who will be directly involved in the process of approval or any settlement offers or agreements. To the extent possible the representative shall have the authority, if he or she deems it appropriate, to settle the action on terms consistent with the opposing party's most recent demand.				
26					
27					
28	5				

I

19

20

21

22

23

24

25

26

27

28

IX. Related Matters Pending

There are no pending related matters.

X. <u>Compliance with Federal Procedure</u>

All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure and the Local Rules of Practice of the Eastern District of California, and to keep abreast of any amendments thereto. The Court must insist upon compliance with these Rules if it is to efficiently handle its increasing case load and sanctions will be imposed for failure to follow the Rules as provided in both the Federal Rules of Civil Procedure and the Local Rules of Practice for the Eastern District of California.

XI. Effect of this Order

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

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

Failure to comply with this order may result in the imposition of sanctions.

IT IS SO ORDERED.

Dated: December 23, 2009

/s/ Dennis L. Beck UNITED STATES MAGISTRATE JUDGE