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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GUADALUPE FONSECA, et al.,

Plaintiff(s),

v.

CITY OF FRESNO, et al.,

Defendant.

) 1: 10 CV 00147 LJO DLB
)
) SCHEDULING ORDER (Fed.R.Civ.P 16)
)
) Discovery Deadlines:
) Non Expert: September 2, 2011
) Expert: September 30, 2011
)
) Non-Dispositive Motion Deadlines:
) Filing: October 14, 2011
) Hearing: November 18, 2011
)
) Dispositive Motion Deadlines:
) Filing: October 24, 2011
) Hearing: December 14, 2011
)

) Settlement Conference:
) August 11, 2011 at 10:00 a.m.
) Courtroom 9

) Pre-Trial Conference:
) February 1, 2012 at 8:30 a.m.
) Courtroom 4

) Trial: March 19, 2012 at 8:30 a.m.
) Courtroom 4 JT 5 to 7 days

I. Date of Scheduling Conference

September 8, 2010.

II. Appearances of Counsel

Melanie Partow appeared on behalf of Plaintiffs.

James Arendt appeared on behalf of Defendants City of Fresno and Mark Wilcox.

James C. Phillips appeared on behalf of Defendant Mike Trenholm.

1 order shortening time, the notice of motion *must* comply with Local Rule 251.

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

7 All Dispositive Pre-Trial Motions shall be filed no later than October 24, 2011 and
8 heard no later than December 14, 2011, in Courtroom 4 before the Honorable Lawrence J. O'Neill,
9 United States District Court Judge. In scheduling such motions, counsel shall comply with
10 **Fed.R.Civ.P 56 and Local Rules 230 and 260.**

11 **Motions for Summary Judgment or Summary Adjudication**

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

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

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

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

1 **V. Pre-Trial Conference Date**

2 February 1, 2012 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 Rule**
4 **281(a)(2)**. The parties are further directed to submit a digital copy of their pretrial statement in
5 Word Perfect X4¹ format, directly to Judge O'Neill's chambers by email at
6 LJOOrders@caed.uscourts.gov.

7 Counsels' attention is directed to **Rules 281 and 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. In addition to
10 the matters set forth in the Local Rules the Joint Pretrial Statement shall include a Joint Statement
11 of the case to be used by the Court to explain the nature of the case to the jury during voir dire.

12 **VI. Trial Date**

13 March 19, 2012 at 8:30 a.m. in Courtroom 4 before the Honorable Lawrence J.
14 O'Neill, United States District Court Judge.

15 A. This is a jury trial.

16 B. Counsels' Estimate of Trial Time: 5 to 7 days.

17 C. Counsel's attention is directed to Local Rules of Practice for the Eastern
18 District of California, Rule 285.

19
20 **VII. Settlement Conference**

21 A Settlement Conference is scheduled for August 11, 2011 at 10:00 a.m. in
22 Courtroom 9 before the Honorable Dennis L. Beck, U.S. Magistrate Judge.

23 Unless otherwise permitted in advance by the Court, **the attorneys who will try**
24 **the case** shall appear at the Settlement Conference **with the parties** and the person or persons

25
26 ¹ If WordPerfect X4 is not available to the parties then the latest version of WordPerfect
27 or any other word processing program in general use for IBM compatible personal computers is
28 acceptable.

1 having **full authority** to negotiate and settle the case **on any terms**² at the conference.

2 CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT

3 At least five (5) court days prior to the Settlement Conference the parties shall
4 submit, directly to Judge Beck's chambers by e-mail to DLBOrders@caed.uscourts.gov, a
5 Confidential Settlement Conference Statement. The statement **should not be filed** with the Clerk
6 of the Court **nor served on any other party**, although the parties may file a Notice of Lodging of
7 Settlement Conference Statement. Each statement shall be clearly marked "confidential" with the
8 date and time of the Settlement Conference indicated prominently 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 offers
19 and a history of past settlement discussions, offers and demands.

23 ² Insurance carriers, business organizations, and governmental bodies or agencies whose
24 settlement agreements are subject to approval by legislative bodies, executive committees, boards
25 of directors or the like shall be represented by a person or persons who occupy high executive
26 positions in the party organization and who will be directly involved in the process of approval of
27 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.

1 **VIII. Request for Bifurcation, Appointment of Special Master, or other Techniques**
2 **to Shorten Trial**

3 Not applicable at this time.

4 **IX. Related Matters Pending**

5 There are no pending related matters.

6 **X. Compliance with Federal Procedure**

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

13 **XI. Effect of this Order**

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

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

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

23
24 IT IS SO ORDERED.

25 **Dated: September 14, 2010**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE