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

CYNTHIA M. PIASECKI, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 LOZANO, SMITH, INC., CARLITA )  
 ROMERO, et al., )  
 )  
 Defendants. )

**New** Case No.  
1:11-cv-01219-SMS (Doc. 11)  
**SCHEDULING CONFERENCE ORDER**  
Expert Disclosure Deadline:  
10/19/12  
Supplemental Expert  
Disclosure Deadline:  
11/9/12  
Discovery Deadline:  
10/26/12 (non-expert)  
11/30/12 (expert)  
Non-Dispositive Motion  
Filing Deadline: 11/16/12  
Dispositive Motion  
Filing Deadline: 12/14/12  
Settlement Conference Date:  
*parties to engage in mediation*  
Pre-Trial Conference Date:  
2/13/13, 1:30pm, Ctrm. 1/**SMS**  
Trial Date: 4/8/13, 9:00am,  
Ctrm. 1/**SMS** (JT ~ 7-10 days)

- 1. Date of Scheduling Conference:  
November 8, 2011.

1           2.   Appearances of Counsel:

2                   Jacob J. Rivas, Esq., appeared on behalf of plaintiff.

3                   Bren K. Thomas, Esq., of Littler Mendelson appeared on  
4 behalf of defendants.

5           3.   The Pleadings:

6                   A.   Summary of the Pleadings.

7                           This case alleges retaliation under both California  
8 and federal law, and disability discrimination under California  
9 Government Code §§ 12940, et seq.

10                               Plaintiff's Contentions

11                               Plaintiff worked for defendant as a legal secretary  
12 beginning in June of 2009 and ending in February of 2011. Shortly  
13 after her date of hire, plaintiff complained to supervisors  
14 regarding inequitable employment practices which favored other  
15 legal secretaries over plaintiff. Despite her complaints, nothing  
16 was done to address plaintiff's concerns. Her working conditions  
17 contributed to an exacerbation of her Grave's disease. Plaintiff  
18 then submitted her complaints to the Equal Employment Opportunities  
19 Commission ("EEOC") and the California Department of Fair  
20 Employment and Housing ("DFEH"), and she was terminated by  
21 defendants shortly thereafter.

22                               Plaintiff claims she was subjected to retaliation  
23 and discrimination in the terms of her employment and termination.

24                               Defendants' Contentions

25                               Defendants deny all liability as to each claim  
26 alleged in plaintiff's complaint. Furthermore, defendants deny  
27 that plaintiff suffered any adverse employment action as a result  
28 of any alleged disability or retaliation. Defendants have filed an

1 answer herein alleging specific affirmative defenses, which they  
2 incorporate by reference.

3 B. Orders Re: Amendment of Pleadings.

4 No amendments are proposed at this time.

5 4. Factual Summary:

6 A. Admitted Facts which are deemed proven without  
7 further proceedings.

8 (1) Plaintiff was hired as a legal secretary by  
9 defendant firm in or around June of 2009.

10 (2) Plaintiff's job duties consisted of preparation  
11 of legal documents.

12 (3) Plaintiff took leave in October of 2010 and  
13 returned in December of 2010.

14 (4) On January 10, 2011, plaintiff met with Greg  
15 Wedner to discuss issues relating to her employment.

16 (5) Plaintiff sent an email to Carlita Romero, Andy  
17 Garcia, and Greg Wedner on January 13, 2011, stating that she had  
18 filed a claim with the DFEH and EEOC.

19 (6) Plaintiff was terminated by defendant firm on  
20 February 3, 2011.

21 B. Contested Facts.

22 (1) Whether plaintiff performed her job duties in a  
23 competent and efficient manner.

24 (2) Whether plaintiff was treated in the same  
25 manner and held to the same standards as other legal assistants.

26 (3) Whether plaintiff was subjected to  
27 discriminatory conduct by defendants based on her alleged  
28 disability and submission of claims to the DFEH and EEOC.

1 (4) Whether plaintiff was subjected to retaliatory  
2 conduct by defendants based on her alleged disability and  
3 submission of claims to the DFEH and EEOC.

4 (5) Whether plaintiff, prior to February of 2010,  
5 ever received any negative criticism regarding her job performance  
6 and work product.

7 (6) Whether, between June of 2009 and February of  
8 2010, similarly situated legal secretaries employed with defendant  
9 firm began taking prolonged lunches and breaks, arriving late to  
10 work, departing early from work, and using the internet for non  
11 work-related matters.

12 (7) If privileges were afforded to similarly  
13 situated legal secretaries employed with defendant firm, including  
14 taking prolonged lunches and breaks, arriving late to work,  
15 departing early from work, and using the internet for non work-  
16 related matters, whether plaintiff was afforded similar privileges.

17 (8) Whether plaintiff was required to perform  
18 additional work in order to compensate for the work not being done  
19 by the other legal secretaries.

20 (9) Whether plaintiff complained to her immediate  
21 supervisor, Tom Gauthier, Esq., that she was being required to  
22 perform additional and different job duties than other similarly  
23 situated legal secretaries in the office.

24 (10) Whether plaintiff further complained that her  
25 work load was substantially greater than other similarly situated  
26 legal secretaries because they were taking prolonged lunches and  
27 breaks, arriving late to work, departing early from work, and using  
28 the internet for non work-related matters.

1 (11) Whether plaintiff raised complaints in February  
2 of 2010; and, if immediately afterwards, whether she began  
3 receiving negative comments and criticism regarding her job  
4 performance and work product, including verbal and written  
5 reprimands.

6 (12) Whether a performance evaluation conducted in  
7 July of 2010 concluded that plaintiff "consistently performs all  
8 duties of the position in a fully capable manner; meets all  
9 expected criteria for quality, quantity and timeliness of work,  
10 including meeting goals and objectives."

11 (13) Whether plaintiff suffered an exacerbation of  
12 her Graves' disease due to the conditions of her employment with  
13 defendant firm.

14 (14) Whether plaintiff contacted the DFEH to discuss  
15 the disparate treatment by defendant firm.

16 (15) Whether plaintiff contacted the EEOC to discuss  
17 the disparate treatment by defendant firm.

18 (16) All other facts.

19 5. Legal Issues:

20 A. Uncontested.

21 (1) Federal question jurisdiction under 28 U.S.C.  
22 § 1441(b).

23 (2) Venue.

24 B. Contested.

25 (1) Whether defendants violated 42 U.S.C. § 2000e-3.

26 (2) Whether defendants violated California  
27 Government Code § 12940(h).

28 //

1 (3) Whether defendants violated California  
2 Government Code § 12926(a).

3 (4) Whether defendants are liable to plaintiff.

4 (5) Whether plaintiff is entitled to damages.

5 (6) All other legal issues.

6 6. Consent to Magistrate Judge Jurisdiction:

7 On November 9, 2011 (Doc. 11), pursuant to the consent of  
8 the parties, Judge Ishii ordered this case reassigned solely to the  
9 docket of the Honorable Sandra M. Snyder, United States Magistrate  
10 Judge, for all purposes, including trial, thereby changing the case  
11 number/initials as follows:

12 **1:11-cv-01219-SMS**

13 Counsel are herein advised that future use of an incorrect case  
14 number/initials could result in documents being mis-directed and/or  
15 mis-calendared by the appropriate judicial officer and/or staff.

16 7. Discovery Plan and Cut-Off Dates:

17 A. Pursuant to F.R.Civ.P.26(b), and except as the court  
18 may order after a showing of good cause, the "(p)arties may obtain  
19 discovery regarding any matter, not privileged, that is relevant to  
20 the claim or defense of any other party."

21 B. Unless otherwise stipulated between the parties or  
22 ordered by the court pursuant to F.R.Civ.P.26(b)(2), discovery  
23 shall be limited as follows:

24 (1) Depositions:

25 a. Each side may take no more than ten (10)  
26 depositions.

27 b. A deposition shall be limited to one (1)  
28 day of seven (7) hours. F.R.Civ.P.30(d).

1 (2) Interrogatories:

2 a. "(A)ny party may serve upon any other party  
3 written interrogatories, not exceeding 25 in number including all  
4 discrete subparts . . ." F.R.Civ.P.33(a).

5 C. Pursuant to F.R.Civ.P.26(e), the parties shall  
6 supplement their disclosures and amend their responses to discovery  
7 requests in a timely manner.

8 D. The parties are ordered to complete all discovery  
9 pertaining to non-experts on or before October 26, 2012, and all  
10 discovery pertaining to experts on or before November 30, 2012.

11 E. The parties are directed to disclose all expert  
12 witnesses, in writing, on or before October 19, 2012, and all  
13 supplemental expert witnesses, in writing, on or before November 9,  
14 2012. The written designation of experts shall **be made pursuant to**  
15 **F.R.Civ.P. Rule 26(a)(2), (A) and (B), and shall include all**  
16 **information required thereunder**. Failure to designate experts in  
17 compliance with this Order may result in the court excluding the  
18 testimony or other evidence offered through such experts that are  
19 not disclosed pursuant to this Order.

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

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1           8.     Pre-Trial Motion Schedule:

2           All Non-Dispositive Pre-Trial Motions, including any  
3 discovery motions, shall be filed on or before November 16, 2012,  
4 and are (customarily) heard on Wednesdays at 10:00 a.m. in  
5 Courtroom No. 1 on the Eighth Floor before the Honorable Sandra M.  
6 Snyder, United States Magistrate Judge. **NOTE:** It is the policy of  
7 Judge 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 chambers staff (559-499-5692) no later than five (5)  
22 court days prior to the noticed hearing date. **ALL Out-of-town**

23 \_\_\_\_\_  
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 prior to 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 counsel are strongly encouraged to appear telephonically via a  
2 single conference call to chambers. If two or more attorneys  
3 request to appear telephonically, then it shall be the obligation  
4 and responsibility of the moving party(ies) to make prior  
5 arrangements for the single conference call with an AT&T operator,  
6 IF counsel do not have conference call capabilities on their  
7 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 December 14, 2012, and are (customarily) heard on Wednesdays  
17 at 10:00 a.m. in Courtroom No. 1 on the Eighth Floor before the  
18 Honorable Sandra M. Snyder, United States Magistrate Judge. In  
19 scheduling such motions, counsel shall comply with Local Rules 230  
20 and 260.

21           **Motions for Summary Judgment or Summary Adjudication**

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

26           The purpose of the meeting shall be to: (1) avoid filing  
27 motions for summary judgment where a question of fact exists; (2)  
28 determine whether the respondent agrees that the motion has merit

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

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

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

13 9. Pre-Trial Conference Date:

14 February 13, 2013 at 1:30 p.m. in Courtroom No. 1 on the  
15 Eighth Floor before the Honorable Sandra M. Snyder, United States  
16 Magistrate Judge.

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

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

25 Counsels' attention is directed to **Rules 281 and 282 of**  
26 **the Local Rules** of Practice for the Eastern District of California

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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 as to the obligations of counsel in preparing for the Pre-Trial  
2 Conference. **The Court will insist upon strict compliance with**  
3 **those Rules.**

4 10. Trial Date:

5 April 8, 2013 at 9:00 a.m. in Courtroom No. 1 on the  
6 Eighth Floor before the Honorable Sandra M. Snyder, United States  
7 Magistrate Judge.

8 A. This is a jury trial.

9 B. Counsels' Estimate of Trial Time:

10 7-10 days.

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

13 11. Settlement Conference:

14 The parties agree to engage in a private mediation prior  
15 to and independent of any Settlement Conference. However, should  
16 the parties desire a Settlement Conference, they will jointly  
17 request one of the Court, and one will be arranged.

18 12. Request for Bifurcation, Appointment of Special Master,  
19 or other Techniques to Shorten Trial:

20 Not applicable at this time. However, defendant may  
21 request bifurcation of liability and punitive damages.

22 13. Related Matters Pending:

23 Not applicable at this time.

24 14. Compliance with Federal Procedure:

25 The Court requires compliance with the Federal Rules of  
26 Civil Procedure and the Local Rules of Practice for the Eastern  
27 District of California. To aid the Court in the efficient  
28 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 15. 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 16. 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 10, 2011

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE