





1 before 9/20/2013, and all discovery pertaining to experts on or before 10/30/2013.

2 The parties are directed to disclose all expert witnesses, in writing, on or before  
3 9/9/2013, and to disclose all rebuttal experts on or before 9/30/2013. The written designation of  
4 retained and non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A),**  
5 **(B) and (C) and shall include all information required thereunder.** Failure to designate  
6 experts in compliance with this order may result in the Court excluding the testimony or other  
7 evidence offered through such experts that are not disclosed pursuant to this order.

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

13 The provisions of Fed. R. Civ. P. 26(e) regarding a party's duty to timely  
14 supplement disclosures and responses to discovery requests will be strictly enforced.

15 **VI. Pre-Trial Motion Schedule**

16 All non-dispositive pre-trial motions, including any discovery motions, shall be  
17 filed by no later than 4:00 p.m. on 10/30/2013, and heard on or before 11/27/2013. Non-  
18 Dispositive motions are heard on Wednesdays at 9:30 a.m., before the Honorable Sheila K.  
19 Oberto, United States Magistrate Judge in Courtroom 7. In scheduling such motions, the parties  
20 shall comply with Local Rule 230. **Counsel must comply with Local Rule 251 with respect to**  
21 **discovery disputes or the motion will be denied without prejudice and dropped from**  
22 **calendar.** In scheduling such motions, the Magistrate Judge may grant applications for an order  
23 shortening time pursuant to Local Rule 144(e). However, if counsel does not obtain an order  
24 shortening time, the notice of motion *must* comply with Local Rule 251.

25 The parties are advised that unless prior leave of the Court is obtained, all moving  
26 and opposition briefs or legal memorandum in civil cases before Judge Oberto shall not exceed  
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1 thirty (30) pages. Reply briefs by the moving party shall not exceed ten (10) pages. These page  
2 limitations do not include exhibits. Briefs that exceed this page limitation, or that are sought to  
3 be filed without leave, may not be considered by the Court. In addition, all pleadings shall be  
4 filed by no later than 4:00 p.m. on the due date.

5 **Mid-Discovery Status Conference Date**

6 June 12, 2013, at 10:00 a.m. in Courtroom 7 before the Honorable Sheila K.  
7 Oberto, U.S. Magistrate Judge. The parties will prepare a Mid-Discovery Status Report which  
8 shall be submitted to the Court at least 7 days prior the conference.

9 Counsel may request to appear and argue non-dispositive motions by telephone,  
10 provided a written request to so appear is made to the Magistrate Judge's Courtroom Clerk no  
11 later than five (5) court days before the noticed hearing date, and such request is granted. In the  
12 event that more than one counsel requests to appear by telephone, it shall be the obligation of the  
13 moving part(ies) to arrange and originate a conference call to the court. Prior to filing a non-  
14 dispositive motion, the parties are ORDERED to meet, in person or by telephone, and confer to  
15 discuss the issues to be raised in the motion.

16 All dispositive pre-trial motions shall be filed no later than 12/16/2013 and heard no later  
17 than 1/27/2014, in Courtroom 2, before the Honorable Anthony W. Ishii, United States District  
18 Court Judge. In scheduling such motions, counsel shall comply with **Fed.R.Civ.P 56 and Local**  
19 **Rules 230 and 260.**

20 **Motions for Summary Judgment or Summary Adjudication**

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

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

4           The moving party shall initiate the meeting and provide a draft of the joint  
5 statement of undisputed facts. **In addition to complying with the requirements of Local Rule**  
6 **260, the moving party shall file a joint statement of undisputed facts.**

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

10           **VII. Pre-Trial Conference Date**

11           March 19, 2014, at 8:30 a.m. in Courtroom 2 before the Honorable Anthony W.  
12 Ishii, United States District Judge.

13           The parties are ordered to file a **Joint Pretrial Statement pursuant to Local**  
14 **Rule 281(a)(2)**. The parties are further directed to submit a digital copy of their pretrial  
15 statement in Word Perfect X4<sup>1</sup> format, directly to Judge Ishii's chambers by email at  
16 AWIorders@caed.uscourts.gov.

17           The parties' attention is directed to **Rules 281 and 282 of the Local Rules** of  
18 Practice for the Eastern District of California, as to the obligations of counsel in preparing for the  
19 pre-trial conference. The Court will insist upon strict compliance with those rules. In addition to  
20 the matters set forth in the Local Rules, the Joint Pretrial Statement shall include a Joint  
21 Statement of the case to be used by the Court to explain the nature of the case to the jury during  
22 voir dire.

23           **VIII. Trial Date**

24           May 13, 2014, at 8:30 a.m. in Courtroom 2 before the Honorable Anthony W.

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

1 Ishii, United States District Court Judge.

2 A. This is a Jury trial.

3 B. Parties' estimate of trial time: 7-10 days.

4 C. The parties' attention is directed to Local Rules of Practice for the Eastern  
5 District of California, Rule 285 for preparation of trial briefs.

6 **IX. Settlement Conference**

7 A Settlement Conference is scheduled for 8/29/2013 at 10:00 a.m. in Courtroom 7  
8 before the Honorable Sheila K. Oberto, U.S. Magistrate Judge. Unless otherwise permitted in  
9 advance by the Court, **the attorneys who will try the case** shall appear at the Settlement  
10 Conference **with the parties** and the person or persons having **full authority** to negotiate and  
11 settle the case **on any terms**<sup>2</sup> at the conference.

12 **CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT**

13 At least five (5) court days prior to the Settlement Conference the parties shall  
14 submit, directly to Judge Oberto's chambers by e-mail to SKOorders@caed.uscourts.gov, a  
15 Confidential Settlement Conference Statement. The statement **should not be filed** with the  
16 Clerk of the Court **or served on any other party**; however, the parties are **required to file** their  
17 Notice of Submission of Confidential Settlement Conference Statement (See Local Rule  
18 270(d)). Each statement shall be clearly marked "confidential" with the date and time of the  
19 Settlement Conference indicated prominently thereon. The parties are urged to request the  
20 return of their statements if a settlement is not achieved, and if such a request is not made, the  
21 Court will dispose of the statement.

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23 <sup>2</sup> 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  
28 authority, if he or she deems it appropriate, to settle the action on terms consistent with the  
opposing party's most recent demand.

1 The Confidential Settlement Conference Statement shall include the following:

2 A. A brief statement of the facts of the case.

3 B. A brief statement of the claims and defenses, i.e., statutory or other  
4 grounds upon which the claims are founded, a forthright evaluation of the parties' likelihood of  
5 prevailing on the claims and defenses, and a description of the major issues in dispute.

6 C. A summary of the proceedings to date.

7 D. An estimate of the cost and time to be expended for further discovery,  
8 pretrial and trial.

9 E. The relief sought.

10 F. The party's position on settlement, including present demands and  
11 offers and a history of past settlement discussions, offers and demands.

12 **X. Request for Bifurcation, Appointment of Special Master, or Other**  
13 **Techniques to Shorten Trial**

14 Not applicable at this time.

15 **XI. Related Matters Pending**

16 There are no pending related matters.

17 **XII. Compliance with Federal Procedure**

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

24 **XIII. Effect of this Order**

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

4 **The dates set in this Order are considered to be firm and will not be modified**  
5 **absent a showing of good cause even if the request to modify is made by stipulation.**  
6 **Stipulations extending the deadlines contained herein will not be considered unless they are**  
7 **accompanied by affidavits or declarations, and where appropriate, attached exhibits, which**  
8 **establish good cause for granting the relief requested.**

9 The failure to comply with this order may result in the imposition of sanctions.

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11 IT IS SO ORDERED.

12 **Dated: December 4, 2012**

**/s/ Sheila K. Oberto**  
**UNITED STATES MAGISTRATE JUDGE**