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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Melissa Carmichael,

Plaintiff,

v.

U.S. Department of Commerce, et. al.

Defendants,

) 1:12-cv-01722 SKO

) SCHEDULING ORDER (Fed.R.Civ.P 16)

) Initial Disclosures: 1/18/2013

) Discovery Deadlines:
) Non Expert: 8/16/2013
) Expert: 9/20/2013

) Non-Dispositive Motion Deadline:
) Filing: 9/25/2013

) Dispositive Motion Deadline:
) Filing: 11/4/2013

) Settlement Conference:
) August 6, 2013, at 9:30 a.m.
) Courtroom 8

) Pre-Trial Conference:
) 2/5/2014 at 2:00 p.m.
) Courtroom 7

) Jury Trial:
) 4/22/2014 at 8:30 a.m.
) Courtroom 7 (3 days)

I. Date of Scheduling Conference

November 15, 2012.

1 **26(a)(2), (A), (B) and (C) and shall include all information required thereunder.** Failure to
2 designate experts in compliance with this order may result in the Court excluding the testimony or
3 other evidence offered through such experts that are not disclosed pursuant to this order.

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

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

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

11 All non-dispositive pre-trial motions, including any discovery motions, shall be filed
12 by no later than 4:00 p.m. on September 25, 2013, and heard on or before October 23, 2013. Non-
13 dispositive motions are heard on Wednesdays at 9:30 a.m., before the Honorable Sheila K. Oberto,
14 United States Magistrate Judge in Courtroom 7. **Counsel must comply with Local Rule 251 with**
15 **respect to discovery disputes or the motion will be denied without prejudice and dropped from**
16 **calendar.** In scheduling such motions, the Magistrate Judge may grant applications for an order
17 shortening time pursuant to Local Rule 144(e). However, if counsel does not obtain an order
18 shortening time, the notice of motion *must* comply with Local Rule 251.

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

25 Counsel may appear and argue non-dispositive motions by telephone, provided a
26 written request to so appear is made to the Magistrate Judge's Courtroom Clerk no later than five (5)

1 court days before the noticed hearing date. In the event that more than one attorney requests to
2 appear by telephone, then it shall be the obligation of the moving part(ies) to arrange and originate
3 a conference call to the court. Telephonic hearings are not likely to be granted with regard to
4 motions to compel in the context of discovery disputes.

5 All dispositive pre-trial motions shall be filed no later than November 4, 2013, and
6 heard no later than December 18, 2013, in Courtroom 7 before the Honorable Sheila K. Oberto,
7 United States Magistrate Judge. In scheduling such motions, counsel shall comply with Fed.R.Civ.P
8 56 and Local Rules 230 and 260.

9 **Motions for Summary Judgment or Summary Adjudication**

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

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

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

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

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

25 February 5, 2014, at 2:00 p.m. in Courtroom 7 before Judge Oberto.

26 The parties are ordered to file a Joint Pretrial Statement pursuant to Local Rule
27

1 **281(a)(2).** The parties are further directed to submit a digital copy of their pretrial statement in Word
2 Perfect X3¹ format, directly to Judge Oberto's chambers by email at SKOorders@caed.uscourts.gov.

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

8 **VIII. Trial Date**

9 April 22, 2014, at 8:30 a.m. in Courtroom 7 before the Honorable Sheila K. Oberto,
10 United States Magistrate Judge.

11 A. This is a Jury trial.

12 B. Counsel's estimate of trial time: 3 days.

13 C. Counsel's attention is directed to Local Rules of Practice for the Eastern
14 District of California, Rule 285 for preparation of trial briefs.

15 **IX. Settlement Conference**

16 A Settlement Conference is scheduled for August 6, 2013, 9:30 a.m. in Courtroom
17 8 before the Honorable Barbara A. McAuliffe, U.S. Magistrate Judge.

18 Unless otherwise permitted in advance by the Court, **the attorneys who will try the**
19 **case** shall appear at the Settlement Conference **with the parties** and the person or persons
20 having **full authority** to negotiate and settle the case **on any terms**² at the conference.

21
22 ¹ If WordPerfect X3 is not available to the parties then the latest version of WordPerfect
23 or any other word processing program in general use for IBM compatible personal computers is
24 acceptable.

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

1 CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT

2 At least five (5) court days prior to the Settlement Conference the parties shall submit,
3 directly to Judge McAuliffe chambers by e-mail to bamorders@caed.uscourts.gov, a Confidential
4 Settlement Conference Statement. The statement **should not be filed** with the Clerk of the Court
5 **or served on any other party**, although the parties may file a Notice of Lodging of Settlement
6 Conference Statement. Each statement shall be clearly marked "confidential" with the date and time
7 of the Settlement Conference indicated prominently thereon. The parties are urged to request the
8 return of their statement if a settlement is not achieved, and if such a request is not made, the Court
9 will dispose of the statement.

10 The Confidential Settlement Conference Statement shall include the following:

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

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

15 C. A summary of the proceedings to date.

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

18 E. The relief sought.

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

21 Should the parties desire a settlement conference, they will jointly request one of the
22 court, and one will be arranged. In making such request, the parties are directed to notify the court
23 as to whether or not they desire the undersigned to conduct the settlement conference or to arrange
24 for one before another judicial officer.

25 _____
26 authority, if he or she deems it appropriate, to settle the action on terms consistent with the
27 opposing party's most recent demand.

