

1 Stuart Gillespie appeared on behalf of Defendants.

2 **III. Information Concerning the Court's Schedule**

3 Out of fairness, the Court believes it is necessary to forewarn litigants that the Fresno Division
4 of the Eastern District of California now has the heaviest District Court Judge caseload in the entire
5 nation. While the Court will use its best efforts to resolve this case and all other civil cases in a timely
6 manner, the parties are admonished that not all of the parties' needs and expectations may be met as
7 expeditiously as desired. As multiple trials are now being set to begin upon the same date, parties may
8 find their case trailing with little notice before the trial begins. The law requires that the Court give any
9 criminal trial priority over civil trials or any other matter. The Court must proceed with a criminal trial
10 even if a civil trial was filed earlier and set for trial first. Continuances of any civil trial under these
11 circumstances will no longer be entertained, absent a specific and stated finding of good cause. All
12 parties should be informed that any civil trial set to begin during the time a criminal trial is proceeding
13 will trail the completion of the criminal trial.

14 The parties are reminded of the availability of a United States Magistrate Judge to conduct all
15 proceedings in this action. A United States Magistrate Judge is available to conduct trials, including
16 entry of final judgment, pursuant to 28 U.S.C. § 28 U.S.C. 636(c), Federal Rule of Civil Procedure 73,
17 and Local Rule 305. The same jury pool is used by both United States Magistrate Judges and United
18 States District Court Judges. Any appeal from a judgment entered by a United States Magistrate Judge
19 is taken directly to the United States Court of Appeal for the Ninth Circuit. However, the parties are
20 hereby informed that no substantive rulings or decisions will be affected by whether a party chooses to
21 consent.

22 Finally, the Fresno Division of the Eastern District of California, whenever possible, is utilizing
23 United States Article III District Court Judges from throughout the nation as Visiting Judges. Pursuant
24 to the Local Rules, Appendix A, reassignments will be random, and the parties will receive no advance
25 notice before their case is reassigned to an Article III District Court Judge from outside of the Eastern
26 District of California.

27 Therefore, the parties are directed to consider consenting to Magistrate Judge jurisdiction to
28 conduct all further proceedings, including trial. **Within 10 days** of the date of this order, counsel

1 **SHALL** file a consent/decline form (provided by the Court at the inception of this case) indicating
2 whether they will consent to the jurisdiction of the Magistrate Judge.

3 **IV. Pleading Amendment Deadline**

4 The parties do not anticipate that need to amend any pleading.

5 **V. Administrative record**

6 Defendants **SHALL** file the administrative record no later than **January 24, 2014**. Due to the
7 voluminous nature of the record, Defendants need not provide a courtesy paper copy but **SHALL**
8 provide a searchable, electronic copy to the chambers of Judge Ishii. **Moreover, the parties SHALL**
9 **file excerpts of the record in connection with their motion/cross motion for summary judgment.**

10 Informal objections to Defendants **SHALL** be lodged no later than **February 7, 2014**. In the
11 event the objections cannot be resolved informally, a motion to amend the record **SHALL** be filed no
12 later than **February 28, 2014** and heard no later than **March 28, 2014**.

13 No objections or motion to supplement shall be filed without the prior approval of the assigned
14 Magistrate Judge. Plaintiff **SHALL** confer with the opposing party in a good faith effort to resolve the
15 issues in dispute. If that good faith effort is unsuccessful, Plaintiff promptly **SHALL** seek a telephonic
16 hearing with all involved parties and the Magistrate Judge. It is the obligation of Plaintiff to arrange
17 and originate the conference call to the Court. To schedule this telephonic hearing, the parties are
18 ordered to contact Courtroom Deputy Clerk, Susan Hall at (661) 326-6620 or via email at
19 SHall@caed.uscourts.gov.

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

21 Prior to filing a motion for summary judgment or motion for summary adjudication the parties
22 are **ORDERED** to meet, in person or by telephone, and confer to discuss the issues to be raised in the
23 motion **at least 14 days prior** to the filing of the motion.

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

1 **In addition to the requirements of Local Rule 260**, the moving party **SHALL** file a joint
2 statement of undisputed facts and each party **SHALL** file excerpts of the record which are cited in each
3 party's briefs. **The parties are strongly encouraged to file a joint excerpt.**

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

6 Each side may file briefs **not to exceed 35 pages in total.** They have the discretion to choose
7 how to divide the page allotment between the opening/responsive brief and the reply brief. The parties
8 **SHALL** provide a courtesy copy of the briefs and excerpts of the record to Judge Ishii's chambers at
9 the time of the filing.

10 The briefing scheduling for the motion/cross motion for summary judgment is as follows:

- 11 1. **No later than February 28, 2014**, Plaintiffs SHALL file their motion for summary
12 judgment;
- 13 2. **No later than March 28, 2014**, Defendant SHALL file their cross-motion for summary
14 judgment and responsive brief;
- 15 3. **No later than April 11, 2014**, Plaintiffs SHALL file their responsive brief and reply
16 brief;
- 17 4. **No later than April 25, 2014**, Defendant may file their reply brief;

18 The motions will be heard **no later than June 16, 2014 at 1:30 p.m.** before Judge Ishii.

19 **VII. Settlement Conference**

20 The parties do not seek a settlement conference at this time. If, in the future, the parties
21 determine a settlement conference is likely to be fruitful, they may file a joint request for the Court to
22 schedule a settlement conference. The request SHALL propose dates for the conference.

23 **VIII. Compliance with Federal Procedure**

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

1 District of California.

2 **IX. Effect of this Order**

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

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

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

14
15 IT IS SO ORDERED.

16 Dated: December 9, 2013

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE