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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JANET BOWEN,)	1: 14-CV-00397 - LJO - JLT
)	
Plaintiff,	)	SCHEDULING ORDER (Fed. R. Civ. P. 16)
)	
v.	)	Pleading Amendment Deadline: 10/6/2014
)	
M. CARATAN, INC.,	)	Discovery Deadlines:
	)	Initial Disclosures: 8/15/2014
Defendant.	)	Non-Expert: 5/1/2015
	)	Expert: 7/10/2015
	)	Mid-Discovery Status Conference:
	)	2/23/2015 at 8:30 a.m.
)	
	)	Non-Dispositive Motion Deadlines:
	)	Filing: 7/20/2015
	)	Hearing: 8/17/2015
)	
	)	Dispositive Motion Deadlines:
	)	Filing: 8/31/2015
	)	Hearing: 10/14/2015
)	
	)	Pre-Trial Conference:
	)	12/9/2015 at 8:30 a.m.
	)	Courtroom 4
)	
	)	Trial: 2/9/2016 at 8:30 a.m.
	)	Courtroom 4
	)	Jury trial: 4-5 days

1 **I. Date of Scheduling Conference**

2 July 7, 2014.

3 **II. Appearances of Counsel**

4 Randall Rumph appeared on behalf of Plaintiff.

5 Todd Kinnear appeared on behalf of Defendant.

6 **III. Magistrate Judge Consent:**

7 **Notice of Congested Docket and Court Policy of Trailing**

8 Due to the District Judges' heavy caseload, the newly adopted policy of the Fresno Division of
9 the Eastern District is to trail all civil cases. The parties are hereby notified that for a trial date set
10 before a District Judge, the parties will trail indefinitely behind any higher priority criminal or older
11 civil case set on the same date until a courtroom becomes available. The trial date will not be reset to a
12 continued date.

13 The Magistrate Judges' availability is far more realistic and accommodating to parties than that
14 of the U.S. District Judges who carry the heaviest caseloads in the nation and who must prioritize
15 criminal and older civil cases over more recently filed civil cases. A United States Magistrate Judge
16 may conduct trials, including entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule of
17 Civil Procedure 73, and Local Rule 305. Any appeal from a judgment entered by a United States
18 Magistrate Judge is taken directly to the United States Court of Appeal for the Ninth Circuit.

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

24 Therefore, the parties are directed to consider consenting to Magistrate Judge jurisdiction to
25 conduct all further proceedings, including trial. **Within 10 days** of the date of this order, counsel
26 **SHALL** file a consent/decline form (provided by the Court at the inception of this case) indicating
27 whether they will consent to the jurisdiction of the Magistrate Judge.

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1 **IV. Pleading Amendment Deadline**

2 Any requested pleading amendments are ordered to be filed, either through a stipulation or
3 motion to amend, no later than **October 6, 2014**.

4 **V. Discovery Plan and Cut-Off Date**

5 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)
6 on or before **August 15, 2014**.

7 The parties are ordered to complete all discovery pertaining to non-experts on or before **May 1,**
8 **2015**, and all discovery pertaining to experts on or before **July 10, 2015**.

9 The parties are directed to disclose all expert witnesses, in writing, on or before **May 15, 2015**,
10 and to disclose all rebuttal experts on or before **June 12, 2015**. The written designation of retained and
11 non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C) and**
12 **shall include all information required thereunder**.¹ Failure to designate experts in compliance with
13 this order may result in the Court excluding the testimony or other evidence offered through such
14 experts that are not disclosed pursuant to this order.

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

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

21 A mid-discovery status conference is scheduled for **February 23, 2015** at 8:30 a.m. before the
22 Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510 19th Street, Bakersfield,
23 California, 93301. A Joint Mid-Discovery Status Conference Report, carefully prepared and executed
24 by all counsel, shall be electronically filed in CM/ECF, one full week prior to the Conference, and shall
25 be e-mailed, in Word format, to JLTorders@caed.uscourts.gov. The joint statement SHALL outline the
26 discovery that has been completed and that which needs to be completed as well as any impediments to
27

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¹ In the event an expert will opine on an independent medical examination or mental health examination, the opinions related to the examination must be set forth in the expert's report.

1 completing the discovery within the deadlines set forth in this order. Counsel may appear via
2 CourtCall, providing a written request to so appear is made to the Magistrate Judge's Courtroom Clerk
3 no later than five court days before the noticed hearing date.

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

5 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
6 than **July 20, 2015**, and heard on or before **August 17, 2015**. Non-dispositive motions are heard before
7 the Honorable Jennifer L. Thurston, United States Magistrate Judge at the United States Courthouse in
8 Bakersfield, California.

9 No written discovery motions shall be filed without the prior approval of the assigned
10 Magistrate Judge. A party with a discovery dispute must first confer with the opposing party in a good
11 faith effort to resolve by agreement the issues in dispute. If that good faith effort is unsuccessful, the
12 moving party promptly shall seek a telephonic hearing with all involved parties and the Magistrate
13 Judge. It shall be the obligation of the moving party to arrange and originate the conference call to the
14 court. To schedule this telephonic hearing, the parties are ordered to contact Courtroom Deputy Clerk,
15 Susan Hall at (661) 326-6620 or via email at SHall@caed.uscourts.gov. **Counsel must comply with**
16 **Local Rule 251 with respect to discovery disputes or the motion will be denied without prejudice**
17 **and dropped from calendar.**

18 In scheduling such motions, the Magistrate Judge may grant applications for an order shortening
19 time pursuant to Local Rule 144(e). However, if counsel does not obtain an order shortening time, the
20 notice of motion must comply with Local Rule 251.

21 Counsel may appear and argue non-dispositive motions via CourtCall, providing a written
22 request to so appear is made to the Magistrate Judge's Courtroom Clerk no later than five court days
23 before the noticed hearing date.

24 All dispositive pre-trial motions shall be filed no later than **August 31, 2015**, and heard no later
25 than **October 14, 2015**, in Courtroom 4 at 8:30 a.m. before the Honorable Lawrence J. O'Neill, United
26 States District Court Judge. In scheduling such motions, **counsel shall comply with Fed. R. Civ. P. 56**
27 **and Local Rules 230 and 260.**

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1 **VII. Motions for Summary Judgment or Summary Adjudication**

2 **At least 21 days before** filing a motion for summary judgment or motion for summary
3 adjudication the parties are **ORDERED** to meet, in person or by telephone, and confer to discuss the
4 issues to be raised in the motion of the motion.

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

10 The moving party shall initiate the meeting and provide a draft of the joint statement of
11 undisputed facts. **In addition to the requirements of Local Rule 260, the moving party shall file a**
12 **joint statement of undisputed facts.**

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

15 **VIII. Pre-Trial Conference Date**

16 **December 9, 2015** at 8:30 a.m. in Courtroom 4 before Judge O'Neill.

17 The parties are ordered to file a **Joint Pretrial Statement pursuant to Local Rule 281(a)(2).**
18 The parties are further directed to submit a digital copy of their pretrial statement in Word format,
19 directly to Judge O'Neill's chambers, by email at LJOorders@caed.uscourts.gov.

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

25 **IX. Trial Date**

26 **February 9, 2016** at 8:30 a.m. in Courtroom 4 before the Honorable Lawrence J. O'Neill,
27 United States District Court Judge.

28 A. This is a jury trial.

1 B. Counsels' Estimate of Trial Time: 4-5 days.

2 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
3 California, Rule 285.

4 **X. Settlement Conference**

5 If the parties believe the action is in a settlement posture and believe a conference with the
6 Court would be fruitful, they may file a joint written request for a settlement conference, at which time
7 a settlement conference will before Magistrate Judge Jennifer L. Thurston.

8 **XI. Request for Bifurcation, Appointment of Special Master, or other**
9 **Techniques to Shorten Trial**

10 Not applicable at this time.

11 **XII. Related Matters Pending**

12 There are no pending related matters.

13 **XIII. Compliance with Federal Procedure**

14 All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure
15 and the Local Rules of Practice of the Eastern District of California, and to keep abreast of any
16 amendments thereto. The Court must insist upon compliance with these Rules if it is to efficiently
17 handle its increasing case load and sanctions will be imposed for failure to follow both the Federal
18 Rules of Civil Procedure and the Local Rules of Practice for the Eastern District of California.

19 **XIV. Effect of this Order**

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

25 **The dates set in this Order are considered to be firm and will not be modified absent a**
26 **showing of good cause even if the request to modify is made by stipulation. Stipulations**
27 **extending the deadlines contained herein will not be considered unless they are accompanied by**
28 **affidavits or declarations, and where appropriate attached exhibits, which establish good cause**

1 **for granting the relief requested.**

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

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4 IT IS SO ORDERED.

5 Dated: July 7, 2014

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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