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7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF CALIFORNIA**
9

10 TONY TENNENTO,
11 Plaintiff,

12 v.

13 CHRISTOPHER BOSTON, et al.,
14 Defendants.

) Case No.: 1:14-cv-00772 LJO JLT
)
) SCHEDULING ORDER (Fed. R. Civ. P. 16)
)
) Pleading Amendment Deadline: 7/13/2015

) Discovery Deadlines:
) Initial Disclosures: 5/20/2015
) Non-Expert: 4/15/2016
) Expert: 7/1/2016
) Mid-Discovery Status Conference:
11/12/2015 at 9:00 a.m.

17
18 Non-Dispositive Motion Deadlines:
Filing: 7/18/2016
Hearing: 8/15/2016

20 Dispositive Motion Deadlines:
Filing: 8/30/2016
Hearing: 10/11/2016

22 Pre-Trial Conference:
23 12/6/2016 at 8:30 a.m.
Courtroom 4

25 Trial: 1/31/2017 at 8:30 a.m.
Courtroom 4
Jury trial: 5 days

27 **I. Date of Scheduling Conference**

28 April 13, 2015

1 **II. Appearances of Counsel**

2 Plaintiff appeared in pro per.

3 Judith Denny appeared on behalf of Defendants.

4 **III. Magistrate Judge Consent:**

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

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

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

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

22 Plaintiff has consented to Magistrate Judge jurisdiction (Doc. 22 at 18). Therefore, **Defendants**
23 are directed to consider consenting to Magistrate Judge jurisdiction to conduct all further proceedings,
24 including trial. **Within 10 days** of the date of this order, counsel **SHALL** file a consent/decline form
25 (provided by the Court at the inception of this case) indicating whether they will consent to the
26 jurisdiction of the Magistrate Judge.

27 **IV. Pleading Amendment Deadline**

28 Any requested pleading amendments are ordered to be filed, either through a stipulation or

1 motion to amend, no later than **July 13, 2015**.

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

3 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)
4 on or before **May 20, 2015**.

5 The parties are ordered to complete all discovery pertaining to non-experts on or before **April**
6 **15, 2016**, and all discovery pertaining to experts on or before **July 1, 2016**.

7 The parties are directed to disclose all expert witnesses¹, in writing, on or before **May 6, 2016**,
8 and to disclose all rebuttal experts on or before **June 3, 2016**. The written designation of retained and
9 non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C) and**
10 **shall include all information required thereunder**. Failure to designate experts in compliance with
11 this order may result in the Court excluding the testimony or other evidence offered through such
12 experts that are not disclosed pursuant to this order.

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

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

19 A mid-discovery status conference is scheduled for **November 12, 2015** at 9:00 a.m. before the
20 Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510 19th Street, Bakersfield,
21 California, 93301. A Joint Mid-Discovery Status Conference Report, carefully prepared and executed
22 by all counsel, shall be electronically filed in CM/ECF, one full week prior to the Conference, and shall
23 be e-mailed, in Word format, to JLTorders@caed.uscourts.gov. The joint statement SHALL outline the
24 discovery that has been completed and that which needs to be completed as well as any impediments to
25 completing the discovery within the deadlines set forth in this order. Counsel may appear via
26 CourtCall, providing a written request to so appear is made to the Magistrate Judge's Courtroom Clerk

27 _____
28 ¹ In the event an expert will offer opinions related to an independent medical or mental health
evaluation, the examination SHALL occur sufficiently in advance of the disclosure deadline so the expert's
report fully details the expert's opinions in this regard.

no later than five court days before the noticed hearing date.

VI. Pre-Trial Motion Schedule

All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later than **July 18, 2016**, and heard on or before **August 15, 2016**. Non-dispositive motions are heard before the Honorable Jennifer L. Thurston, United States Magistrate Judge at the United States Courthouse in Bakersfield, California.

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

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

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

All dispositive pre-trial motions shall be filed no later than **August 30, 2016**, and heard no later than **October 11, 2016**, in Courtroom 4 at 8:30 a.m. before the Honorable Lawrence J. O'Neill, United States District Court Judge. In scheduling such motions, **counsel shall comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.**

VII. Motions for Summary Judgment or Summary Adjudication

At least 21 days before filing a motion for summary judgment or motion for summary adjudication, the parties are **ORDERED** to meet, in person or by telephone, to confer about the issues

1 to be raised in the motion.

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

7 The moving party shall initiate the meeting and **SHALL** provide a complete, proposed
8 statement of undisputed facts **at least five days before** the conference. The finalized joint statement of
9 undisputed facts **SHALL** include all facts that the parties agree, for purposes of the motion, may be
10 deemed true. **In addition to the requirements of Local Rule 260, the moving party shall file the**
11 **joint statement of undisputed facts.**

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

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

15 **December 6, 2016** at 8:30 a.m. in Courtroom 4 before Judge O'Neill.

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

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

24 **IX. Trial Date**

25 **January 31, 2017** at 8:30 a.m. in Courtroom 4 before the Honorable Lawrence J. O'Neill,
26 United States District Court Judge.

27 A. This is a jury trial.

28 B. Counsels' Estimate of Trial Time: 5 days.

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

3 **X. Settlement Conference**

4 Defendants are not interested in participating in a settlement conference. Thus, one is not set at
5 this time. However, if in the future, the parties agree a settlement conference is likely to be fruitful,
6 they may file a stipulation requesting a settlement conference be placed on calendar.

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

9 Not applicable at this time.

10 **XII. Related Matters Pending**

11 There are no pending related matters.

12 **XIII. Compliance with Federal Procedure**

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

3
4 IT IS SO ORDERED.

5 Dated: April 14, 2015

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE