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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HAROLD and DOROTHY BENNETT,

Plaintiffs,

v.

STATE FARM GENERAL INSURANCE
COMPANY,

Defendant*.

No. 1:14-cv-01377-GEB-JLT

**STATUS (PRETRIAL SCHEDULING)
ORDER**

The status (pretrial scheduling) conference scheduled for hearing on June 8, 2015, is vacated since the parties' "Further Joint Status Report" filed on May 22, 2015 ("JSR") indicates the following Order should issue.

DISMISSAL OF DOE DEFENDANTS

Since Plaintiffs have not justified Doe defendants remaining in this action, Does 1-100 are dismissed. See Order Setting Status (Pretrial Scheduling) Conference filed September 4, 2014, at 2 n.2 (indicating that if justification for "Doe" defendant allegations not provided Doe defendants would be dismissed).

SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

Plaintiffs state in the JSR:

* The caption has been amended according to the Dismissal of Doe Defendants portion of this Order.

1 The conservator of Plaintiff Harold
2 Bennett is his daughter, Dorothy Picking.
3 Dorothy Picking is represented by Larry R.
4 Cox of The Law Offices of Young Wooldridge,
5 LLP in Bakersfield, CA for purposes of the
6 conservatorship proceedings related to Harold
7 Bennett. Plaintiff's attorneys have been in
8 steady contact with attorney Larry Cox
9 regarding the substitution. Ms. Picking has
10 agreed to be substituted as the real party in
11 interest in this action in her capacity as
12 conservator of Harold Bennett pursuant to
13 section 2463 of the California Probate Code.
14 Ms. Picking is represented by Craig A. Miller
15 and Patrick A. Calhoon at the Law Offices of
16 Craig A. Miller in her capacity as the
17 conservator of Harold Bennett in connection
18 with this action.

19 Defendant State Farm does not oppose the
20 substitution of Dorothy Picking, conservator
21 of Harold Bennett, as the real party in
22 interest in this action. Accordingly,
23 Plaintiff will file a joint motion and
24 stipulation of the parties to substitute
25 Dorothy Picking as plaintiff in her capacity
26 as conservator of Harold Bennett. Plaintiff
27 is endeavoring to file this motion during the
28 week of May 25, 2015 to May 29, 2015.

 With respect to Plaintiff Dorothy Bennett,
Plaintiffs anticipate that Dorothy Picking
will continue the action as the successor in
interest to her mother pursuant to section
377.11 of the California Probate Code. This
can also be accomplished through a joint
motion and stipulation. Plaintiff is
endeavoring to file the necessary affidavit
and Joint Motion and Stipulation of the
parties with this Court during the week of
May 25, 2015 to May 29, 2015.

(JSR 2:9-26, ECF No. 18.)

 Therefore, Plaintiffs have until June 1, 2015, to file
a joint motion and stipulation concerning the referenced
substitution of parties, after which time no further service,
joinder of parties, or amendments to the pleadings is permitted,
except with leave of Court for good cause shown.

1 ADDED PARTY'S OPPORTUNITY TO SEEK AMENDMENT OF THIS ORDER

2 If Plaintiffs substitute a party pursuant to the leave
3 given above, a copy of this Order shall be served on that party
4 concurrently with the service of process.

5 The newly added party has 30 days after said service
6 within which to file a "Notice of Proposed Modification of Status
7 Order." Although a newly-joined party's proposed modification
8 filed within this thirty day period will not have to meet the
9 good cause standard, no further amendments will be permitted,
10 except with leave of Court for good cause shown.

11 DISCOVERY

12 All discovery shall be completed by April 20, 2016.
13 "Completed" means all discovery shall be conducted so that any
14 dispute relative to discovery shall have been resolved by
15 appropriate orders, if necessary, and, where discovery has been
16 ordered, the order has been complied with on or before the
17 prescribed "completion" date.

18 Each party shall comply with Federal Rule of Civil
19 Procedure 26(a)(2)(B) and (C)'s initial expert witness disclosure
20 requirements on or before December 16, 2015, and any
21 contradictory and/or rebuttal expert disclosure authorized under
22 Rule 26(a)(2)(D)(ii) on or before January 13, 2016.

23 MOTION HEARING SCHEDULE

24 The last hearing date for a motion is June 20, 2016,
25 commencing at 9:00 a.m. Any motion shall be briefed as prescribed
26 in Local Rule 230.

27 The parties are cautioned that an untimely motion
28 characterized as a motion in limine may be summarily denied.

1 FINAL PRETRIAL CONFERENCE

2 The final pretrial conference is scheduled to commence
3 at 2:30 p.m., on August 15, 2016. The parties are cautioned that
4 the lead attorney who WILL TRY THE CASE for each party shall
5 attend the final pretrial conference. In addition, all persons
6 representing themselves and appearing in propria persona must
7 attend the pretrial conference.

8 The parties shall file a JOINT pretrial statement no
9 later than seven (7) calendar days prior to the final pretrial
10 conference. **The joint pretrial statement shall address the**
11 **applicable portions of Local Rule 281(b), and shall set forth**
12 **each theory of liability ("claim") and affirmative defense which**
13 **remains to be tried, and the ultimate facts on which each**
14 **claim/defense is based.** Furthermore, each party shall estimate
15 the length of trial. The Court uses the parties' joint pretrial
16 statement to prepare its final pretrial order and could issue the
17 final pretrial order without holding the scheduled final pretrial
18 conference. See Mizwicki v. Helwig, 196 F.3d 828, 833 (7th Cir.
19 1999) ("There is no requirement that the court hold a pretrial
20 conference.").

21 Final pretrial procedures are "critical for 'promoting
22 efficiency and conserving judicial resources by identifying the
23 real issues prior to trial, thereby saving time and expense for
24 everyone.'" Friedman & Friedman, Ltd. v. Tim McCandless, Inc.,
25 606 F.3d 494, 498 (8th Cir. 2010) (quoting Fed. R. Civ. P. 16
26 Advisory Committee Note (1983 Amendment to subdivision (c)).
27 "Toward that end, Rule 16 directs courts to use pretrial
28 conferences to weed out unmeritorious claims and defenses before

1 trial begins." Smith v. Gulf Oil Co., 995 F.2d 638, 642 (6th Cir.
2 1993). The parties are therefore provided notice that a claim or
3 affirmative defense may be dismissed *sua sponte* if it is not
4 shown to be triable in the joint final pretrial statement. Cf.
5 Portland Retail Druggists Ass'n v. Kaiser Found. Health Plan, 662
6 F.2d 641, 645 (9th Cir. 1981) (indicating that a party shall be
7 provided notice and an opportunity to respond with facts
8 sufficient to justify having a claim or affirmative defense
9 proceed to trial); Portsmouth Square, Inc. v. S'holders
10 Protective Comm., 770 F.2d 866, 869 (9th Cir. 1985) (stating "the
11 district court has . . . authority to grant summary judgment *sua*
12 *sponte* in the context of a final pretrial conference").

13 If feasible, at the time of filing the joint pretrial
14 statement counsel shall also email it in a format compatible with
15 WordPerfect to: geborders@caed.uscourts.gov.

16 TRIAL SETTING

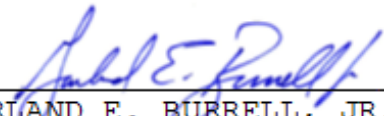
17 Trial shall commence at 9:00 a.m. on November 1, 2016.

18 VOLUNTARY DISPUTE RESOLUTION PROGRAM ("VDRP")

19 Since the parties state in the JSR that they "agree to
20 participate in early neutral evaluation through VDRP[,]" this
21 matter is referred to VDRP. (JSR 5:20-21.)

22 IT IS SO ORDERED.

23 Dated: May 29, 2015

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25 
26 _____
27 GARLAND E. BURRELL, JR.
28 Senior United States District Judge