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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TROY QUINCY,

Plaintiff,

v.

THE PRUDENTIAL LIFE INSURANCE  
COMPANY OF AMERICA, et al.,

Defendants,

No. 1:14-cv-01981-KJM-JLT

STATUS (PRETRIAL SCHEDULING)

ORDER

An initial scheduling conference was held in this case on May 11, 2015.

Beth Davis appeared for Plaintiff; James Moak appeared for Defendant.

Having reviewed the parties' Joint Status Report filed on April 27, 2015, and discussed a schedule for the case with counsel at the hearing, the court makes the following orders:

I. SERVICE OF PROCESS

All named defendants have been served and no further service is permitted without leave of court, good cause having been shown.

II. ADDITIONAL PARTIES/AMENDMENTS/PLEADINGS

No further joinder of parties or amendments to pleadings is permitted without leave of court, good cause having been shown. See Fed. R. Civ. P. 16(b); Johnson v. Mammoth

1 Recreations, Inc., 975 F.2d 604 (9th Cir. 1992).

2 III. JURISDICTION/VENUE

3 Jurisdiction is predicated upon 29 U.S.C. § 1132(a), (e), (f) and (6), and 28 U.S.C.  
4 § 1331. Jurisdiction and venue are not disputed.

5 IV. DISCOVERY

6 Initial disclosures as required by Federal Rule of Civil Procedure 26(a) shall be  
7 completed no later than **May 15, 2015**. All discovery shall be completed by **March 21, 2016**. In  
8 this context, “completed” means that all discovery shall have been conducted so that all  
9 depositions have been taken and any disputes relative to discovery shall have been resolved by  
10 appropriate order if necessary and, where discovery has been ordered, the order has been obeyed.  
11 All motions to compel discovery must be noticed on the magistrate judge’s calendar in  
12 accordance with the local rules of this court. While the assigned magistrate judge reviews  
13 proposed discovery phase protective orders, requests to seal or redact are decided by Judge  
14 Mueller as discussed in more detail below. In addition, while the assigned magistrate judge  
15 handles discovery motions, the magistrate judge cannot change the schedule set in this order,  
16 even in connection with a discovery matter.

17 V. DISCLOSURE OF EXPERT WITNESSES

18 The parties have agreed that no expert discovery will be conducted, and experts  
19 shall not be used.

20 VI. MOTION HEARING SCHEDULE

21 All dispositive motions, except motions for continuances, temporary restraining  
22 orders or other emergency applications, shall be heard no later than **May 23, 2016**.<sup>1</sup> The parties  
23 may obtain available hearing dates by checking Judge Mueller’s page on the court’s website.

24 All purely legal issues are to be resolved by timely pretrial motions. Local Rule  
25 230 governs the calendaring and procedures of civil motions; the following provisions also apply:

26 (a) The opposition and reply must be filed by 4:00 p.m. on the day due; and  
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28 <sup>1</sup> Note that this date may not correspond to a law and motion calendar date.

1 (b) When the last day for filing an opposition brief falls on a legal holiday, the  
2 opposition brief shall be filed on the last court day immediately preceding the legal holiday.  
3 Failure to comply with Local Rule 230(c), as modified by this order, may be deemed consent to  
4 the motion and the court may dispose of the motion summarily. *Brydges v. Lewis*, 18 F.3d 651,  
5 652-53 (9th Cir. 1994).

6 The court places a page limit of twenty (20) pages on all moving papers, twenty  
7 (20) pages on oppositions, and ten (10) pages for replies. All requests for page limit increases  
8 must be made through the courtroom deputy clerk at least fourteen (14) days prior to the filing of  
9 the motion.

10 Prior to filing a motion in a case in which the parties are represented by counsel,  
11 counsel shall engage in a pre-filing meet and confer to discuss thoroughly the substance of the  
12 contemplated motion and any potential resolution. Plaintiff's counsel should carefully evaluate  
13 the defendant's contentions as to deficiencies in the complaint and in many instances the party  
14 considering a motion should agree to any amendment that would cure a curable defect. Counsel  
15 should discuss the issues sufficiently so that if a motion of any kind is filed, including for  
16 summary judgment, the briefing is directed only to those substantive issues requiring resolution  
17 by the court. Counsel should resolve minor procedural or other non-substantive matters during  
18 the meet and confer. **A notice of motion shall contain a certification by counsel filing the**  
19 **motion that meet and confer efforts have been exhausted, with a brief summary of meet and**  
20 **confer efforts.**

21 The parties are reminded that a motion in limine is a pretrial procedural device  
22 designed to address the admissibility of evidence. The court looks with disfavor upon  
23 dispositional motions presented at the Final Pretrial Conference or at trial in the guise of motions  
24 in limine. Although all motions in limine must be filed in conjunction with the joint pretrial  
25 statement, the court will hear only those motions it has identified to counsel before the hearing  
26 date.

27 The parties are cautioned that failure to raise a dispositive legal issue that could  
28 have been tendered to the court by proper pretrial motion prior to the dispositive motion cut-off

1 date may constitute waiver of such issue.

2 VII. SEALING

3 No document will be sealed, nor shall a redacted document be filed, without the  
4 prior approval of the court. If a document for which sealing or redaction is sought relates to the  
5 record on a motion to be decided by Judge Mueller, the request to seal or redact should be  
6 directed to her and not the assigned Magistrate Judge. All requests to seal or redact shall be  
7 governed by Local Rules 141 (sealing) and 140 (redaction); protective orders covering the  
8 discovery phase of litigation shall not govern the filing of sealed or redacted documents on the  
9 public docket. The court will only consider requests to seal or redact filed by the proponent of  
10 sealing or redaction. If a party plans to make a filing that includes material an opposing party has  
11 identified as confidential and potentially subject to sealing, the filing party shall provide the  
12 opposing party with sufficient notice in advance of filing to allow for the seeking of an order of  
13 sealing or redaction from the court.

14 VIII. FINAL PRETRIAL CONFERENCE

15 The Final Pretrial Conference is set for **July 18, 2016**, at 3:30 p.m. At least one of  
16 the attorneys who will conduct the trial for each of the parties shall attend the Final Pretrial  
17 Conference. If by reason of illness or other unavoidable circumstance a trial attorney is unable to  
18 attend, the attorney who attends in place of the trial attorney shall have equal familiarity with the  
19 case and equal authorization to make commitments on behalf of the client.

20 Counsel for all parties are to be fully prepared for trial at the time of the Final  
21 Pretrial Conference, with no matters remaining to be accomplished except production of  
22 witnesses for oral testimony. The parties shall confer and file a joint pretrial conference  
23 statement by **June 27, 2016**. The provisions of Local Rule 281 shall apply with respect to the  
24 matters to be included in the joint pretrial statement. In addition to those subjects listed in Local  
25 Rule 281(b), the parties are to provide the court with the following:

26 - A plain, concise statement that identifies every non-discovery motion previously  
27 tendered to the court and its resolution.

28 - A concise, joint list of undisputed core facts that are relevant to each claim.

1 Disputed core facts should then be identified in the same manner. The parties are reminded not to  
2 identify every fact in dispute but only those disputed facts that are essential to the formulation of  
3 each claim. Each disputed fact and undisputed fact should be separately numbered or lettered.  
4 Where the parties are unable to agree on the core disputed facts, they should nevertheless list core  
5 disputed facts in the above manner.

6 - Concise lists of disputed evidentiary issues that will be the subject of a party's  
7 motion in limine.

8 - Each party's points of law, which concisely describe the legal basis or theory  
9 underlying their claims and defenses. Points of law should reflect issues derived from the core  
10 undisputed and disputed facts. Parties shall not include argument with any point of law; the  
11 parties may include concise arguments in their trial briefs.

12 - A joint statement of the case in plain concise language, which will be read to the  
13 jury during voir dire and at the beginning of the trial. The purpose of the joint statement is to  
14 inform the jury what the case is about.

15 - The parties' position on the number of jurors to be impaneled to try the case.

16 Discovery documents to be listed in the pretrial statement shall not include  
17 documents to be used only for impeachment and in rebuttal.

18 The parties are reminded that pursuant to Local Rule 281 they are required to  
19 attach to the Final Pretrial Conference Statement an exhibit listing witnesses and exhibits they  
20 propose to offer at trial. After the name of each witness, each party shall provide a brief  
21 statement of the nature of the testimony to be proffered. The parties may file a joint list or each  
22 party may file separate lists. These list(s) shall not be contained in the body of the Final Pretrial  
23 Conference Statement itself, but shall be attached as separate documents to be used as addenda to  
24 the Final Pretrial Order.

25 Plaintiff's exhibits shall be listed numerically. Defendant's exhibits shall be listed  
26 alphabetically. The parties shall use the standard exhibit stickers provided by the court: pink for  
27 plaintiff and blue for defendant. In the event that the alphabet is exhausted, the exhibits shall be  
28 marked "AA-ZZ". However, if the amount of defendant exhibits exceeds "ZZ" exhibits shall be

1 then listed as A-3, A-4, A-5 etc. All multi page exhibits shall be stapled or otherwise fastened  
2 together and each page within the exhibit shall be numbered. The list of exhibits shall not include  
3 excerpts of depositions to be used only for impeachment. In the event that plaintiff(s) and  
4 defendant(s) offer the same exhibit during trial, that exhibit shall be referred to by the designation  
5 the exhibit is first identified. The court cautions the parties to pay attention to this detail so that  
6 all concerned, including the jury, will not be confused by one exhibit being identified with both a  
7 number and a letter. The parties are encouraged to consult concerning exhibits and, to the extent  
8 possible, provide joint exhibits, which shall be designated as JX and listed numerically, e.g., JX-  
9 1, JX-2.

10 The Final Pretrial Order will contain a stringent standard for the offering at trial of  
11 witnesses and exhibits not listed in the Final Pretrial Order, and the parties are cautioned that the  
12 standard will be strictly applied. On the other hand, the listing of exhibits or witnesses that a  
13 party does not intend to offer will be viewed as an abuse of the court's processes.

14 Counsel shall produce all trial exhibits to Casey Schultz, the Courtroom Deputy,  
15 no later than 3:00 p.m. on the Friday before trial.

16 Failure to comply with Local Rule 281, as modified by this order, may be grounds  
17 for sanctions.

18 The parties also are reminded that pursuant to Rule 16 of the Federal Rules of  
19 Civil Procedure it will be their duty at the Final Pretrial Conference to aid the court in: (a) the  
20 formulation and simplification of issues and the elimination of frivolous claims or defenses; (b)  
21 the settling of facts that should properly be admitted; and (c) the avoidance of unnecessary proof  
22 and cumulative evidence. Counsel must cooperatively prepare the joint Final Pretrial Conference  
23 Statement and participate in good faith at the Final Pretrial Conference with these aims in mind.<sup>2</sup>  
24 A failure to do so may result in the imposition of sanctions which may include monetary  
25 sanctions, orders precluding proof, elimination of claims or defenses, or such other sanctions as

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26 <sup>2</sup> "If the pretrial conference discloses that no material facts are in dispute and that the undisputed  
27 facts entitle one of the parties to judgment as a matter of law," the court may summarily dispose  
28 of the case or claims. *Portsmouth Square v. Shareholders Protective Comm.*, 770 F.2d 866, 868-  
69 (9th Cir. 1985).

1 the court deems appropriate.

2 Concurrently with the filing of the Joint Final Pretrial Conference Statement,  
3 counsel shall submit to chambers the word processable version of the Statement, in its entirety  
4 (including the witness and exhibit lists) to: [kjmorders@caed.uscourts.gov](mailto:kjmorders@caed.uscourts.gov).

5 IX. TRIAL SETTING

6 The bench trial is set for **September 12, 2016** at 9:00 a.m. The parties estimate a  
7 trial length of approximately 1 day. Trial briefs are due by **August 29, 2016**.

8 X. SETTLEMENT CONFERENCE

9 No settlement conference is currently scheduled. A settlement conference may be  
10 set at the time of the Final Pretrial Conference or at an earlier time at the parties' request. In the  
11 event that an earlier settlement conference date or referral to the Voluntary Dispute Resolution  
12 Program (VDRP) is requested, the parties shall file said request jointly, in writing. Because the  
13 case will be tried to a jury, all parties should be prepared to advise the court whether they will  
14 stipulate to the trial judge acting as settlement judge and waive disqualification by virtue thereof.

15 Counsel are instructed to have a principal with full settlement authority present at  
16 any Settlement Conference or to be fully authorized to settle the matter on any terms. Each judge  
17 has different requirements for the submission of settlement conference statements; the appropriate  
18 instructions will be sent to you after the settlement judge is assigned.

19 XI. MODIFICATION OF STATUS (PRETRIAL SCHEDULING) ORDER

20 The parties are reminded that pursuant to Rule 16(b) of the Federal Rules of Civil  
21 Procedure, the Status (Pretrial Scheduling) Order shall not be modified except by leave of court  
22 upon a showing of good cause. Agreement by the parties pursuant to stipulation alone does not  
23 constitute good cause. Except in extraordinary circumstances, unavailability of witnesses or  
24 counsel does not constitute good cause.

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1 XII. OBJECTIONS TO STATUS (PRETRIAL SCHEDULING) ORDER

2 This Status Order will become final without further order of the court unless  
3 objections are filed within fourteen (14) calendar days of service of this Order.

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5 IT IS SO ORDERED.

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7 Dated: May 11, 2015

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE

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