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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LAURA HUTCHINSON,)	Case No.: 1:15-CV-01047- JLT
)	
Plaintiff,)	SCHEDULING ORDER (Fed. R. Civ. P. 16)
)	
v.)	Pleading Amendment Deadline: 7/29/2016
)	
BEAR VALLEY COMMUNITY SERVICES)	Discovery Deadlines:
DISTRICT, et al.,)	Non-Expert: 3/31/2017
)	Expert: 4/21/2017
Defendants.)	Mid-Discovery Status Conference:
)	10/26/2016 at 8:30 a.m.
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		Non-Dispositive Motion Deadlines:
		Filing: 4/28/2017
		Hearing: 5/26/2017
		Dispositive Motion Deadlines:
		Filing: 6/12/2017
		Hearing: 7/10/2017
		Settlement Conference, 6/30/2017, 10 a.m., Ctrm 6
		Pre-trial Conference:
		8/25/2017 at 8:30 a.m.
		510 19 th Street, Bakersfield, CA
		Trial: 10/10/2017 at 8:30 a.m.
		510 19 th Street, Bakersfield, CA
		Jury trial: 8-10 days

1 **I. Date of Scheduling Conference**

2 April 19, 2016.

3 **II. Appearances of Counsel**

4 Randall Rumph appeared on behalf of Plaintiff.

5 John Szewczyk appeared on behalf of Defendant Bear Valley Community Services District.

6 **III. Pleading Amendment Deadline**

7 Any requested pleading amendments are ordered to be filed, either through a stipulation or
8 motion to amend, no later than **July 29, 2016**.

9 **IV. Discovery Plan and Cut-Off Date**

10 The parties have agreed and the Court **ORDERS** that each side may take the depositions of
11 every witness disclosed by the opponent plus ten. However, in no event may the parties take more than
12 25 depositions per side. The parties agree also that they may propound 75 interrogatories, 50 requests
13 for admission and 100 requests to produce documents.

14 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)
15 on or before **May 31, 2016**.

16 The parties are ordered to complete all discovery pertaining to non-experts on or before **March**
17 **31, 2017**, and all discovery pertaining to experts on or before **April 21, 2107**.

18 The parties are directed to disclose all expert witnesses¹, in writing, on or **February 10, 2017**,
19 and to disclose all rebuttal experts on or before **February 24, 2017**. The written designation of
20 retained and non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B),**
21 **and (C) and shall include all information required thereunder**. Failure to designate experts in
22 compliance with this order may result in the Court excluding the testimony or other evidence offered
23 through such experts that are not disclosed pursuant to this order.

24 The written designation of retained and non-retained experts shall **be made pursuant to Fed. R.**
25 **Civ. P. 26(a)(2), (A), (B), and (C) and shall include all information required thereunder**. Failure to

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¹In 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.

1 designate experts in compliance with this order may result in the Court excluding the testimony or other
2 evidence offered through such experts that are not disclosed pursuant to this order.

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

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

9 The Court sets a mid-discovery status conference is scheduled for **October 26, 2016** at 8:30
10 a.m. Counsel SHALL file a joint mid-discovery status conference report one week before the
11 conference. Counsel SHALL also lodge the report via e-mail to JLTorders@caed.uscourts.gov. The
12 joint statement SHALL outline the discovery counsel have completed and that which needs to be
13 completed as well as any impediments to completing the discovery within the deadlines set forth in this
14 order. Counsel may appear via CourtCall, provided that a written notice of the intent to appear
15 telephonically is provided to the Magistrate Judge's Courtroom Clerk no later than five court days
16 before the noticed hearing date.

17 **V. Pre-Trial Motion Schedule**

18 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
19 than **April 28, 2017**, and heard on or before **May 26, 2017**. Non-dispositive motions are heard at 9:00
20 a.m. at the United States District Courthouse in Bakersfield, California, before the Honorable Jennifer
21 L. Thurston, United States Magistrate Judge.

22 **No motion to amend or stipulation to amend the case schedule will be entertained unless it**
23 **is filed at least one week before the first deadline the parties wish to extend.** Furthermore, no
24 written discovery motions shall be filed without the prior approval of the assigned Magistrate Judge. A
25 party with a discovery dispute must first confer with the opposing party in a good faith effort to resolve
26 by agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party promptly
27 shall seek a telephonic hearing with all involved parties and the Magistrate Judge. It shall be the
28 obligation of the moving party to arrange and originate the conference call to the court. To schedule

1 this telephonic hearing, the parties are ordered to contact Courtroom Deputy Clerk, Susan Hall at (661)
2 326-6620 or via email at SHall@caed.uscourts.gov. **Counsel must comply with Local Rule 251 with**
3 **respect to discovery disputes or the motion will be denied without prejudice and dropped from**
4 **calendar.**

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

8 Counsel may appear and argue non-dispositive motions by telephone, provided a written request
9 to so appear is made to the Magistrate Judge's Courtroom Clerk no later than five (5) court days before
10 the noticed hearing date. In the event that more than one attorney requests to appear by telephone then
11 it shall be the obligation of the moving part(ies) to arrange and originate a conference call to the court.

12 All dispositive pre-trial motions shall be filed no later than **June 12, 2017**, and heard no later
13 than **July 10, 2017**, before the Honorable Jennifer L. Thurston, United States Magistrate Judge, at the
14 United States District Courthouse in Bakersfield, California. In scheduling such motions, **counsel shall**
15 **comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.**

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

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

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

26 The moving party **SHALL** initiate the meeting and **SHALL** provide a complete, proposed
27 statement of undisputed facts **at least five days before** the conference. The finalized joint statement of
28 undisputed facts **SHALL** include all facts that the parties agree, for purposes of the motion, may be

1 deemed true. In addition to the requirements of Local Rule 260, the moving party shall file the joint
2 statement of undisputed facts.

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

6 **VII. Pre-Trial Conference Date**

7 **August 25, 2017**, at 9:00 a.m. at the United States District Courthouse in Bakersfield,
8 California before the Honorable Jennifer L. Thurston, United States Magistrate Judge.

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

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

17 **VIII. Trial Date**

18 **October 10, 2017**, at 8:30 a.m. at the United States District Courthouse in Bakersfield,
19 California, before the Honorable Jennifer L. Thurston, United States Magistrate Judge.

- 20 A. This is a jury trial.
21 B. Counsels' Estimate of Trial Time: 8-10 days.
22 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
23 California, Rule 285.

24 **VIII. Settlement Conference**

25 A Settlement Conference is scheduled for **June 30, 2017** in Courtroom 6, at the Robert E. Coyle
26 Federal Courthouse in Fresno, California. The settlement conference will be conducted by Magistrate
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1 Judge Michael J. Seng.²

2 Unless otherwise permitted in advance by the Court, **the attorneys who will try the case shall**
3 **appear** at the Settlement Conference **with the parties** and the person or persons having **full authority**
4 to negotiate and settle the case **on any terms**³ at the conference. Consideration of settlement is a
5 serious matter that requires preparation prior to the settlement conference. Set forth below are the
6 procedures the Court will employ, absent good cause, in conducting the conference.

7 **At least 21 days before** the settlement conference, Plaintiff SHALL submit to Defendant via
8 fax or e-mail, a written itemization of damages and a meaningful⁴ settlement demand which includes a
9 brief explanation of why such a settlement is appropriate. Thereafter, **no later than 14 days before** the
10 settlement conference, Defendant SHALL respond, via fax or e-mail, with an acceptance of the offer or
11 with a meaningful counteroffer, which includes a brief explanation of why such a settlement is
12 appropriate.

13 If settlement is not achieved, each party **SHALL** attach copies of their settlement offers to their
14 Confidential Settlement Conference Statement, as described below. Copies of these documents shall
15 not be filed on the court docket.

16 **CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT**

17 **At least five court days before** the Settlement Conference, the parties shall submit, directly to
18 Judge Thurston's chambers by e-mail to MJSorders@caed.uscourts.gov, a Confidential Settlement
19 Conference Statement. The statement **should not be filed** with the Clerk of the Court **nor served on**
20 **any other party**, although the parties may file a Notice of Lodging of Settlement Conference
21 Statement. Each statement shall be clearly marked "confidential" with the date and time of the
22

23 ² Counsel may prefer to file a joint request for the Court to refer the case to the Court's VDRP in which case a
24 local neutral, assuming one is available, could mediate the case. Counsel should make the request about 60 days in
25 advance of the currently scheduled settlement conference to allow them time to select the neutral.

26 ³ Insurance carriers, business organizations, and governmental bodies or agencies whose settlement agreements
27 are subject to approval by legislative bodies, executive committees, boards of directors or the like shall be represented by a
28 person or persons who occupy high executive positions in the party organization and who will be directly involved in the
process of approval of any settlement offers or agreements. To the extent possible the representative shall have the
authority, if he or she deems it appropriate, to settle the action on terms consistent with the opposing party's most recent
demand.

⁴ "Meaningful" means that the offer is reasonably calculated to settle the case on terms acceptable to the offering
party. "Meaningful" does not include an offer which the offering party knows will not be acceptable to the other party. If,
however, the offering party is only willing to offer a settlement which it knows the other party will not accept, this should
trigger a recognition the case is not in a settlement posture and the parties should confer about continuing or vacating the
settlement conference via stipulation.

1 Settlement Conference indicated prominently thereon.

2 The Confidential Settlement Conference Statement shall include the following:

- 3 A. A brief statement of the facts of the case.
- 4 B. A brief statement of the claims and defenses, i.e., statutory or other grounds upon which
5 the claims are founded; a forthright evaluation of the parties' likelihood of prevailing on
6 the claims and defenses; and a description of the major issues in dispute.
- 7 C. A summary of the proceedings to date.
- 8 D. An estimate of the cost and time to be expended for further discovery, pretrial and trial.
- 9 E. The relief sought.
- 10 F. The party's position on settlement, including present demands and offers and a history of
11 past settlement discussions, offers and demands.

12 **IX. Request for Bifurcation, Appointment of Special Master, or other Techniques to Shorten**
13 **Trial**

14 Not applicable at this time.

15 **X. Related Matters Pending**

16 There are no pending related matters.

17 **XI. Compliance with Federal Procedure**

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

23 **XII. Effect of this Order**

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

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

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

7
8 IT IS SO ORDERED.

9 Dated: April 26, 2016

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE