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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SANDRA GARYBO and AGUSTIN VEGA,)
on behalf of themselves and all others)
similarly situated,)
Plaintiffs,)
v.)
LEONARDO BROS., et al.,)
Defendants.)

Case No.: 1: 15-CV-01487 - DAD - JLT
SCHEDULING ORDER (Fed. R. Civ. P. 16)
Pleading Amendment Deadline: 11/1/2016
Discovery Deadlines:
Initial Disclosures: 5/15/2016
Non-Expert: 10/16/2017
Expert: 12/29/2017
Mid-Discovery Status Conferences:
6/20/2016 at 10:30 a.m.
8/12/2016 at 10:00 a.m.
Class Certification Motion:
Filing: 7/14/2017
Opposition: 9/8/2017
Reply: 11/3/2017
Hearing: 11/21/2017 at 9:30 a.m.
Non-Dispositive Motion Deadlines:
Filing: 1/19/2018
Hearing: 2/16/2018
Dispositive Motion Deadlines:
Filing: 3/9/2018
Hearing: 5/1/2018
Pre-Trial Conference:
6/25/2018 at 1:30 p.m.
Courtroom 5
Trial: 8/20/2018 at 8:30 a.m.
Courtroom 5
Jury trial: 10 days

1 **I. Date of Scheduling Conference**

2 May 11, 2016.

3 **II. Appearances of Counsel**

4 Hector Martinez and Joseph Sutton appeared on behalf of Plaintiffs.

5 Jasmine Shams appeared on behalf of Defendant Golden West Labor.

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 **November 1, 2016**.

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 **May 15, 2016**.

7 The targeted date for the production of the time records is **January 13, 2017**. However, this
8 date may change depending upon the progress counsel make toward resolving the issue. They are
9 **ORDERED** to use their best efforts to make the production occur as expeditiously as possible.

10 The parties are ordered to complete all discovery pertaining to non-experts on or before
11 **October 16, 2017** and all discovery pertaining to experts on or before **December 29, 2017**.

12 The parties are directed to disclose all expert witnesses, in writing, on or before **October 30,**
13 **2017**, and to disclose all rebuttal experts on or before **November 13, 2017**. The written designation of
14 retained and non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B),**
15 **and (C) and shall include all information required thereunder**. Failure to designate experts in
16 compliance with this order may result in the Court excluding the testimony or other evidence offered
17 through such experts that are not disclosed pursuant to this order.

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

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

24 Mid-discovery status conferences are scheduled for **June 20, 2016** at 10:30 a.m. and **August 12,**
25 **2016** at 10:00 a.m., before the Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510
26 19th Street, Bakersfield, California. Counsel **SHALL** file a joint mid-discovery status conference
27 report **one week** before the conferences. Counsel also **SHALL** lodge the status reports via e-mail to
28 JLTorders@caed.uscourts.gov.

1 The joint statement for the June 20, 2016 conference **SHALL** outline the status of the
2 production of the time records being sought by plaintiffs. The Court anticipates that by the time of this
3 first conference, plaintiffs will have communicated to plaintiff the information sought, defendant's
4 counsel will have verified whether the documents are kept electronically and counsel and their
5 respective IT personnel will have a conference at which the details surrounding how the production will
6 occur will be substantially developed.

7 As to the August 12, 2016 conference, the joint report **SHALL** also detail the status of the
8 production request and the discovery counsel have completed and that which needs to be completed as
9 well as any impediments to completing the discovery within the deadlines set forth in this order.
10 Counsel may appear via CourtCall.

11 **VI. Class Certification Deadlines**

12 Plaintiffs **SHALL** file their motion for class certification no later than **July 14, 2017**.
13 Defendant **SHALL** file its opposition no later than **September 8, 2017**. Plaintiffs **SHALL** file their
14 reply no later than **November 3, 2017**. The hearing on the motion for class certification is SET for
15 **November 21, 2017** at 9:30 a.m., in Courtroom 5 before the Honorable Dale A. Drozd.

16 Neither the motion nor the opposition **SHALL** exceed 30 pages, exclusive of evidence and
17 evidentiary objections, unless leave is granted by the Court prior to the filing. The reply **SHALL** be
18 shall not exceed 15 pages, exclusive of evidentiary objections. Any objections to the evidence
19 **SHALL** be filed at the same time as the opposition (for Defendant) and the reply (for Plaintiff).

20 A hard-copy, courtesy copy of all filings related to the class motion **SHALL** be sent via
21 overnight mail to the Chambers of Judge Drozd, at the same time the filing is submitted. All of the
22 pages of evidence in the hard copy **SHALL** be numbered, tabbed and indexed.

23 **VII. Pre-Trial Motion Schedule**

24 Non-dispositive pre-trial motions, including any discovery motions, shall be filed no later than
25 **January 19, 2018**, and heard on or before **February 16, 2018**. Non-dispositive motions are heard
26 before the Honorable Jennifer L. Thurston, United States Magistrate Judge at the United States
27 Courthouse in Bakersfield, California.

28 **No motion to amend or stipulation to amend the case schedule will be entertained unless it**

1 **is filed at least one week before the first deadline the parties wish to extend.** Likewise, no written
2 discovery motions shall be filed without the prior approval of the assigned Magistrate Judge. A party
3 with a discovery dispute must first confer with the opposing party in a good faith effort to resolve by
4 agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party promptly
5 shall seek a telephonic hearing with all involved parties and the Magistrate Judge. It shall be the
6 obligation of the moving party to arrange and originate the conference call to the court. To schedule
7 this telephonic hearing, the parties are ordered to contact the Courtroom Deputy Clerk, Susan Hall, at
8 (661) 326-6620 or via email at SHall@caed.uscourts.gov. **Counsel must comply with Local Rule 251**
9 **with respect to discovery disputes or the motion will be denied without prejudice and dropped**
10 **from the Court's calendar.**

11 All dispositive pre-trial motions shall be filed no later than **March 9, 2018** and heard no later
12 than **May 1, 2018**, in Courtroom 5 before the Honorable Dale A. Drozd, United States District Court
13 Judge. In scheduling such motions, **counsel shall comply with Fed. R. Civ. P. 56 and Local Rules**
14 **230 and 260.**

15 **VIII. Motions for Summary Judgment or Summary Adjudication**

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

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

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

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

4 **IX. Pre-Trial Conference Date**

5 **June 25, 2018** at 1:30 p.m. in Courtroom 5 before Judge Drozd.

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

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

14 **X. Trial Date**

15 **August 20, 2018** at 8:30 a.m. in Courtroom 5 before the Honorable Dale A. Drozd, United
16 States District Court Judge.

17 A. This is a jury trial.

18 B. Counsels' Estimate of Trial Time: 10 days.

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

21 **XI. Settlement Conference**

22 The Court will set a settlement conference at the final status conference. If the parties believe
23 the action is in a settlement posture before then and believe a settlement conference with the Court
24 would be fruitful, they may file a joint written request for a settlement conference, including proposed
25 dates. At that time, a settlement conference will be set with Magistrate Judge Thurston, unless counsel
26 prefer it be conducted by a judge not otherwise assigned this matter.

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1 **XII. Request for Bifurcation, Appointment of Special Master, or other**
2 **Techniques to Shorten Trial**

3 Not applicable at this time.

4 **XIII. Related Matters Pending**

5 There are no pending related matters.

6 **IVX. Compliance with Federal Procedure**

7 All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure
8 and the Local Rules of Practice of the Eastern District of California, and to keep abreast of any
9 amendments thereto. The Court must insist upon compliance with these Rules if it is to efficiently
10 handle its increasing case load and sanctions will be imposed for failure to follow the Rules as provided
11 in both the Federal Rules of Civil Procedure and the Local Rules of Practice for the Eastern District of
12 California.

13 **XIV. Effect of this Order**

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

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

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

25
26 IT IS SO ORDERED.

27 Dated: May 11, 2016

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE