

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

JEROME J. MACK,	)	Case No.: 1:15-cv-01600 JLT
	)	
Plaintiff,	)	SCHEDULING ORDER (Fed. R. Civ. P. 16)
	)	
v.	)	Pleading Amendment Deadline: 1/20/2017
	)	
CALIFORNIA DEPARTMENT OF	)	Discovery Deadlines:
CORRECTIONS AND REHABILITATION, et	)	Initial Disclosures: 11/15/2016
al.,	)	Non-Expert: 9/1/2017
	)	Expert: 11/10/2017
Defendants.	)	Mid-Discovery Status Conference:
	)	7/31/2017 at 9:00 a.m.
<hr/>		
		Non-Dispositive Motion Deadlines:
		Filing: 12/1/2017
		Hearing: 1/5/2018
		Dispositive Motion Deadlines:
		Filing: 1/19/2018
		Hearing: 2/16/2018
		Pre-Trial Conference:
		3/23/2018 at 8:30 a.m.
		510 19 <sup>th</sup> Street, Bakersfield, CA
		Trial: 5/7/2018 at 8:30 a.m.
		510 19 <sup>th</sup> Street, Bakersfield, CA
		Jury trial: 15 days

1 **I. Date of Scheduling Conference**

2 September 30, 2016.

3 **II. Appearances of Counsel**

4 Curtis Allen appeared on behalf of Plaintiff.

5 Mary Horst appeared on behalf of Defendants.

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 **January 20, 2017**.

9 **IV. Fictitiously-Named Defendants**

10 All claims against “Doe” Defendants are hereby **DISMISSED**.

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

12 The parties agree that each side may depose 15 witnesses in addition to disclosed experts. Thus,  
13 the Court **GRANTS** the request and each side may depose 15 witnesses.

14 The plaintiff seeks to propound 50 interrogatories though the defendants disagree with this  
15 request. Based upon the number of issues in this case, the Court **GRANTS** the request to extend the  
16 number of interrogatories to 30 per party. In the event the plaintiff feels he needs to propound more  
17 interrogatories<sup>1</sup>, he SHALL comply with the procedures set forth below under headnote VII.

18 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)  
19 no later than **November 15, 2016**.

20 The parties are ordered to complete all non-expert discovery no later than **September 1, 2017**  
21 and all expert discovery no later than **November 10, 2017**.

22 The parties are directed to disclose all expert witnesses<sup>2</sup>, in writing, no later than **September 15,**  
23 **2017 9, 2017**, and to disclose all rebuttal experts no later than **October 13, 2017**. The written  
24 designation of retained and non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule**  
25 **26(a)(2), (A), (B), and (C) and shall include all information required thereunder**. Failure to

26  
27 <sup>1</sup> The parties SHALL use best efforts to satisfy their discovery needs within the 30-interrogatory limit.

28 <sup>2</sup> 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.

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

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

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

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

13 A mid-discovery status conference is scheduled for **July 31, 2017** at 9:00 a.m. before the  
14 Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510 19th Street, Bakersfield,  
15 California. Counsel **SHALL** file a joint mid-discovery status conference report one week before the  
16 conference. Counsel also **SHALL** lodge the status report via e-mail to JLTorders@caed.uscourts.gov.  
17 The joint statement **SHALL** outline the discovery counsel have completed and that which needs to be  
18 completed as well as any impediments to completing the discovery within the deadlines set forth in this  
19 order. Counsel may appear via CourtCall, providing a written notice of the intent to appear  
20 telephonically is provided to the Magistrate Judge's Courtroom Deputy Clerk no later than five court  
21 days before the noticed hearing date.

## 22 **VI. Pre-Trial Motion Schedule**

23 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later  
24 than **December 1, 2017**, and heard on or before **January 5, 2018**. The Court hears non-dispositive  
25 motions at 9:00 a.m. at the United States District Courthouse in Bakersfield, California.

26 **No motion to amend or stipulation to amend the case schedule will be entertained unless it**  
27 **is filed at least one week before the first deadline the parties wish to extend.** Likewise, no written  
28 discovery motions shall be filed without the prior approval of the assigned Magistrate Judge. A party

1 with a discovery dispute must first confer with the opposing party in a good faith effort to resolve by  
2 agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party promptly  
3 shall seek a telephonic hearing with all involved parties and the Magistrate Judge. It shall be the  
4 obligation of the moving party to arrange and originate the conference call to the court. To schedule  
5 this telephonic hearing, the parties are ordered to contact the Courtroom Deputy Clerk, Susan Hall, at  
6 (661) 326-6620 or via email at SHall@caed.uscourts.gov. **Counsel must comply with Local Rule 251**  
7 **with respect to discovery disputes or the motion will be denied without prejudice and dropped**  
8 **from the Court's calendar.**

9 All dispositive pre-trial motions shall be filed no later than **January 19, 2018**, and heard no  
10 later than **February 16, 2018**, before the Honorable Jennifer L. Thurston, United States Magistrate  
11 Judge, at the United States District Courthouse in Bakersfield, California. In scheduling such motions,  
12 **counsel shall comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.**

13 **VII. Motions for Summary Judgment or Summary Adjudication**

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

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

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

27 In the notice of motion the moving party **SHALL** certify that the parties have met and conferred  
28 as ordered above, or set forth a statement of good cause for the failure to meet and confer. **Failure to**

1 **comply may result in the motion being stricken.**

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

3 **March 23, 2018**, at 8:30 a.m. at the United States District Courthouse in Bakersfield,  
4 California, before the Honorable Jennifer L. Thurston, United States Magistrate Judge.

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

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

13 **IX. Trial Date**

14 **May 7, 2018**, at 8:30 a.m. at the United States District Courthouse in Bakersfield, California,  
15 before United States Magistrate Judge Jennifer L. Thurston.

- 16 A. This is a jury trial.  
17 B. Counsels' Estimate of Trial Time: 15 days.  
18 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of  
19 California, Rule 285.

20 **X. Settlement Conference**

21 If the parties desire a conference with the Court, they may file a joint written request for a  
22 settlement conference. Alternatively, the parties may file a joint written request for referral to the  
23 Court's Voluntary Dispute Resolution Program.

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

26 Not applicable at this time.

27 **XII. Related Matters Pending**

28 There are no pending related matters.

1 **XIII. Compliance with Federal Procedure**

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

7 **XIV. Effect of this Order**

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

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

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

19  
20 IT IS SO ORDERED.

21 Dated: September 30, 2016

/s/ Jennifer L. Thurston  
22 UNITED STATES MAGISTRATE JUDGE