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

EDHER FLORES, et al.,)	Case No.: 1:16-cv-00029 AWI JLT
)	
Plaintiffs,)	SCHEDULING ORDER (Fed. R. Civ. P. 16)
)	
v.)	Pleading Amendment Deadline: 7/15/2016
)	
ADT LLC,)	Discovery Deadlines:
)	Initial Disclosures: 3/23/2016
Defendant.)	Jurisdiction/Class Non-Expert: 12/4/2016
)	Mid-Discovery Status Conference: 11/10/2016 at 9:00 a.m.
		Class Certification Motion Deadlines:
		Filing: 1/13/2017
		Opposition: 5/12/2017
		Reply brief: 7/14/2017
		Hearing: 8/14/2017 at 9 a.m.

I. Date of Scheduling Conference

March 16, 2016

II. Appearances of Counsel

Arnab Banerjee appeared on behalf of Plaintiff

Linda Claxton appeared on behalf of Defendant.

III. Information Concerning the Court's Schedule

Out of fairness, the Court believes it is necessary to forewarn litigants that the Fresno Division of the Eastern District of California now has the heaviest District Court Judge caseload in the entire

1 nation. While the Court will use its best efforts to resolve this case and all other civil cases in a timely
2 manner, the parties are admonished that not all of the parties' needs and expectations may be met as
3 expeditiously as desired. As multiple trials are now being set to begin upon the same date, parties may
4 find their case trailing with little notice before the trial begins. The law requires that the Court give any
5 criminal trial priority over civil trials or any other matter. The Court must proceed with a criminal trial
6 even if a civil trial was filed earlier and set for trial first. Continuances of any civil trial under these
7 circumstances will no longer be entertained, absent a specific and stated finding of good cause. All
8 parties should be informed that any civil trial set to begin during the time a criminal trial is proceeding
9 will trail the completion of the criminal trial.

10 The parties are reminded of the availability of a United States Magistrate Judge to conduct all
11 proceedings in this action. A United States Magistrate Judge is available to conduct trials, including
12 entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73, and Local
13 Rule 305. The same jury pool is used by both United States Magistrate Judges and District Court
14 Judges. Any appeal from a judgment entered by a United States Magistrate Judge is taken directly to
15 the United States Court of Appeal for the Ninth Circuit. However, the parties are hereby informed that
16 no substantive rulings or decisions will be affected by whether a party chooses to consent.

17 Finally, the Fresno Division of the Eastern District of California, whenever possible, is utilizing
18 United States Article III District Court Judges from throughout the nation as Visiting Judges. Pursuant
19 to the Local Rules, Appendix A, reassignments will be random, and the parties will receive no advance
20 notice before their case is reassigned to an Article III District Court Judge from outside of the Eastern
21 District of California.

22 Plaintiff has indicated his willingness to consent to the jurisdiction of the Magistrate Judge.
23 Therefore, the defendants are directed to consider consenting to Magistrate Judge jurisdiction to
24 conduct all further proceedings, including trial. **Within 10 days** of the date of this order, the
25 defendants **SHALL** file a consent/decline form (provided by the Court at the inception of this case)
26 indicating whether they will consent to the jurisdiction of the Magistrate Judge.

27 **IV. Pleading Amendment Deadline**

28 Any requested pleading amendments are ordered to be filed, either through a stipulation or

1 motion to amend, no later than **July 15, 2016**.

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

3 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)
4 on or before **March 23, 2016**.

5 Discovery is now open for discovery related to jurisdictional issues under CAFA and all non-
6 expert discovery pertaining to the class certification motion. Plaintiffs will complete all discovery need
7 to file the motion for class certification no later than **December 4, 2016**. The defendant may also
8 conduct discovery related to the contents of the class certification motion after it is filed and the
9 plaintiffs may conduct discovery in response to the content of the opposition after it is filed.

10 A mid-discovery status conference is scheduled for **November 10, 2016**, at 9:00 a.m. before the
11 Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510 19th Street, Bakersfield,
12 California. Counsel SHALL file a Joint Mid-Discovery Status Conference Report one week prior to
13 the conference, and shall also lodge it via e-mailed, in Word format, to JLTorders@caed.uscourts.gov.
14 The joint statement SHALL outline the status of the matter , including all discovery that has been
15 completed as well as any impediments to completing the discovery within the deadlines set forth in this
16 order. Counsel may appear via the CourtCall service.

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

18 All non-dispositive pre-trial motions, including any discovery motions, will be heard at 9:00
19 a.m., before the Honorable Jennifer L. Thurston, United States Magistrate Judge, at the United States
20 District Courthouse located at 510 19th Street, Bakersfield, California. No written discovery motions
21 shall be filed without the prior approval of the assigned Magistrate Judge. A party with a discovery
22 dispute must first confer with the opposing party in a good faith effort to resolve by agreement the
23 issues in dispute. If that good faith effort is unsuccessful, the moving party promptly shall seek a
24 telephonic hearing with all involved parties and the Magistrate Judge. It shall be the obligation of the
25 moving party to arrange and originate the conference call to the court. To schedule this telephonic
26 hearing, the parties are ordered to contact Courtroom Deputy Clerk, Susan Hall at (661) 326-6620 or
27 via email at SHall@caed.uscourts.gov. **Counsel must comply with Local Rule 251 with respect to**
28 **discovery disputes or the motion will be denied without prejudice and dropped from calendar.**

1 In scheduling such motions, the Magistrate Judge may grant applications for an order shortening
2 time pursuant to Local Rule 144(e). However, if counsel does not obtain an order shortening time, the
3 notice of motion *must* comply with Local Rule 251. Counsel may appear and argue non-dispositive
4 motions via CourtCall.

5 All dispositive pre-trial motions shall be heard by the Honorable Anthony W. Ishii, United
6 States District Court Judge. In scheduling such motions, **counsel shall comply with Fed. R. Civ. P. 56**
7 **and Local Rules 230 and 260.**

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

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

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

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

22 In the notice of motion the moving party shall certify that the parties have met and conferred as
23 ordered above, or set forth a statement of good cause for the failure to meet and confer.

24 **VIII. Motion for class certification**

25 The motion for class certification **SHALL** be filed no later than **January 13, 2017**. Opposition to
26 the motion **SHALL** be filed no later than **May 12, 2017**. Neither the motion nor the opposition **SHALL**
27 exceed 30 pages, exclusive of evidence and evidentiary objections, unless leave is granted by the Court
28 prior to the filing. Any reply **SHALL** be filed no later than **July 14, 2017** and shall not exceed 15 pages,

1 exclusive of evidentiary objections. Any objections to the evidence **SHALL** be filed at the same time as
2 the opposition (for Defendant) and the reply (for Plaintiff).¹ A hard-copy, courtesy copy of all filings
3 related to the class motion **SHALL** be sent via overnight mail to the Chambers of Judge Thurston at the
4 United States Courthouse, 510 19th Street Suite 200, Bakersfield, CA 93301, at the same time the filing
5 is submitted. All of the pages of evidence in the hard copy **SHALL** be numbered, tabbed and indexed.

6 The hearing on the motion for class certification is set on **August 14, 2017**, at 9:00 a.m. before
7 Judge Thurston.

8 **IX. Settlement Conference**

9 If the parties believe the matter is in a settlement posture, the parties may submit a joint written
10 request for a settlement conference, at which time a conference will be set with the Court.

11 **X. Compliance with Federal Procedure**

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

18 **XI. Effect of this Order**

19 The foregoing order represents the best estimate of the court and counsel as to the agenda most
20 suitable to dispose of this case. If the parties determine at any time that the schedule outlined in this
21 order cannot be met, counsel are ordered to notify the court immediately of that fact so that adjustments
22 may be made, either by stipulation or by subsequent status conference.

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

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¹ No motions to strike evidence will be entertained. If the Court sustains an objection to a piece of evidence, the evidence will not be considered.

1 **for granting the relief requested.**

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

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4 IT IS SO ORDERED.

5 Dated: March 18, 2016

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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