

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

ERNEST ESPINOZA,	)	Case No.: 1:16-CV-193- JLT
)	
Plaintiff,	)	SCHEDULING ORDER (Fed. R. Civ. P. 16)
)	
v.	)	Pleading Amendment Deadline: 2/1/2017
)	
OFFICER MATT A. ASHE,	)	Discovery Deadlines:
	)	Initial Disclosures: 11/28/2016
Defendant.	)	Non-Expert: 11/7/2017
	)	Expert: 11/7/2017
	)	Mid-Discovery Status Conference:
	)	4/10/2017 at 8:30 a.m.
)	
	)	Non-Dispositive Motion Deadlines:
	)	Filing: 11/24/2017
	)	Hearing: 12/22/2017
)	
	)	Dispositive Motion Deadlines:
	)	Filing: 1/12/2018
	)	Hearing: 2/9/2018
)	
	)	Pre-Trial Conference:
	)	3/27/2018 at 10:00 a.m.
	)	510 19 th Street, Bakersfield, CA
)	
	)	Trial: 5/8/2018 at 8:30 a.m.
	)	510 19 th Street, Bakersfield, CA
	)	Jury trial: 7-10 days

1 **I. Date of Scheduling Conference**

2 November 7, 2016.

3 **II. Appearances of Counsel**

4 Gregory Peacock appeared on behalf of Plaintiff.

5 Kenny Nguyen appeared on behalf of Defendant.

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 **February 1, 2017**.

9 **IV. Fictitiously-Named Defendants**

10 All claims as to “Doe” Defendants, including any counterclaims and cross-claims, are hereby
11 **DISMISSED.**

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

13 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)
14 on or before **November 28, 2016**.

15 The parties are ordered to complete all discovery, pertaining to non-experts and experts, on or
16 before **November 7, 2017**.

17 The parties are directed to disclose all expert witnesses, in writing, on or **August 25, 2017**, and
18 to disclose all rebuttal experts on or before **September 22, 2017**. The written designation of retained
19 and non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C)**
20 **and shall include all information required thereunder**. Failure to designate experts in compliance
21 with this order may result in the Court excluding the testimony or other evidence offered through such
22 experts that are not disclosed pursuant to this order.

23 The written designation of retained and non-retained experts shall **be made pursuant to Fed. R.**
24 **Civ. P. 26(a)(2), (A), (B), and (C) and shall include all information required thereunder**. Failure to
25 designate experts in compliance with this order may result in the Court excluding the testimony or other
26 evidence offered through such experts that are not disclosed pursuant to this order.

27 The provisions of Fed. R. Civ. P. 26(b)(4) and (5) shall apply to all discovery relating to experts
28 and their opinions. Experts must be fully prepared to be examined on all subjects and opinions

1 included in the designation. Failure to comply will result in the imposition of sanctions, which may
2 include striking the expert designation and preclusion of expert testimony.

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

5 A mid-discovery status conference is scheduled for **April 10, 2017** at 8:30 a.m. before the
6 Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510 19th Street, Bakersfield,
7 California. Counsel SHALL file a joint mid-discovery status conference report one week before the
8 conference. Counsel also SHALL lodge the status report via e-mail to JLTorders@caed.uscourts.gov.
9 The joint statement SHALL outline the discovery counsel have completed and that which needs to be
10 completed as well as any impediments to completing the discovery within the deadlines set forth in this
11 order. Counsel may appear via CourtCall, providing a written notice of the intent to appear
12 telephonically is provided to the Magistrate Judge's Courtroom Deputy Clerk no later than five court
13 days before the noticed hearing date.

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

15 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
16 than **November 24, 2017**, and heard on or before **December 22, 2017**. The Court hears non-
17 dispositive motions at 9:00 a.m. at the United States District Courthouse in Bakersfield, California.

18 **No motion to amend or stipulation to amend the case schedule will be entertained unless it**
19 **is filed at least one week before the first deadline the parties wish to extend.** Likewise, no written
20 discovery motions shall be filed without the prior approval of the assigned Magistrate Judge. A party
21 with a discovery dispute must first confer with the opposing party in a good faith effort to resolve by
22 agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party promptly
23 shall seek a telephonic hearing with all involved parties and the Magistrate Judge. It shall be the
24 obligation of the moving party to arrange and originate the conference call to the court. To schedule
25 this telephonic hearing, the parties are ordered to contact the Courtroom Deputy Clerk, Susan Hall, at
26 (661) 326-6620 or via email at SHall@caed.uscourts.gov. **Counsel must comply with Local Rule 251**
27 **with respect to discovery disputes or the motion will be denied without prejudice and dropped**
28 **from the Court's calendar.**

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

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

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

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

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

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

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

23 **March 27, 2018**, at 10:00 a.m. at the United States District Courthouse in Bakersfield,
24 California, before the Honorable Jennifer L. Thurston, United States Magistrate Judge.

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

28 Counsels' attention is directed to **Rules 281 and 282 of the Local Rules** of Practice for the

1 Eastern District of California, as to the obligations of counsel in preparing for the pre-trial conference.
2 The Court will insist upon strict compliance with those rules. In addition to the matters set forth in the
3 Local Rules the Joint Pretrial Statement shall include a Joint Statement of the case to be used by the
4 Court to explain the nature of the case to the jury during voir dire.

5 **IX. Trial Date**

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

8 A. This is a jury trial.

9 B. Counsels' Estimate of Trial Time: 7-10 days.

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

12 **X. Settlement Conference**

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

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

18 Not applicable at this time.

19 **XII. Related Matters Pending**

20 There are no pending related matters.

21 **XIII. Compliance with Federal Procedure**

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

27 **XIV. Effect of this Order**

28 The foregoing order represents the best estimate of the court and counsel as to the agenda most

1 suitable to dispose of this case. The trial date reserved is specifically reserved for this case. If the
2 parties determine at any time that the schedule outlined in this order cannot be met, counsel are ordered
3 to notify the court immediately of that fact so that adjustments may be made, either by stipulation or by
4 subsequent status conference.

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

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

11
12 IT IS SO ORDERED.

13 Dated: November 7, 2016

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE