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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MONTE WILSON, et al.,)	Case No.: 1:16-cv-00387 JLT
)	
Plaintiffs,	)	SCHEDULING ORDER
v.	)	(Fed. R. Civ. P. 16)
CITY OF BAKERSFIELD, et al.,)	
	)	Pleading Amendment Deadline: 1/20/2017
Defendants.)	
	)	Discovery Deadlines:
	)	Initial Disclosures: 10/6/2016
	)	Non-Expert: 9/8/2017
	)	Expert: 11/10/2017
	)	Mid-Discovery Status Conference:
	)	6/19/2017, 8:30 a.m.
	)	Non-dispositive Motion Deadlines:
	)	Filing: 11/3/2017
	)	Hearing: 12/1/2017
	)	Dispositive Motion Deadline:
	)	Filing: 12/22/2017
	)	Hearing: 1/19/2018
	)	Settlement Conference:
	)	2/27/2018 at 10:00 a.m., Courtroom 7
	)	Pre-Trial Conference:
	)	3/2/2018 at 8:30 a.m.
	)	Trial: 4/16/2018 at 8:30 a.m.,
	)	Jury trial: 5-7 days

1 **I. Date of Scheduling Conference**

2 September 13, 2016

3 **II. Appearances of Counsel**

4 John Kawai appeared on behalf of the plaintiff.

5 Heather Cohen appeared on behalf of the 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. Discovery Plan and Cut-Off Dates**

10 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P.
11 26(a)(1) on or before **October 6, 2016**.

12 The parties are ordered to complete all discovery pertaining to non-experts on **September**
13 **8, 2017** and discovery pertaining to experts on or before **November 10, 2017**.

14 The parties are directed to disclose all expert witnesses, in writing, on or before **September**
15 **22, 2017**, and to disclose all rebuttal experts on or before **October 13, 2017**. The written
16 designation of retained and non-retained experts **shall be made pursuant to Fed. R. Civ. P. Rule**
17 **26(a)(2), (A), (B), and (C) and shall include all information required thereunder**. Failure to
18 designate experts in compliance with this order may result in the Court excluding the testimony or
19 other evidence offered through such experts that are not disclosed pursuant to this order.

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

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

26 A mid-discovery status conference is scheduled for **June 19, 2017** at 8:30 a.m. before the
27 Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510 19th Street, Bakersfield,
28 California. Counsel SHALL file a joint mid-discovery status conference report one week before the

1 conference. Counsel also SHALL lodge the status report via e-mail to JLTorders@caed.uscourts.gov.
2 The joint statement SHALL outline the discovery counsel have completed and that which needs to be
3 completed as well as any impediments to completing the discovery within the deadlines set forth in
4 this order. Counsel may appear via CourtCall, providing a written notice of the intent to appear
5 telephonically is provided to the Magistrate Judge's Courtroom Deputy Clerk no later than five court
6 days before the noticed hearing date.

7 **V. Non-dispositive Motion Deadline**

8 Any non-dispositive motions SHALL be filed no later than **November 3, 2017**, and heard no
9 later than **December 1, 2017**.

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

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

25 **VI. Dispositive Motion Deadlines**

26 Dispositive motions SHALL be filed no later than **December 22, 2017**, and heard no later
27 than **January 19, 2018**. Neither the motion nor the opposition SHALL exceed 30 pages, exclusive of
28 evidence and evidentiary objections, unless the Court grants leave *prior* to the filing of the pertinent

1 pleading; requests for leave after the filing will be disregarded and all pages over 30 pages will not be
2 considered.

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

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

10 **Failure to comply may result in the motion being stricken.**

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

12 **March 2, 2018** at 8:30 a.m. The parties are ordered to file a Joint Pretrial Statement pursuant
13 to Local Rule 281(a)(2). The parties are further directed to submit a digital copy of their pretrial
14 statement in Word format, directly to Judge Thurston's chambers, by email at
15 JLTorders@caed.uscourts.gov.

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

21 **VIII. Trial Date**

22 **April 16, 2018** at 8:30 a.m. before Magistrate Judge Thurston at the United States Courthouse,
23 located at 51019th Street, Bakersfield, CA.

- 24 A. This is a jury trial.
25 B. Counsels' Estimate of Trial Time: 5-7 days.
26 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
27 California, Rule 285.

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1 **IX. Settlement Conference**

2 A settlement conference is scheduled for **February 27, 2018** at 10:00 a.m. at the Robert E.
3 Coyle Federal Courthouse, located at 2500 Tulare Street, Fresno, CA, courtroom 7, before the
4 Honorable Sheila K. Oberto.

5 Unless otherwise permitted in advance by the Court, **the attorneys who will try the case shall**
6 **appear** at the settlement conference **with the parties** and the person or persons having **full authority**
7 to negotiate and settle the case **on any terms**¹ at the conference. Consideration of settlement is a
8 serious matter that requires preparation prior to the settlement conference. Set forth below are the
9 procedures the Court will employ, absent good cause, in conducting the conference.

10 **At least 21 days before** the settlement conference, Plaintiff **SHALL** submit to Defendant via
11 fax or e-mail, a written itemization of damages and a meaningful² settlement demand which includes a
12 brief explanation of why such a settlement is appropriate. Thereafter, **no later than 14 days before** the
13 settlement conference, Defendant **SHALL** respond, via fax or e-mail, with an acceptance of the offer or
14 with a meaningful counteroffer, which includes a brief explanation of why such a settlement is
15 appropriate.

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

19 **CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT**

20 **Unless otherwise ordered by Judge Oberto, at least five court days before** the settlement
21 conference, the parties shall submit, directly to Judge Oberto's chambers by e-mail to
22 SKOorders@caed.uscourts.gov, a Confidential Settlement Conference Statement. The statement
23 **should not be filed** with the Clerk of the Court **nor served on any other party**, although the parties
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25 _____
26 ¹ 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.

² "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.

1 may file a Notice of Lodging of Settlement Conference Statement. Each statement shall be clearly
2 marked "confidential" with the date and time of the Settlement Conference indicated prominently
3 thereon.

4 The Confidential Settlement Conference Statement shall include the following:

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

14 **X. Request for Bifurcation, Appointment of Special Master, or other**
15 **Techniques to Shorten Trial**

16 The parties agree that the amount punitive damages, if any, may be bifurcated. They may raise
17 other issues regarding trial phasing or bifurcation in their joint pre-trial statement.

18 **XI. Related Matters Pending**

19 There are no pending related matters.

20 **XII. Compliance with Federal Procedure**

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

27 **XIII. Effect of this Order**

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

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

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

10
11 IT IS SO ORDERED.

12 Dated: September 13, 2016

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE