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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

OSCAR LUNA, et al.,)	Case No.: 1:16-cv-00568 DAD JLT
)	
Plaintiffs,)	SCHEDULING ORDER (Fed. R. Civ. P. 16)
)	
v.)	Pleading Amendment Deadline: 1/20/2017
)	
COUNTY OF KERN, et al.,)	Discovery Deadlines:
)	Initial Disclosures: 10/4/2016
Defendants.)	Non-Expert & Expert: 2/10/2017
)	
_____)		Non-Dispositive Motion Deadlines:
		Filing: 2/20/2017
		Hearing: 3/27/2017
		Dispositive Motion Deadlines:
		Filing: 4/7/2017
		Hearing: 5/16/2017
		Settlement Conference:
		3/1/2017 1:30 p.m.
		510 19th Street, Bakersfield, CA
		Pre-Trial Conference:
		6/5/2017 at 3:30 p.m.
		Courtroom 5
		Trial: 8/29/2017 at 8:30 a.m.
		Courtroom 5
		Jury trial: 6-8 days

I. Date of Scheduling Conference
September 13, 2016.

1 **II. Appearances of Counsel**

2 Denise Hulett appeared on behalf of Plaintiff.

3 Christopher Skinnell and Marguerite Leoni appeared on behalf of Defendants.

4 **III. Pleading Amendment Deadline**

5 Any requested pleading amendments are ordered to be filed, either through a stipulation or
6 motion to amend, no later than **January 20, 2017**. Any motion to amend the pleading shall be heard by
7 the Honorable Dale A. Drozd, United States District Court Judge.

8 **IV. Discovery Plan and Cut-Off Date**

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

11 The parties are ordered to complete all discovery as to non-experts and experts no later than
12 **February 10, 2017**.

13 The plaintiffs are directed to disclose all expert witnesses in writing, on or before **November**
14 **14, 2016**, and to disclose any rebuttal experts by **January 13, 2017**. The defendants are directed to
15 disclose all expert witnesses in writing, on or before **December 14, 2016**.

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

18 Failure to designate experts in compliance with this order may result in the Court excluding the
19 testimony or 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 experts
21 and their opinions. Experts must be fully prepared to be examined on all subjects and opinions
22 included in the designation. Failure to comply will result in the imposition of sanctions, which may
23 include striking the expert designation and preclusion of expert testimony. The provisions of Fed. R.
24 Civ. P. 26(e) regarding a party's duty to timely supplement disclosures and responses to discovery
25 requests will be strictly enforced.

26 **V. Pre-Trial Motion Schedule**

27 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
28 than **February 20, 2017**, and heard on or before **March 27, 2017**. Non-dispositive motions are heard

1 before the Honorable Jennifer L. Thurston, United States Magistrate Judge at the United States
2 Courthouse in Bakersfield, California.

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

14 All dispositive pre-trial motions shall be filed no later than **April 7, 2017**, and heard no later
15 than **May 16, 2017**, in Courtroom 5 at 8:30 a.m. before the Honorable Dale A. Drozd, United States
16 District Court Judge. In scheduling such motions, **counsel shall comply with Fed. R. Civ. P. 56 and**
17 **Local Rules 230 and 260.**

18 **VI. Motions for Summary Judgment or Summary Adjudication**

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

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

27 The moving party **SHALL** initiate the meeting and **SHALL** provide a complete, proposed
28 statement of undisputed facts **at least five days before** the conference. The finalized joint statement of

1 undisputed facts **SHALL** include all facts that the parties agree, for purposes of the motion, may be
2 deemed true. In addition to the requirements of Local Rule 260, the moving party shall file the joint
3 statement of undisputed facts.

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

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

8 **June 5, 2017** at 3:30 p.m. in Courtroom 5 before Judge Drozd.

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

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

17 **VIII. Trial Date**

18 **August 29, 2017** at 8:30 a.m. in Courtroom 5 before the Honorable Dale A. Drozd, United
19 States District Court Judge.

20 A. This is a bench trial.

21 B. Counsels' Estimate of Trial Time: 6-8 days.

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

24 **IX. Settlement Conference**

25 A Settlement Conference is scheduled for **March 1, 2017 at 1:30 p.m.** at 510 19th Street,
26 Bakersfield, California. Despite the provisions of Local Rule 270(b), the settlement conference will be
27 conducted by Magistrate Judge Thurston. **If any party prefers that the settlement conference be**
28 **conducted by a judicial officer not already assigned to this case, that party is directed to notify**

1 **the Court no later than 60 days in advance of the scheduled settlement conference** to allow
2 sufficient time for another judicial officer to be assigned to handle the conference.

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

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

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

17 **CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT**

18 **At least five court days before** the Settlement Conference, the parties shall submit, directly to
19 Judge Thurston's chambers by e-mail to JLTorders@caed.uscourts.gov, a Confidential Settlement
20 Conference Statement. The statement **should not be filed** with the Clerk of the Court **nor served on**
21 **any other party**, although the parties may file a Notice of Lodging of Settlement Conference
22 Statement. Each statement shall be clearly marked "confidential" with the date and time of the
23 Settlement Conference indicated prominently thereon.

25 ¹ Insurance carriers, business organizations, and governmental bodies or agencies whose settlement agreements
26 are subject to approval by legislative bodies, executive committees, boards of directors or the like shall be represented by a
27 person or persons who occupy high executive positions in the party organization and who will be directly involved in the
28 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.

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The Confidential Settlement Conference Statement shall include the following:

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

X. Request for Bifurcation, Appointment of Special Master, or other

Techniques to Shorten Trial

Not applicable at this time.

XI. Related Matters Pending

There are no pending related matters.

XII. Compliance with Federal Procedure

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

XIII. Effect of this Order

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

