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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM PHILLIPS, an individual and on behalf of all others similarly situated,)	Case No.: 1:16-cv-00753 LJO JLT
)	
Plaintiff,	)	SCHEDULING ORDER
v.	)	(Fed. R. Civ. P. 16)
)	
RANDY’S TRUCKING, INC., et al.,	)	Pleading Amendment Deadline: 12/16/2016
)	
Defendants.	)	Discovery Deadlines:
	)	Initial Disclosures: 9/2/2016
	)	Non-Expert: 3/10/2017
	)	Expert: 5/8/2017
)	
	)	Class Certification Deadlines:
	)	Filing: 1/20/2017
	)	Opposition: 2/24/2017
	)	Reply brief: 3/3/2017
	)	Hearing: 4/7/2017 at 9:00 a.m.
)	
	)	Non-dispositive Motion Deadlines:
	)	Filing: 5/19/2017
	)	Hearing: 6/16/2017
)	
	)	Dispositive Motion Deadline:
	)	Filing: 6/30/2017
	)	Hearing: 8/22/2017
)	
	)	Pre-Trial Conference:
	)	10/10/2017 at 8:30 a.m., Courtroom 4
)	
	)	Trial: 12/5/2017 at 8:30 a.m., Courtroom 4
	)	Jury trial: 10-15 days

1 **I. Date of Scheduling Conference**

2 September 1, 2016

3 **II. Appearances of Counsel**

4 Michael Tracy appeared on behalf of the plaintiff.

5 Kevin Koligian 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 **October 10, 2016**.

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 **September 2, 2016**.

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

14 The parties are directed to disclose all expert witnesses, in writing, on or before **March 17,**
15 **2017**, and to disclose all rebuttal experts on or before **April 7, 2017**. The written designation of
16 retained and non-retained experts **shall be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A),**
17 **(B), and (C) and shall include all information required thereunder**. Failure to designate
18 experts in compliance with this order may result in the Court excluding the testimony or other
19 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 **V. Non-Dispositive Motions**

27 Any non-dispositive motions **SHALL** be filed no later than **May 19, 2017**, and heard no
28 later than **June 16, 2017**.

1 No written discovery motions shall be filed without prior approval of the Court. A party
2 with a discovery dispute must first confer with the opposing party in a good faith effort to resolve
3 by agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party
4 promptly shall seek a telephonic hearing with all involved parties and the Court. It shall be the
5 obligation of the moving party to arrange and originate the conference call to the court. To
6 schedule this telephonic hearing, the parties are ordered to contact the Courtroom Deputy Clerk,
7 Susan Hall at (661) 326-6620 or via email at SHall@caed.uscourts.gov. **Counsel must comply**
8 **with Local Rule 251 with respect to discovery disputes or the motion will be denied without**
9 **prejudice and dropped from calendar.**

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

14 **VI. Dispositive Motion Deadlines**

15 Dispositive motions **SHALL** be filed no later than **June 30, 2017**, and heard no later than
16 **August 22, 2017**. Neither the motion nor the opposition **SHALL** exceed 30 pages, exclusive of
17 evidence and evidentiary objections, unless the Court grants leave *prior* to the filing of the
18 pertinent pleading; requests for leave after the filing will be disregarded and all pages over 30
19 pages will not be considered.

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

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

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

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

9 **VII. Motion for Class Certification**

10 The motion for class certification **SHALL** be filed no later **January 20, 2017**. Opposition
11 to the motion **SHALL** be filed no later than **February 24, 2017**. Neither the motion nor the
12 opposition **SHALL** exceed 30 pages, exclusive of evidence and evidentiary objections, unless the
13 Court grants leave *prior* to the filing of the pertinent; requests for leave after the filing will be
14 disregarded and all pages over 30 pages will not be considered. Any reply **SHALL** be filed no
15 later than **March 3, 2017** and shall not exceed 15 pages, exclusive of evidentiary objections.

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

21 The hearing on the motion for class certification is set on **April 7, 2017**, at 9:00 a.m. before
22 Judge Thurston at the United States Courthouse, located at 510 19th Street, Bakersfield, CA.

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

24 **October 10, 2017** at 8:30 a.m. in Courtroom 4 before Judge O'Neill.

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

28

¹ No motions to strike evidence will be entertained. If objections are sustained, the evidence will not be considered.

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

6 **IX. Trial Date**

7 **December 5, 2017** at 8:30 a.m. in Courtroom 4 before the Honorable Lawrence J. O'Neill,
8 United States District Court Judge.

9 A. This is a jury trial.

10 B. Counsels' Estimate of Trial Time: 10-15 days.

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

13 **X. Compliance with Federal Procedure**

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

20 **XI. Settlement Conference**

21 The parties will request a settlement conference, via a stipulation setting forth proposed
22 dates, in the event they believe a conference may be fruitful. The settlement conference will be
23 heard by Judge Thurston unless the parties indicate in their stipulation that they wish to have it
24 conducted by a judicial officer not already assigned to this case.

25 **XI. Effect of this Order**

26 The foregoing order represents the best estimate of the court and counsel as to the agenda
27 most suitable to dispose of this case. The hearing dates are specifically reserved for this case. If
28 the parties determine at any time that the schedule outlined in this order cannot be met, counsel are

1 ordered to notify the court immediately of that fact so that adjustments may be made, either by
2 stipulation or by subsequent status conference.

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

8
9 IT IS SO ORDERED.

10 Dated: September 1, 2016

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE