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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

COUNTY OF KERN,)	Case No.: 1:16-cv-01063 LJO JLT
)	
Plaintiff,	)	SCHEDULING ORDER (Fed. R. Civ. P. 16)
)	
v.	)	Pleading Amendment Deadline: 1/13/2017
)	
GLOBAL EXCEL MANAGEMENT, INC.,	)	Discovery Deadlines:
	)	Initial Disclosures: 11/1/2016
Defendants.	)	Non-Expert: 8/14/2017
	)	Expert: 10/6/2017
	)	Mid-Discovery Status Conference:
	)	3/6/2017 at 8:30 a.m.
)	
	)	Non-Dispositive Motion Deadlines:
	)	Filing: 10/20/2017
	)	Hearing: 11/17/2017
)	
	)	Dispositive Motion Deadlines:
	)	Filing: 12/1/2017
	)	Hearing: 1/16/2018
)	
	)	Pre-Trial Conference:
	)	3/14/2018 at 8:30 a.m.
	)	Courtroom 4
)	
	)	Trial: 5/9/2018 at 8:30 a.m.
	)	Courtroom 4
	)	Jury trial: 3 days

I. Date of Scheduling Conference
October 26, 2016.

1 **II. Appearances of Counsel**

2 Karlene Rogers- Aberman appeared on behalf of Plaintiff.

3 Dan Terzian appeared on behalf of Defendant.

4 **III. Magistrate Judge Consent:**

5 **Notice of Congested Docket and Court Policy of Trailing**

6 Due to the District Judges' heavy caseload, the newly adopted policy of the Fresno Division of
7 the Eastern District is to trail all civil cases. The parties are hereby notified that for a trial date set
8 before a District Judge, the parties will trail indefinitely behind any higher priority criminal or older
9 civil case set on the same date until a courtroom becomes available. The trial date will not be reset to a
10 continued date.

11 The Magistrate Judges' availability is far more realistic and accommodating to parties than that
12 of the U.S. District Judges who carry the heaviest caseloads in the nation and who must prioritize
13 criminal and older civil cases over more recently filed civil cases. A United States Magistrate Judge
14 may conduct trials, including entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule of
15 Civil Procedure 73, and Local Rule 305. Any appeal from a judgment entered by a United States
16 Magistrate Judge is taken directly to the United States Court of Appeal for the Ninth Circuit.

17 The Fresno Division of the Eastern District of California, whenever possible, is utilizing United
18 States Article III District Court Judges from throughout the nation as Visiting Judges. Pursuant to the
19 Local Rules, Appendix A, such 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 Counsel **SHALL** directed to discuss with their clients and to consider consenting to Magistrate
23 Judge jurisdiction to conduct all further proceedings, including trial. **Within 10 days** of the date of this
24 order, counsel **SHALL** file a consent/decline form (provided by the Court at the inception of this case)
25 indicating whether they will consent to the jurisdiction of the Magistrate Judge.

26 **III. Pleading Amendment Deadline**

27 Any requested pleading amendments are ordered to be filed, either through a stipulation or
28 motion to amend, no later than **January 13, 2017**.

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

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

4 The parties are ordered to complete all discovery pertaining to non-experts on or before **August**
5 **14, 2017** and all discovery pertaining to experts on or before **October 6, 2017**.

6 The parties are directed to disclose all expert witnesses¹, in writing, on or before **August 28,**
7 **2017**, and to disclose all rebuttal experts on or before **September 8, 2017**. The written designation of
8 retained and non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B),**
9 **and (C) and shall include all information required thereunder**. Failure to designate experts in
10 compliance with this order may result in the Court excluding the testimony or other evidence offered
11 through such experts that are not disclosed pursuant to this order.

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

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

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

27 _____
28 ¹ In the event an expert will offer opinions related to an independent medical or mental health
evaluation, the examination **SHALL** occur sufficiently in advance of the disclosure deadline so the expert's
report fully details the expert's opinions in this regard.

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

2 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
3 than **October 20, 2017**, and heard on or before **November 17, 2017**. Non-dispositive motions are
4 heard before the Honorable Jennifer L. Thurston, United States Magistrate Judge at the United States
5 Courthouse in Bakersfield, California.

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

17 All dispositive pre-trial motions shall be filed no later than **December 1, 2017**, and heard no
18 later than **January 16, 2018**, in Courtroom 4 at 8:30 a.m. before the Honorable Lawrence J. O'Neill,
19 United States District Court Judge. In scheduling such motions, **counsel shall comply with Fed. R.**
20 **Civ. P. 56 and Local Rules 230 and 260.**

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

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

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

1 expense of briefing a motion; and 6) to develop a joint statement of undisputed facts.

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

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

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

11 **March 14, 2018**, at 8:30 a.m. in Courtroom 4 before Judge O'Neill.

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

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

20 **VIII. Trial Date**

21 **May 9, 2018**, at 8:30 a.m. in Courtroom 4 before the Honorable Lawrence J. O'Neill, United
22 States District Court Judge.

- 23 A. This is a jury trial.
24 B. Counsels' Estimate of Trial Time: 3 days.
25 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
26 California, Rule 285.

27 **IX. Settlement Conference**

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1 Counsel indicate they are willing to be referred to the Court's VDRP once some discovery
2 occurs. When they believe mediation may be fruitful, they may submit a stipulation asking the Court to
3 refer the matter to VDRP. Alternatively, they may request the Court set a settlement conference if they
4 believe that such a conference may be fruitful².

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

7 Not applicable at this time.

8 **XI. Related Matters Pending**

9 There are no pending related matters.

10 **XII. Compliance with Federal Procedure**

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

17 **XIII. Effect of this Order**

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

27 ² Despite the provisions of Local Rule 270(b), the settlement conference, if any, will be conducted by Magistrate Judge
28 Thurston unless any party prefers that the settlement conference be conducted by a judicial officer not already assigned
to this case. In this event, the stipulation should indicate this and the Court will assign another judicial to handle the
conference.

1 **affidavits or declarations, and where appropriate attached exhibits, which establish good cause**
2 **for granting the relief requested.**

3 Failure to comply with this order may result in the imposition of sanctions.
4

5 IT IS SO ORDERED.

6 Dated: October 28, 2016

/s/ Jennifer L. Thurston
7 UNITED STATES MAGISTRATE JUDGE
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