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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KENNETH BAKER,

Plaintiff(s),

v.

WORLD SAVINGS BANK, ET AL.,

Defendant(s).

Case No. 1:16-CV-01943 LJO EPG

ORDER SETTING MANDATORY SCHEDULING CONFERENCE

DATE: March 23, 2017

TIME: 9:30 A.M.

COURTROOM: 10 (6th Floor)

ERICA P. GROSJEAN
U.S. MAGISTRATE JUDGE

Pursuant to the reassignment of this matter from the docket of Magistrate Judge Barbara A. McAuliffe to the docket of Magistrate Judge Erica P. Grosjean, the Court sets a formal Scheduling Conference on March 23, 2017, at 9:30 AM before United States Magistrate Judge Erica P. Grosjean, in Courtroom 10, at the United States Courthouse, 2500 Tulare Street, Fresno, CA 93721.

Appearance at Scheduling Conference

Attendance at the Scheduling Conference is *mandatory* for all parties. Parties may appear by their counsel, if represented. If a party is not represented by counsel, they must appear personally at the Scheduling Conference. **Telephonic appearances are not available for pro se**

1 **parties, i.e., those not represented by counsel.** Trial counsel should participate in this Scheduling
2 Conference whenever possible. If one or more parties are represented by counsel and wish to
3 appear telephonically, counsel shall contact Michelle Means Rooney, Courtroom Deputy Clerk, at
4 (559) 499-5962 sufficiently in advance of the conference so that a notation can be placed on the
5 court calendar. To appear telephonically, each party shall dial 1 (888) 251 – 2909 and enter
6 access code 1024453. Additionally, counsel are directed to indicate on the face page of their Joint
7 Scheduling Report that the conference will be telephonic.

8 **Joint Scheduling Report**

9 A Joint Scheduling Report, carefully prepared and executed by all counsel, shall be
10 electronically filed in CM/ECF, one (1) full week prior to the Scheduling Conference and shall be
11 emailed in Word format to epgorders@caed.uscourts.gov. The Joint Scheduling Report shall
12 indicate the date, time, and courtroom of the Scheduling Conference. This information is to be
13 placed opposite the caption on the first page of the Report.

14 At least twenty (20) days prior to the Mandatory Scheduling Conference, trial counsel for
15 all parties shall conduct a conference at a mutually agreed upon time and place. This should
16 preferably be a personal conference between all counsel but a telephonic conference call
17 involving all counsel/pro se parties is permissible. The Joint Scheduling Report shall contain the
18 following items by corresponding numbered paragraphs:

19 1. Summary of the factual and legal contentions set forth in the pleadings of each
20 party, including the relief sought by any party presently before the Court.

21 2. Summary of major disputed facts and contentions of law.

22 3. A proposed deadline for amendments to pleadings. Any proposed amendment to
23 the pleadings shall be referenced in the Scheduling Conference Report. If the matter cannot be
24 resolved at the Scheduling Conference, the moving party shall file a motion to amend in
25 accordance with the Local Rules of the Eastern District of California.

26 4. The status of all matters which are presently set before the Court, e.g., hearings of
27 motions, etc.

28 5. A complete and detailed discovery plan addressing the following issues and

1 proposed dates:

- 2 a A date for the exchange of initial disclosures required by Fed. R. Civ. P.
- 3 26(a)(1) or a statement that disclosures have already been exchanged;
- 4 b. A firm cut-off date for non-expert discovery. When setting this date, the
- 5 parties should consider that discovery cutoffs requires that motions to
- 6 compel be filed and heard sufficiently in advance of the deadline so that the
- 7 Court may grant effective relief within the allotted discovery time;
- 8 c. A firm date for disclosure of expert witnesses, required by Fed. R. Civ. P.
- 9 26(a)(2), including a date for disclosure of rebuttal experts;
- 10 d. A firm cut-off date for all expert witness discovery;
- 11 e. Any proposed changes in the limits on discovery imposed by
- 12 Fed. R. Civ. P. 26(b); 30(a)(2)(A), (B); 30(d); or 33(a);
- 13 f. Whether the parties anticipate the need for a protective order relating to the
- 14 discovery of information relating to a trade secret or other confidential
- 15 research, development, or commercial information;
- 16 g. Any issues or proposals relating to the timing, sequencing, phasing or
- 17 scheduling of discovery; and
- 18 h. Whether the parties anticipate the need to take discovery outside the United
- 19 States and, if so, a description of the proposed discovery.

20 **Additional Disclosures Related to Electronic Discovery**

21 1. Discovery Relating to Electronic, Digital and/or Magnetic Data. Prior to a
22 Fed. R. Civ. P. 26(f) conference, counsel should carefully investigate their respective
23 client's information management system so that they are knowledgeable as to its
24 operation, including how information is stored and how it can be retrieved. Counsel shall
25 also conduct a reasonable review of their respective client's computer files to ascertain the
26 contents thereof, including archival and legacy data (outdated formats or media), and
27 disclose in initial discovery (self-executing routine discovery) the computer-based
28 evidence which may be used to support claims or defenses.

1 2. The parties shall meet and confer regarding the following matters during
2 the Fed. R. Civ. P. 26(f) conference, and address the status of Electronic Discovery and
3 any disagreements in their Statement, including:

4 a. Preservation: The parties shall attempt to agree on steps the
5 parties will take to segregate and preserve computer-based
6 information in order to avoid accusations of spoliation.

7 b. Scope of E-mail Discovery: The parties shall attempt to
8 agree as to the scope of e-mail discovery and attempt to agree upon
9 an e-mail search protocol. The parties should seek to agree on
10 search terms, custodians, and date ranges in advance of the
11 Conference so that any disputes can be addressed at the Conference.

12 c. Inadvertent Production of Privileged Information: The
13 parties should confer regarding procedures for inadvertent
14 production of privileged electronic material, including any
15 obligations to notify the other party, and procedures for bringing
16 any disputes promptly to the Court.

17 d. Data Restoration: The parties shall confer regarding whether
18 or not restoration of deleted information may be necessary, the
19 extent to which restoration of deleted information is needed, and
20 who will bear the costs of restoration; and the parties shall attempt
21 to agree whether or not back-up data may be necessary, the extent
22 to which backup data is needed and who will bear the cost of
23 obtaining back-up data.

24 6. Dates agreed to by all counsel for:

25 a. Filing dispositive pre-trial motions (except motions *in limine* or other trial
26 motions). The dispositive motion filing deadline shall be at least twelve
27 (12) weeks prior to the proposed Pre-Trial Conference date, and the
28 hearing on dispositive motions shall be at least sixty (60) days before the

1 proposed Pre-trial Conference date.

2 b. A Pre-Trial Conference Date.

3 c. A Trial date. This date should be at least sixty (60) days after the proposed
4 Pre-Trial Conference date.

5 7. The parties are encouraged to discuss settlement, and must include a statement in
6 the Joint Scheduling Report as to the possibility of settlement. The parties shall indicate when
7 they desire a settlement conference, e.g., before further discovery, after discovery, after pre-trial
8 motions, etc. Among other things, counsel will be expected to discuss the possibility of settlement
9 at the Scheduling Conference. Note that, even if settlement negotiations are progressing, counsel
10 are expected to comply with the requirements of this Order unless otherwise excused by the
11 Court. If the entire case is settled, counsel shall **promptly** inform the Court. In the event of
12 settlement, counsel's presence at the conference, as well as the Joint Scheduling Report, will not
13 be required.

14 8. A statement as to whether the case is a jury or non-jury case. The parties shall
15 briefly outline their respective positions if there is a disagreement as to whether a jury trial has
16 been timely demanded, or as to whether a jury trial is available on some or all of the claims.

17 9. An estimate of the number of trial days is required. If the parties cannot agree,
18 each party shall give his or her best estimate.

19 10. The parties' position regarding consent to proceed before a United States
20 magistrate judge. Note that the parties need not make a final decision on the issue of consent
21 until after the Scheduling Conference, but should state their current position in this Statement and
22 expect to make a final decision soon after the Scheduling Conference.

23 The parties may wish to consider that, when a civil trial is set before the district judges in
24 the Fresno Division, any criminal trial that conflicts with the civil trial will take priority, even if
25 the civil trial was set first. Continuances of civil trials under these circumstances may no longer
26 be entertained, absent good cause, but the civil trial may instead trail from day to day or week to
27 week until the completion of either the criminal case or the older civil case.

28 Parties are free to withhold consent or decline magistrate jurisdiction without adverse

1 substantive consequences.

2 11. Whether either party requests bifurcation or phasing of trial or has any other
3 suggestion for shortening or expediting discovery, pre-trial motions or trial.

4 12. Whether this matter is related to any matter pending in this court or any other
5 court, including bankruptcy court.

6 **Scheduling Order**

7 Following the Scheduling Conference, the Court will issue a Scheduling Order with the
8 benefit of the input of the parties. Once issued, the dates in the Scheduling Order shall be firm
9 and no extension shall be given without permission from the Court.

10 **Lack of Participation in the Joint Scheduling Report**

11 If any party fails to participate in the preparation of the Joint Scheduling Report, the non-
12 offending party shall detail the party's effort to get the offending party to participate in the Joint
13 Scheduling Report. The non-offending party shall still file the report one (1) full week prior to
14 the Mandatory Scheduling Conference and shall list the non-offending party's position on the
15 listed issues and proposed dates for a schedule. Absent good cause, the dates proposed by the
16 non-offending party will be presumed to be the dates offered by the parties. The offending party
17 may be subject to sanctions, including monetary sanctions to compensate the non-offending
18 party's time and effort incurred in seeking compliance with this Scheduling Order.

19 **Important Chambers' Information**

20 The parties are directed to the Court's website at www.caed.uscourts.gov under **Judges;**
21 **Grosjean (EPG); Standard Information (in the area entitled "Case Management**
22 **Procedures")** for specific information regarding Chambers' procedures. Information about law
23 and motion, scheduling conferences, telephonic appearances, and discovery disputes is provided
24 at this link.

25 **Sanctions for Failure to Comply**

26 Should counsel or a party appearing pro se fail to appear at the Mandatory Scheduling
27 Conference, or fail to comply with the directions as set forth above, an ex parte hearing may be
28 held and contempt sanctions, including monetary sanctions, dismissal, default, or other

1 appropriate judgment, may be imposed and/or ordered.

2 IT IS SO ORDERED.

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4 DATED: January 6, 2017

Eric P. Goss

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UNITED STATES MAGISTRATE JUDGE

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