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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOGERT ABRANTES,
Plaintiffs,

v.

PAUL RUSSO,
Defendant.

Case No. 1: 17-cv-00152-AWI-SAB
SCHEDULING ORDER (Fed. R. Civ. P 16)
Class Certification Deadline:
Motion Filing: June 4, 2018
Discovery Deadlines:
Non-Expert Discovery: May 4, 2018.

I. Date of Scheduling Conference

The Scheduling Conference was held on **November 21, 2017**.

II. Appearances of Counsel

Thomas Wheeler telephonically appeared on behalf of Plaintiff.

There was no appearance by the defendant.

III. Consent to Magistrate Judge

The parties have not filed a consent or decline form.

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1 **IV. Initial Disclosure under Fed. R. Civ. P. 26(a)(1)**

2 The parties shall exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1) by
3 **December 12, 2017.**

4 **V. Amendments to Pleading**

5 The parties do not anticipate any amendment to the pleadings. The parties are advised
6 that filing motions and/or stipulations requesting leave to amend the pleadings does not reflect on
7 the propriety of the amendment or imply good cause to modify the existing schedule, if necessary.
8 All proposed amendments must (A) be supported by good cause pursuant to Fed. R. Civ. P. 16(b)
9 if the amendment requires any modification to the existing schedule, *see Johnson v. Mammoth*
10 *Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992), and (B) establish, under Fed. R. Civ. P.
11 15(a), that such an amendment is not (1) prejudicial to the opposing party, (2) the product of
12 undue delay, (3) proposed in bad faith, or (4) futile, *see Foman v. Davis*, 371 U.S. 178, 182
13 (1962).

14 **VI. Class Certification**

15 Plaintiff has requested a phased approach to this action. This first phase shall relate to
16 class certification. Any motions for class certification shall be filed on or before **June 4, 2018.**
17 The hearing on the motion shall be set in compliance with the Local Rules.

18 **VII. Discovery Plan and Cut-Off Dates**

19 The parties are ordered to complete all non-expert discovery on or before **May 4, 2018.**

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

22 The parties are cautioned that the discovery/expert cut-off deadlines are the dates by
23 which all discovery must be completed. Absent good cause, discovery motions will not be heard
24 after the discovery deadlines. Moreover, absent good cause, the Court will only grant relief on a
25 discovery motion if the relief requested requires the parties to act before the expiration of the
26 relevant discovery deadline. In other words, discovery requests and deposition notices must be
27 served sufficiently in advance of the discovery deadlines to permit time for a response, time to
28 meet and confer, time to prepare, file and hear a motion to compel and time to obtain relief on a

1 motion to compel. Counsel are expected to take these contingencies into account when proposing
2 discovery deadlines. Compliance with these discovery cutoffs requires motions to compel be
3 filed *and heard* sufficiently in advance of the discovery cutoff so that the Court may grant
4 effective relief within the allotted discovery time. A party's failure to have a discovery dispute
5 heard sufficiently in advance of the discovery cutoff may result in denial of the motion as
6 untimely.

7 **VIII. Pre-Trial Motion Schedule**

8 Unless prior leave of Court is obtained at least seven (7) days before the filing date, all
9 moving and opposition briefs or legal memorandum in civil cases shall not exceed twenty-five
10 (25) pages. Reply briefs filed by moving parties shall not exceed ten (10) pages. Before
11 scheduling any motion, the parties must comply with all requirements set forth in Local Rule 230
12 and 251.

13 **A. Non-Dispositive Pre-Trial Motions**

14 As noted, all non-expert discovery, including motions to compel, shall be completed no
15 later than **May 4, 2018**. Compliance with these discovery cutoffs requires motions to compel be
16 filed *and heard* sufficiently in advance of the discovery cutoff so that the Court may grant
17 effective relief within the allotted discovery time. A party's failure to have a discovery dispute
18 heard sufficiently in advance of the discovery cutoff may result in denial of the motion as
19 untimely. Non-dispositive motions are heard on Wednesdays at 10:00 a.m., before United States
20 Magistrate Judge Stanley A. Boone in Courtroom 9.

21 In scheduling any non-dispositive motion, the Magistrate Judge may grant Applications
22 for an Order Shortening Time pursuant to Local Rule 144(e). However, if counsel does not
23 obtain an Order Shortening Time, the Notice of Motion must comply with Local Rule 251.

24 Counsel may appear and argue non-dispositive motions by telephone, providing a written
25 request to so appear is made to the Magistrate Judge's Courtroom Clerk no later than three (3)
26 court days before the noticed hearing date. In the event that more than one attorney requests to
27 appear by telephone, then it shall be the obligation of the moving party(ies) to arrange and
28 originate a conference call to the court.

1 ***Discovery Disputes:*** If a motion is brought under Fed. R. Civ. P. 37, the parties must
2 prepare and file a Joint Statement re Discovery Disagreement (“Joint Statement”) as required by
3 Local Rule 251. The Joint Statement must be filed seven (7) calendar days before the scheduled
4 hearing date. Courtesy copies of all motion-related documents, declarations, and exhibits must be
5 delivered to the Clerk’s Office by 10:00 a.m. on the fourth court day prior to the scheduled
6 hearing date. Motions will be removed from the court’s hearing calendar if the Joint Statement is
7 not timely filed or if courtesy copies are not timely delivered. In order to satisfy the meet and
8 confer requirement set forth in Local Rule 251(b), the parties must confer and talk to each other
9 in person, over the telephone or via video conferencing before the hearing about the discovery
10 dispute. The Court may issue sanctions against the moving party or the opposing party if either
11 party fails to meet and confer in good faith.

12 **B. Dispositive Pre-Trial Motions**

13 ***Motions for Summary Judgment or Summary Adjudication:*** Prior to filing a motion for
14 summary judgment or motion for summary adjudication, the parties are ORDERED to meet, in
15 person or by telephone, and confer to discuss the issues to be raised in the motion.

16 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment
17 where a question of fact exists; 2) determine whether the respondent agrees that the motion has
18 merit in whole or in part; 3) discuss whether issues can be resolved without the necessity of
19 briefing; 4) narrow the issues for review by the court; 5) explore the possibility of settlement
20 before the parties incur the expense of briefing a summary judgment motion; and 6) to arrive at a
21 Joint Statement of Undisputed Facts.

22 The moving party shall initiate the meeting and provide a draft of the Joint Statement of
23 Undisputed Facts. **In addition to the requirements of Local Rule 260, the moving party shall**
24 **file a Joint Statement of Undisputed Facts.**

25 In the Notice of Motion, the moving party shall certify that the parties have met and
26 conferred as ordered above or set forth a statement of good cause for the failure to meet and
27 confer.

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1 **IX. Related Matters Pending**

2 Plaintiff is aware of no related cases that are currently pending.

3 **X. Compliance with Federal Procedure**

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

10 Additional requirements and more detailed procedures for courtroom practice before
11 United States Magistrate Judge Stanley A. Boone can be found at the United States District Court
12 for the Eastern District of California's website (www.caed.uscourts.gov) under Judges; United
13 States Magistrate Judge Stanley A. Boone (SAB). In the area entitled "Case Management
14 Procedures," there is a link to "Standard Information." All parties and counsel shall comply with
15 the guidelines set forth therein.

16 **XI. Effect of this Order**

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

22 **Stipulations extending the deadlines contained herein will not be considered unless**
23 **they are accompanied by affidavits or declarations, and where appropriate attached**
24 **exhibits, which establish good cause for granting the relief requested. The parties are**
25 **advised that due to the impacted nature of civil cases on the district judges in the Eastern**
26 **District of California, Fresno Division, that stipulations to continue set dates are disfavored**
27 **and will not be granted absent good cause.**

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1 **Lastly, should counsel or a party appearing pro se fail to comply with the directions**
2 **as set forth above, an ex parte hearing may be held and contempt sanctions, including**
3 **monetary sanctions, dismissal, default, or other appropriate judgment, may be imposed**
4 **and/or ordered.**

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6 **IT IS SO ORDERED.**

7 **Dated: November 21, 2017**


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UNITED STATES MAGISTRATE JUDGE