

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELIZABETH BRANDT,

Plaintiff,

v.

OCWEN LOAN SERVICING, LLC,

Defendants.

No. 1:17-CV-00643-DAD-EPG

ORDER SETTING SCHEDULING  
CONFERENCE

JOSEPH SANZBERRO,

Plaintiff,

v.

OCWEN LOAN SERVICING, LLC,

Defendants.

No. 1:17-CV-00644-DAD-EPG

JUANA SILVA,

Plaintiff,

v.

OCWEN LOAN SERVICING, LLC,

Defendants.

No. 1:17-CV-00645-DAD-EPG

KARI ALVERSON,

Plaintiff,

v.

OCWEN LOAN SERVICING, LLC,

Defendants.

No. 1:17-CV-00649-DAD-EPG

No. 1:17-CV-00655-DAD-EPG

No. 2:17-CV-00967-DAD-EPG

No. 2:17-CV-00972-DAD-EPG

No. 2:17-CV-00979-DAD-EPG

Defendants.

1 Pursuant to the Court's Order relating and reassigning these matters to District Judge Dale  
2 A. Drozd and Magistrate Judge Erica P. Grosjean, the Court vacates any existing scheduling  
3 conference and sets a formal Scheduling Conference before United States Magistrate Judge Erica  
4 P. Grosjean, in Courtroom 10 at the United States Courthouse, 2500 Tulare Street, Fresno, CA  
5 93721, to be held on February 14, 2018, at 9:30 AM.

6 **Appearance at Scheduling Conference**

7 Attendance at the Scheduling Conference is *mandatory* for all parties. Parties may appear  
8 by their counsel, if represented. If a party is not represented by counsel, they must appear  
9 personally at the Scheduling Conference. **Telephonic appearances are not available for pro se**  
10 **parties, i.e., those not represented by counsel.** Trial counsel should participate in this Scheduling  
11 Conference whenever possible. If one or more parties are represented by counsel and wish to  
12 appear telephonically, counsel shall email Michelle Means Rooney, Courtroom Deputy Clerk, at  
13 mrooney@caed.uscourts.gov, sufficiently in advance of the conference so that a notation can be  
14 placed on the court's calendar. To appear telephonically, each party shall dial 1 (888) 251 –  
15 2909 and enter access code 1024453. Additionally, counsel are directed to indicate on the face  
16 page of their Joint Scheduling Report that the conference will be telephonic.

17 **Joint Scheduling Report**

18 A Joint Scheduling Report, carefully prepared and executed by all counsel, shall be  
19 electronically filed in CM/ECF, one (1) full week prior to the Scheduling Conference and shall be  
20 emailed in Word format to [epgorders@caed.uscourts.gov](mailto:epgorders@caed.uscourts.gov). The Joint Scheduling Report shall  
21 indicate the date, time, and courtroom of the Scheduling Conference. This information is to be  
22 placed opposite the caption on the first page of the Report.

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

- 28 1. Summary of the factual and legal contentions set forth in the pleadings of each

1 party, including the relief sought by any party presently before the Court.

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

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

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

9 5. A complete and detailed discovery plan addressing the following issues and  
10 proposed dates:

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

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2 **Additional Disclosures Related to Electronic Discovery**

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

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

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

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

22 c. Inadvertent Production of Privileged Information: The  
23 parties should confer regarding procedures for inadvertent  
24 production of privileged electronic material, including any  
25 obligations to notify the other party, and procedures for bringing  
26 any disputes promptly to the Court.

27 d. Data Restoration: The parties shall confer regarding whether  
28 or not restoration of deleted information may be necessary, the

1 extent to which restoration of deleted information is needed, and  
2 who will bear the costs of restoration; and the parties shall attempt  
3 to agree whether or not back-up data may be necessary, the extent  
4 to which backup data is needed and who will bear the cost of  
5 obtaining back-up data.

6 6. Dates agreed to by all counsel for:

- 7 a. Filing dispositive pre-trial motions (except motions *in limine* or other trial  
8 motions). The dispositive motion filing deadline shall be at least twelve  
9 (12) weeks prior to the proposed Pre-Trial Conference date, and the  
10 hearing on dispositive motions shall be at least sixty (60) days before the  
11 proposed Pre-trial Conference date.
- 12 b. A Pre-Trial Conference Date.
- 13 c. A Trial date. This date should be at least sixty (60) days after the proposed  
14 Pre-Trial Conference date.

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

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

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

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

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

10          Parties are free to withhold consent or decline magistrate jurisdiction without adverse  
11 substantive consequences.

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

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

16           **Scheduling Order**

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

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

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

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2 **Important Chambers' Information**

3 The parties are directed to the Court's website at [www.caed.uscourts.gov](http://www.caed.uscourts.gov) under **Judges;**  
4 **Grosjean (EPG); Standard Information (in the area entitled "Case Management**  
5 **Procedures")** for specific information regarding Chambers' procedures. Information about law  
6 and motion, scheduling conferences, telephonic appearances, and discovery disputes is provided  
7 at this link.

8 **Sanctions for Failure to Comply**

9 Should counsel or a party appearing pro se fail to appear at the Mandatory Scheduling  
10 Conference, or fail to comply with the directions as set forth above, an ex parte hearing may be  
11 held and contempt sanctions, including monetary sanctions, dismissal, default, or other  
12 appropriate judgment, may be imposed and/or ordered.

13  
14 IT IS SO ORDERED.

15  
16 DATED: October 4, 2017

/s/ ERICA P. GROSJEAN

UNITED STATES MAGISTRATE JUDGE