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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

KENNETH G. BEAVERS,)	Case No.: 1:17-CV-0747- JLT
)	
Plaintiff,	)	SCHEDULING ORDER (Fed. R. Civ. P. 16)
)	
v.	)	Discovery Deadlines:
	)	Initial Disclosures: 6/15/2018 ¹
NEW PENN FINANCIAL, LLC, et al.,	)	Non-Expert: 11/19/2018
	)	Expert: 12/17/2018
Defendants.	)	Mid-Discovery Status Conference:
	)	7/30/2018 at 8:30 a.m.
	)	Non-Dispositive Motion Deadlines:
	)	Filing: 1/28/2019
	)	Hearing: 2/25/2019
	)	Dispositive Motion Deadlines:
	)	Filing: 3/8/2019
	)	Hearing: 4/12/2019
	)	Pre-Trial Conference:
	)	5/20/2019 at 10:00 a.m.
	)	510 19 th Street, Bakersfield, CA
	)	Trial: 7/15/2019 at 8:30 a.m.
	)	510 19 th Street, Bakersfield, CA
	)	Jury trial: 2 days
	)	Settlement Conference: 5/10/2018, 1 p.m.
	)	Robert E. Coyle Federal Courthouse, Fresno, CA,
	)	Courtroom 10

¹ Initial disclosures **SHALL** be made within three weeks of the completion of the settlement conference but no later than June 15, 2018.

1 **I. Date of Scheduling Conference**

2 March 27, 2018.

3 **II. Appearances of Counsel**

4 Plaintiff appeared on his own behalf.

5 Preston Ascherin appeared on behalf of Defendants.

6 **III. Pleading Amendment**

7 The pleadings in this action were settled through motions to dismiss, and Plaintiff's desire to
8 proceed upon a single cause of action. No further amendments to the pleadings are contemplated.

9 **IV. Fictitiously-Named Defendants**

10 All claims as to "Doe" Defendants, including any counterclaims and cross-claims, are hereby

11 **DISMISSED.**

12 **V. Discovery Plan and Cut-Off Date**

13 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)
14 within three weeks of the completion of the settlement conference but no later than **June 15, 2018.**

15 The parties are ordered to complete all discovery pertaining to non-experts on or before
16 **November 19, 2018**, and all discovery pertaining to experts on or before **December 17, 2018.**

17 The parties are directed to disclose all expert witnesses, in writing, on or **November 19, 2018**,
18 and to disclose all rebuttal experts on or before **December 5, 2018**. The written designation of retained
19 and non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C)**
20 **and shall include all information required thereunder**. Failure to designate experts in compliance
21 with this order may result in the Court excluding the testimony or other evidence offered through such
22 experts that are not disclosed pursuant to this order.

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

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

1 A mid-discovery status conference is scheduled for **July 30, 2018** at 8:30 a.m. before the
2 Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510 19th Street, Bakersfield,
3 California. Counsel SHALL file a joint mid-discovery status conference report one week before the
4 conference. Counsel also SHALL lodge the status report via e-mail to JLTorders@caed.uscourts.gov.
5 The joint statement SHALL outline the discovery counsel have completed and that which needs to be
6 completed as well as any impediments to completing the discovery within the deadlines set forth in this
7 order. Counsel may appear via teleconference by dialing (888) 557-8511 and entering Access Code
8 1652736, provided the Magistrate Judge's Courtroom Deputy Clerk receives a written notice of the
9 intent to appear telephonically no later than five court days before the noticed hearing date.

10 **VI. Pre-Trial Motion Schedule**

11 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
12 than **January 28, 2019**, and heard on or before **February 25, 2019**. The Court hears non-dispositive
13 motions at 9:00 a.m. at the United States District Courthouse in Bakersfield, California.

14 **No motion to amend or stipulation to amend the case schedule will be entertained unless it**
15 **is filed at least one week before the first deadline the parties wish to extend.** Likewise, no written
16 discovery motions shall be filed without the prior approval of the assigned Magistrate Judge. A party
17 with a discovery dispute must first confer with the opposing party in a good faith effort to resolve by
18 agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party promptly
19 shall seek a telephonic hearing with all involved parties and the Magistrate Judge. It shall be the
20 obligation of the moving party to arrange and originate the conference call to the court. To schedule
21 this telephonic hearing, the parties are ordered to contact the Courtroom Deputy Clerk, Susan Hall, at
22 (661) 326-6620 or via email at SHall@caed.uscourts.gov. **Counsel must comply with Local Rule 251**
23 **with respect to discovery disputes or the motion will be denied without prejudice and dropped**
24 **from the Court's calendar.**

25 All dispositive pre-trial motions shall be filed no later than **March 8, 2019**, and heard no later
26 than **April 12, 2019**, before the Honorable Jennifer L. Thurston, United States Magistrate Judge, at the
27 United States District Courthouse in Bakersfield, California. In scheduling such motions, **counsel shall**
28 **comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.**

1 **VII. Motions for Summary Judgment or Summary Adjudication**

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

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

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

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

18 **VIII. Pre-Trial Conference**

19 **May 20, 2019**, at 10:00 a.m., located at the United States District Courthouse in Bakersfield,
20 California, before the Honorable Jennifer L. Thurston, United States Magistrate Judge.

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

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

1 **IX. Trial Date**

2 **July 15, 2019**, at 8:30 a.m. at the United States District Courthouse in Bakersfield, California,
3 before the Honorable Jennifer L. Thurston, United States Magistrate Judge.

4 A. This is a jury trial.

5 B. Parties' Estimate of Trial Time: 2 days.

6 C. The parties' attention is directed to Local Rules of Practice for the Eastern District of
7 California, Rule 285.

8 **X. Settlement Conference**

9 A Settlement Conference is scheduled for May 10, 2018 at 1:00 p.m. before Magistrate Judge
10 Erica P. Grosjean, in courtroom 10 of the Robert E. Coyle Federal Building, 2500 Tulare Street,
11 Fresno, California.

12 Unless otherwise permitted in advance by the Court, **the attorneys who will try the case shall**
13 **appear** at the Settlement Conference **with the parties** and the person or persons having **full authority**
14 to negotiate and settle the case **on any reasonable terms**² discussed at the conference. Consideration
15 of settlement is a serious matter that requires preparation prior to the settlement conference. Set forth
16 below are the procedures the Court will employ, absent good cause, in conducting the conference.

17 At least five court days prior to the Settlement Conference, the parties shall submit, directly to
18 Judge Grosjean's chambers by e-mail to EPGOrders@caed.uscourts.gov, a Confidential Settlement
19 Conference Statement. The statement **should not be filed** with the Clerk of the Court **nor served on**
20 **any other party**, although the parties may file a Notice of Lodging of Settlement Conference
21 Statement. Each statement shall be clearly marked "confidential" with the date and time of the
22 Settlement Conference indicated prominently thereon.

23 The Confidential Settlement Conference Statement shall include the following:

24 A. A brief statement of the facts of the case.

25 B. A brief statement of the claims and defenses, i.e., statutory or other grounds upon
26

27 _____
28 ² Insurance carriers, business organizations, and governmental bodies or agencies whose settlement agreements are subject to approval by legislative bodies, executive committees, boards of directors or the like may appear through a representative. To the extent possible, the representative shall have authority, if he or she deems it appropriate, to settle the action on terms consistent with the opposing party's most recent demand.

1 which the claims are founded; a forthright evaluation of the parties' likelihood of
2 prevailing on the claims and defenses; and a description of the major issues in dispute.

3 C. A summary of the proceedings to date.

4 D. An estimate of the cost and time to be expended for further discovery, pretrial and trial.

5 E. The relief sought.

6 F. The party's position on settlement, including present demands and offers and a history
7 of past settlement discussions, offers and demands.

8 **XI. Request for Bifurcation, Appointment of Special Master, or other Techniques to Shorten**
9 **Trial**

10 Not applicable at this time.

11 **XII. Related Matters Pending**

12 There are no pending related matters.

13 **XIII. Compliance with Federal Procedure**

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

19 **XIV. Effect of this Order**

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

25 **The dates set in this Order are considered to be firm and will not be modified absent a**
26 **showing of good cause even if the request to modify is made by stipulation. Stipulations**
27 **extending the deadlines contained herein will not be considered unless they are accompanied by**
28 **affidavits or declarations, and where appropriate attached exhibits, which establish good cause**

1 **for granting the relief requested.**

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

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4 IT IS SO ORDERED.

5 Dated: March 29, 2018

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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