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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PATRICK CAVANAUGH,)	1: 17-CV-0832 - LJO - JLT
)	
Plaintiff,	)	SCHEDULING ORDER ¹ (Fed. R. Civ. P. 16)
)	
v.	)	Pleading Amendment Deadline: 7/30/2018
)	
DONNY YOUNGBLOOD, et al.,	)	Discovery Deadlines:
	)	Initial Disclosures: 5/17/2018
Defendants.	)	Non-Expert: 2/5/2019
	)	Expert: 4/9/2019
	)	Mid-Discovery Status Conference:
	)	10/15/2018 at 8:30 a.m.
)	
	)	Non-Dispositive Motion Deadlines:
	)	Filing: 4/23/2019
	)	Hearing: 5/21/2019
)	
	)	Dispositive Motion Deadlines:
	)	Filing: 6/4/2019
	)	Hearing: 7/16/2019
)	
	)	Settlement Conference:
	)	8/19/2019 at 9:00 a.m.
	)	510 19th Street, Bakersfield, CA
)	
	)	Pre-Trial Conference:
	)	9/10/2019 at 8:30 a.m.
	)	Courtroom 4
)	
	)	Trial: 11/5/2019 at 8:30 a.m.
	)	Courtroom 4
	)	Jury trial: 7-10 days

¹ The dates for the dispositive motion hearing deadline and pre-trial conference differ from those identified during the Scheduling Conference as a result of the reassignment of this case from Judge Drozd to Judge O'Neill.

1 **I. Date of Scheduling Conference**

2 May 3, 2018.

3 **II. Appearances of Counsel**

4 Ken Karan appeared on behalf of Plaintiff.

5 Marshall Fontes appeared on behalf of Defendants Donny Youngblood, Brian Hull, Josh
6 Jennings, and Oscar Fuentez.

7 Lisa Tillman appeared on behalf of Defendants David Fennell, Stirling Price, David Landrum,
8 Christopher Guzman, and Dillion Morgan.

9 **III. Pleading Amendment Deadline**

10 Any requested pleading amendments are ordered to be filed, either through a stipulation or
11 motion to amend, no later than **July 30, 2018**.

12 **IV. 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 on or before **May 17, 2018**.

15 The parties are ordered to complete all discovery pertaining to non-experts on or before
16 **February 5, 2019**, and all discovery pertaining to experts on or before **April 9, 2019**.

17 The parties are directed to disclose all expert witnesses², in writing, on or before **February 19,**
18 **2019**, and to disclose all rebuttal experts on or before **March 19, 2019**. The written designation of
19 retained and non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B),**
20 **and (C) and shall include all information required thereunder**. Failure to designate experts in
21 compliance with this order may result in the Court excluding the testimony or other evidence offered
22 through such 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 _____
28 ² 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 The provisions of Fed. R. Civ. P. 26(e) regarding a party's duty to timely supplement
2 disclosures and responses to discovery requests will be strictly enforced.

3 A mid-discovery status conference is scheduled for **October 15, 2018** at 8:30 a.m. before the
4 Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510 19th Street, Bakersfield,
5 California. Counsel SHALL file a joint mid-discovery status conference report one week before the
6 conference. Counsel also SHALL lodge the status report via e-mail to JLTorders@caed.uscourts.gov.
7 The joint statement SHALL outline the discovery counsel have completed and that which needs to be
8 completed as well as any impediments to completing the discovery within the deadlines set forth in this
9 order. Counsel may appear via teleconference by dialing (888) 557-8511 and entering Access Code
10 1652736, provided the Magistrate Judge's Courtroom Deputy Clerk receives a written notice of the
11 intent to appear telephonically no later than five court days before the noticed hearing date.

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

13 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
14 than **April 23, 2019**, and heard on or before **May 21, 2019**. Non-dispositive motions are heard before
15 the Honorable Jennifer L. Thurston, United States Magistrate Judge at the United States Courthouse in
16 Bakersfield, California.

17 **No motion to amend or stipulation to amend the case schedule will be entertained unless it**
18 **is filed at least one week before the first deadline the parties wish to extend.** Likewise, no written
19 discovery motions shall be filed without the prior approval of the assigned Magistrate Judge. A party
20 with a discovery dispute must first confer with the opposing party in a good faith effort to resolve by
21 agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party promptly
22 shall seek a telephonic hearing with all involved parties and the Magistrate Judge. It shall be the
23 obligation of the moving party to arrange and originate the conference call to the court. To schedule
24 this telephonic hearing, the parties are ordered to contact the Courtroom Deputy Clerk, Susan Hall, at
25 (661) 326-6620 or via email at SHall@caed.uscourts.gov. **Counsel must comply with Local Rule 251**
26 **with respect to discovery disputes or the motion will be denied without prejudice and dropped**
27 **from the Court's calendar.**

28 Counsel may appear and argue non-dispositive motions via teleconference by dialing (888) 557-

1 8511 and entering Access Code 1652736, provided the Magistrate Judge's Courtroom Deputy Clerk
2 receives a written notice of the intent to appear telephonically no later than five court days before the
3 noticed hearing date.

4 All dispositive pre-trial motions shall be filed no later than **June 4, 2019**, and heard no later
5 than **July 16, 2019**, in Courtroom 4 at 8:30 a.m. before the Honorable Lawrence J. O'Neill, United
6 States District Court Judge. In scheduling such motions, **counsel shall comply with Fed. R. Civ. P. 56**
7 **and Local Rules 230 and 260.**

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

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

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

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

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

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

26 **September 10, 2019** at 8:30 a.m. in Courtroom 4 before Judge O'Neill.
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1 The parties are ordered to file a **Joint Pretrial Statement pursuant to Local Rule 281(a)(2)**.
2 The parties are further directed to submit a digital copy of their pretrial statement in Word format,
3 directly to Judge O'Neill's chambers, by email at LJOorders@caed.uscourts.gov.

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

9 **VIII. Trial Date**

10 **November 5, 2019** at 8:30 a.m. in Courtroom 4 before the Honorable Lawrence J. O'Neill,
11 United States District Court Judge.

- 12 A. This is a jury trial.
13 B. Counsels' Estimate of Trial Time: 7-10 days.
14 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
15 California, Rule 285.

16 **IX. Settlement Conference**

17 A Settlement Conference is scheduled for **August 19, 2019** at 9:00 a.m., located at 510 19th
18 Street, Bakersfield, California. Notwithstanding the requirements of Local Rule 270(b), the settlement
19 conference will be conducted by Magistrate Judge Thurston. The Court deems the deviation from the
20 Local Rule to be appropriate and in the interests of the parties and justice and sound case management
21 based upon the location of the parties. **If any party prefers that the settlement conference be**
22 **conducted by a judicial officer who is not assigned to this case, that party is directed to notify the**
23 **Court no later than 60 days in advance of the scheduled settlement conference** to allow sufficient
24 time for another judicial officer to be assigned to handle the conference.

25 Unless otherwise permitted in advance by the Court, **the attorneys who will try the case**
26 **shall appear** at the Settlement Conference **with the parties** and the person or persons having **full**

1 **authority** to negotiate and settle the case **on any reasonable terms**³ discussed at the conference.
2 Consideration of settlement is a serious matter that requires preparation prior to the settlement
3 conference. Set forth below are the procedures the Court will employ, absent good cause, in
4 conducting the conference.

5 **At least 21 days before** the settlement conference, Plaintiff **SHALL** submit to Defendant via
6 fax or e-mail, a written itemization of damages and a meaningful⁴ settlement demand which includes
7 a brief explanation of why such a settlement is appropriate. Thereafter, **no later than 14 days before**
8 the settlement conference, Defendant **SHALL** respond via fax or e-mail, with an acceptance of the
9 offer or with a meaningful counteroffer, which includes a brief explanation of why such a settlement
10 is appropriate.

11 If settlement is not achieved, each party **SHALL** attach copies of their settlement offers to
12 their Confidential Settlement Conference Statement, as described below. Copies of these documents
13 shall not be filed on the court docket.

14 **CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT**

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

21 The Confidential Settlement Conference Statement shall include the following:

- 22 A. A brief statement of the facts of the case.
23 B. A brief statement of the claims and defenses, i.e., statutory or other grounds upon
24 which the claims are founded; a forthright evaluation of the parties' likelihood of
25

26 ³ Insurance carriers, business organizations, and governmental bodies or agencies whose settlement agreements
27 are subject to approval by legislative bodies, executive committees, boards of directors or the like may be represented by
28 a person whose recommendations about settlement are relied upon by the ultimate decision makers.

⁴ "Meaningful" means the offer is reasonably calculated to settle the case on terms acceptable to the offering
party. "Meaningful" does not include an offer which the offering party knows will not be acceptable to the other party.
If, however, the offering party is only willing to offer a settlement which it knows the other party will not accept, this
should trigger a recognition the case is not in a settlement posture and the parties should confer about continuing or
vacating the settlement conference via stipulation.

1 prevailing on the claims and defenses; and a description of the major issues in dispute.

2 C. A summary of the proceedings to date.

3 D. An estimate of the cost and time to be expended for further discovery, pretrial and
4 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 **X. Request for Bifurcation, Appointment of Special Master, or other**
9 **Techniques to Shorten Trial**

10 Not applicable at this time.

11 **XI. Related Matters Pending**

12 There are no pending related matters.

13 **XII. 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 if it is to efficiently
17 handle its increasing case load and sanctions will be imposed for failure to follow both the Federal
18 Rules of Civil Procedure and the Local Rules of Practice for the Eastern District of California.

19 **XIII. 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**

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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.
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5 IT IS SO ORDERED.

6 Dated: May 4, 2018

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