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3 **IN THE UNITED STATES DISTRICT COURT**
4 **EASTERN DISTRICT OF CALIFORNIA**
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6 ROSEANNA PAGE,
7 Plaintiff,

13 v.

21 COUNTY OF MADERA, ET AL.,
22 Defendants.
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CASE NO. 1:17-CV-00849-DAD EPG

SCHEDULING CONFERENCE ORDER

Initial Disclosures: February 23, 2018

Nonexpert
Discovery Cutoff: October 26, 2018

Expert Disclosure: November 16, 2018

Rebuttal
Expert Disclosure: November 30, 2018

Expert
Discovery Cutoff: January 14, 2019

Dispositive Motion
Filing Deadline: March 18, 2019

Settlement Conf.: Not Set

Mid-Discovery Conf: Date: September 10, 2018
Time: 9:30 a.m.
Dept: 10

Pretrial Conf.: Date: July 15, 2019
Time: 1:30 p.m.
Dept: 5

Jury Trial: Date: September 17, 2019
(5-7 day estimate) Time: 1:00 p.m.
Dept: 5

1 This Court conducted a scheduling conference on January 23, 2018. Counsel John Burton
2 telephonically appeared on behalf of Plaintiff. Counsel James Arendt telephonically appeared on
3 behalf of Defendants County of Madera, Madera County Department of Corrections, Madera
4 County Department of Mental Health, Officer V. LeSage, and Officer M. Garrett. Counsel Gary
5 Goyette telephonically appeared on behalf of Defendant Corporal J. Campos. Counsel Jemma
6 Saunders telephonically appeared on behalf of Defendant California Forensic Medical Group, Inc.
7 (CMFG). Pursuant to Fed. R. Civ. P. 16(b), this Court sets a schedule for this action.

8 **I. Amendment To The Parties' Pleadings**

9 The parties shall amend the pleadings by **May 14, 2018**. The parties are advised that the
10 filing of motions and/or stipulations requesting leave to amend the pleadings does not imply good
11 cause to modify the existing schedule. Fed. R. Civ. P. 16 (b) (4); *see also Johnson v. Mammoth*
12 *Recreations, Inc.*, 975 F. 2d 604, 609 (9th Cir. 1992). Moreover, any request for amendment
13 under Fed. R. Civ. P. 15(a) must not be: (1) prejudicial to the opposing party; (2) the product of
14 undue delay; (3) proposed in bad faith; or (4) futile. *See Foman v. Davis*, 371 U.S. 178, 182
15 (1962).

16 **II. Consent To Magistrate Judge**

17 The parties have not consented to Magistrate Judge jurisdiction. Out of fairness, the Court
18 believes it is necessary to forewarn litigants that the Fresno Division of the Eastern District of
19 California now has the heaviest District Court Judge caseload in the entire nation. While the
20 Court will use its best efforts to resolve this case and all other civil cases in a timely manner, the
21 parties are advised that not all of the parties' needs and expectations may be met as expeditiously
22 as desired. As multiple trials are now being set to begin upon the same date, parties may find
23 their case trailing with little notice before the trial begins. The law requires that the Court give
24 any criminal trial priority over civil trials or any other matter. The Court must proceed with a
25 criminal trial even if a civil trial was filed earlier and set for trial first. Continuances of any civil
26 trial under these circumstances will no longer be entertained, absent a specific and stated finding
27 of good cause. All parties should be informed that any civil trial set to begin during the time a
28 criminal trial is proceeding will trail the completion of the criminal trial.

1 The parties are reminded of the availability of United States Magistrate Judge Erica P.
2 Grosjean to conduct all proceedings in this action. A United States Magistrate Judge is available
3 to conduct trials, including entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule
4 of Civil Procedure 73, and Local Rule 305. The same jury pool is used by both United States
5 Magistrate Judges and United States District Court Judges. Any appeal from a judgment entered
6 by a United States Magistrate Judge is taken directly to the United States Court of Appeal for the
7 Ninth Circuit. However, the parties are hereby informed that no substantive rulings or decisions
8 will be affected by whether a party chooses to consent.

9 Finally, the Fresno Division of the Eastern District of California, whenever possible, is
10 utilizing United States Article III District Court Judges from throughout the nation as Visiting
11 Judges. Pursuant to the Local Rules, Appendix A, reassignments will be random, and the parties
12 will receive no advance notice before their case is reassigned to an Article III District Court Judge
13 from outside of the Eastern District of California. Therefore, the parties are directed to consider
14 consenting to Magistrate Judge jurisdiction to conduct all further proceedings, including trial.

15 **III. Fed. R. Civ. P. 26(a)(1)**

16 Initial disclosures shall be exchanged by **February 23, 2018**.

17 **IV. Discovery Cutoffs And Limits**

18 All non-expert discovery shall be completed no later than **October 26, 2018**. Initial
19 expert witness disclosures shall be served no later than **November 16, 2018**. Rebuttal expert
20 witness disclosures shall be served no later than **November 30, 2018**. Such disclosures must **be**
21 **made pursuant to Fed. R. Civ. P. 26(a)(2)(A), (B) and (C), and shall include all information**
22 **required thereunder**. In addition, Fed. R. Civ. P. 26(b)(4) and Fed. R. Civ. P. 26(e) specifically
23 apply to discovery relating to expert witnesses and their opinions. Each expert witness must be
24 fully prepared to be examined on all subjects and opinions included in the disclosures. Failure to
25 comply with these requirements will result in the imposition of appropriate sanctions, including
26 the preclusion of the expert's testimony, or of other evidence offered through the expert.

27 All expert discovery shall be completed no later than **January 14, 2019**. The parties are
28 advised that motions to compel must be filed in advance of the discovery deadlines so that the

1 Court may grant effective relief within the allotted discovery time. A party's failure to have a
2 discovery dispute heard sufficiently in advance of the discovery cutoff may result in denial of the
3 motion as untimely.

4 A Mid-Discovery Status Conference is set for **September 10, 2018, at 9:30 a.m.** in
5 Courtroom 10, before Magistrate Judge Erica P. Grosjean. The parties are directed to file a joint
6 report, of up to five (5) pages, outlining the status of the case, any additional discovery still
7 planned, potential for settlement, and any other issues pending that would benefit from the Court's
8 assistance/direction. The parties shall file the report one full week prior to the conference, and
9 email a copy, in Word format, to epgorders@caed.uscourts.gov. If the parties are appearing
10 telephonically, each party shall dial 1 (888) 251-2909 and enter access code 1024453.

11 **V. Pretrial Motion Schedule**

12 **A. *General Information Regarding Filing Motions***

13 The parties are advised that unless prior leave of the Court is obtained before the filing
14 deadline,¹ *all* moving and opposition briefs or legal memoranda, including joint statements of
15 discovery disputes, filed in civil cases before Magistrate Judge Grosjean, shall not exceed twenty-
16 five (25) pages. Reply briefs by the moving party shall not exceed ten (10) pages. These page
17 limits do not include exhibits. When scheduling motions (other than discovery motions) the
18 parties shall comply with Local Rule 230.

19 Counsel or *pro se* parties may appear and argue motions by telephone, provided a request
20 to so do is made to Michelle Rooney, Magistrate Judge Grosjean's Courtroom Deputy (unless
21 prior permission has been given by the judge), no later than five (5) court days before the noticed
22 hearing date. Requests can be made by emailing Ms. Rooney at mrooney@caed.uscourts.gov. If
23 the parties are appearing telephonically, each party shall dial 1 (888) 251-2909 and enter access
24 code 1024453.

25 **1. *Informal Discovery Conference***

26 In order to file a discovery motion pursuant to Fed. R. Civ. P. 37, a party must receive
27 permission from the Court following an informal telephone conference. A party wishing to

28 ¹ Parties may seek leave through a telephonic conference among all parties and the Court, or by short motion.

1 schedule such a conference should contact chambers to receive available dates. The Court will
2 schedule the conference as soon as possible, taking into consideration the urgency of the issue.
3 Before contacting the Court, the parties must meet and confer by speaking with each other in
4 person, over the telephone, or via video in an attempt to resolve the dispute.

5 Prior to the conference, both parties shall simultaneously submit letters, outlining their
6 respective positions regarding the dispute. The Court will provide the date the letters are due at
7 the time the conference is scheduled. Such letters shall be no longer than three (3) pages single
8 spaced, and may include up to five (5) pages of exhibits. Letters shall be emailed to Magistrate
9 Judge Grosjean's chambers at epgorders@caed.uscourts.gov, and *not* filed on the docket.

10 At the time of conference, the parties shall dial 1 (888) 251-2909 and enter access code
11 1024453. Telephonic conferences will not be on the record and the Court will not issue a formal
12 ruling at that time. Nevertheless, the Court will attempt to provide guidance to the parties to
13 narrow or dispose of the dispute. If no resolution can be reached without formal motion practice,
14 the Court will authorize the filing of a formal discovery motion.

15 **2. Discovery Motions**

16 If a motion is brought pursuant to Fed. R. Civ. P. 37, after receiving permission from the
17 Court, the parties must prepare and file a Joint Statement re: Discovery Disagreement ("Joint
18 Statement") as required by Local Rule 251.² In scheduling such motions, Magistrate Judge
19 Grosjean may grant applications for an order shortening time pursuant to Local Rule 144(e).
20 Motions to shorten time will *only* be granted upon a showing of good cause. If a party does not
21 obtain an order shortening time, the notice of motion must comply with Local Rule 251.

22 A Joint Statement, not to exceed twenty-five (25) pages, must be filed seven (7) calendar
23 days before the scheduled hearing date. Prior to the filing of the Joint Statement, the parties must
24 meet and confer as set forth in Local Rule 251(b). In addition to filing the Joint Statement
25 electronically, a copy of the Joint Statement in Word format must be sent to Magistrate Judge
26 Grosjean's chambers via email to epgorders@caed.uscourts.gov. Courtesy copies for any
27 pleading in excess of twenty-five pages (25) (including exhibits) shall also be delivered to

28 ² Certain limited exceptions from filing the required Joint Statement are outlined in Local Rule 251(e).

1 chambers via US mail, or hand delivery, at the time the Joint Statement is electronically filed.
2 Motions may be removed from the Court's calendar if the Joint Statement is not timely filed, or if
3 courtesy copies are not timely delivered.

4 ***B. Dispositive Motions***

5 All Dispositive Pre-Trial Motions shall be served and filed no later than **March 18, 2019**,
6 and will be heard before District Court Judge Dale A. Drozd. In scheduling such motions, the
7 parties shall comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.

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

9 Prior to filing a motion for summary judgment or motion for summary adjudication, the
10 parties are ordered to meet and confer, in person or by telephone, to discuss the issues to be raised
11 in the motion. **In addition to complying with the requirements of Local Rule 260, the parties**
12 **must prepare a Joint Statement of Undisputed Facts, which identifies all relevant facts**
13 **subject to agreement by all parties.** The moving party is responsible for filing the joint
14 statement. In the notice of motion, the moving party shall certify that the parties have met and
15 conferred as ordered above, or set forth a statement of good cause for the failure to do so.

16 **VI. Settlement Conference**

17 A Settlement Conference has not been set at this time.³ Unless otherwise permitted in
18 advance by the Court, the attorneys who will try the case shall appear at the Settlement
19 Conference. It is recommended that pertinent evidence to be offered at trial, documents or
20 otherwise, be brought to the settlement conference for presentation to the settlement judge.
21 Neither the settlement conference statements nor communications during the settlement
22 conference with the settlement judge can be used by either party in the trial of this case.

23 Absent permission from the Court, in addition to counsel who will try the case being
24 present, the individual parties shall also be present⁴. In the case of corporate parties, associations

25 _____
26 ³ In limited circumstances, the Court will consider a joint request to conduct the settlement conference before
27 Magistrate Judge Grosjean, as long as all parties agree to Waive the Disqualification of Settlement Judge pursuant to
28 Local Rule 270(b). Parties can arrange a telephonic conference if they wish to discuss such a conference.

⁴ In prisoner civil rights cases, a representative from the Attorney General's Office is sufficient as a party
representative.

1 or other entities, and insurance carriers, a representative executive with authority to discuss,
2 consider, propose and agree, or disagree, to any settlement proposal or offer shall also be present.
3 A representative with unlimited authority shall either attend in person or be available by phone
4 throughout the conference. In other words, having settlement authority “up to a certain amount”
5 is not acceptable.

6 **IF ANY PARTY BELIEVES THAT A SETTLEMENT CONFERENCE WOULD**
7 **BE FUTILE, THEN THAT PARTY SHALL CONTACT THE COURT NOT LATER**
8 **THAN SEVENTY-TWO HOURS PRECEDING THE SCHEDULED SETTLEMENT**
9 **CONFERENCE.**

10 ***Confidential Settlement Statements***

11 At least five (5) court days prior to the settlement conference, each party shall submit a
12 Confidential Settlement Conference Statement in Word format directly to the settlement
13 conference judge’s chambers. The statement shall not be filed on the docket or served on any
14 other party. Each statement shall be clearly marked "confidential" with the date and time of the
15 settlement conference clearly noted on the first page. The Confidential Settlement Conference
16 Statement shall include the following:

- 17 A. A brief statement of the facts of the case.
- 18 B. A brief statement of the claims and defenses, i.e., statutory or other grounds
19 upon which the claims are founded; a forthright evaluation of the parties'
20 likelihood of prevailing on the claims and defenses; and a description of the major
21 issues in dispute.
- 22 C. A summary of the proceedings to date.
- 23 D. An estimate of the cost and time to be expended for further discovery, pretrial
24 and trial.
- 25 E. The relief sought.
- 26 F. The party's position on settlement, including present demands and offers and a
27 history of past settlement discussions, offers and demands.

28 The parties shall contact that the designated settlement conference judge’s chambers to

ascertain whether additional settlement conference procedures are required.

VII. Pretrial Conference

The pretrial conference is set for **July 15, 2019, at 1:30 p.m.** in Courtroom 5, before District Court Judge Dale A. Drozd. The parties are directed to file a joint pretrial statement that complies with the requirements of this Court's Local Rule 281. In addition, the joint pretrial statement should include a brief factual summary and an agreed upon neutral statement of the case. An additional copy of the joint pretrial statement, carefully prepared and executed by all counsel, shall be electronically filed in CM/ECF and shall be e-mailed in Word format to Judge Drozd's chambers at dadorders@caed.uscourts.gov.

The parties' attention is directed to this Court's Local Rules 281 and 282. This Court will insist upon strict compliance with these rules. At the pretrial conference, the Court will set deadlines to file motions *in limine*, final witness lists, exhibits, jury instructions, objections, and other trial documents.

VIII. Jury Trial Date

A five to seven (5-7) day jury trial is set for **September 17, 2019, at 1:00 p.m.** in Courtroom 5 before District Court Judge Dale A. Drozd. The parties' attention is directed to this Court's Local Rule 285 for the preparation of trial briefs.

IX. Request for Bifurcation, Appointment of Special Master, or other Techniques to Shorten Trial

The parties have not requested bifurcation at this time.

X. Related Matters Pending

There is no related litigation.

XI. Compliance with Federal Procedures

All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure and the Local Rules of the Eastern District of California and to keep abreast of any amendments thereto. The Court requires strict compliance with these rules. Sanctions will be imposed for failure to follow the rules as provided in both the Federal Rules of Civil Procedure and the Local Rules of the Eastern District of California.

1 **XII. Effect Of This Order**

2 This order represents the Court and the parties' best estimated schedule to complete this
3 case. Any party unable to comply with the dates outlined in this order shall immediately file an
4 appropriate motion or stipulation identifying the requested modification(s).

5 *The dates set in this Order are considered to be firm and will not be modified absent a*
6 *showing of good cause, even if a stipulation to modify is filed.* Stipulations extending the
7 deadlines contained herein will not be considered unless they are accompanied by affidavits or
8 declarations with attached exhibits, where appropriate, that establish good cause for granting the
9 requested relief. Due to the impacted nature of the civil case docket, this Court disfavors requests
10 to modify established dates.

11 Failure to comply with this order shall result in the imposition of sanctions.

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13 IT IS SO ORDERED.

14 Dated: January 24, 2018

15 /s/ Eric P. Gray
16 UNITED STATES MAGISTRATE JUDGE
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