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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SOPHIA BRULEE,) Case No.: 1:17-CV-01434- JLT
)
Plaintiff,) SCHEDULING ORDER (Fed. R. Civ. P. 16)
)
v.) Pleading Amendment Deadline: 4/23/2018
)
MIDVALE INDEMNITY COMPANY, et al.,) Discovery Deadlines:
) Initial Disclosures: 2/16/2018
) Non-Expert: 6/20/2018
) Expert: 8/3/2018
) Mid-Discovery Status Conference:
) 3/26/18 at 9:30 a.m.
)
) Non-Dispositive Motion Deadlines:
) Filing: 8/10/2018
) Hearing: 9/7/2018
)
) Dispositive Motion Deadlines:
) Filing: 9/7/2018
) Hearing: 10/5/2018
)
) Settlement Conference:
) 11/13/2018, 11:00 a.m., Courtroom 7
)
) Pre-Trial Conference:
) 11/9/2018 at 10:00 a.m.
) 510 19th Street, Bakersfield, CA
)
) Trial: 12/10/2018 at 8:30 a.m.
) 510 19th Street, Bakersfield, CA
) Jury trial: 3-5 days

1
2 **I. Date of Scheduling Conference**

3 January 23, 2018.

4 **II. Appearances of Counsel**

5 Michael Marderosian appeared on behalf of Plaintiffs.

6 Heather McKeon appeared on behalf of Defendants.

7 **III. Pleading Amendment Deadline**

8 Any requested pleading amendments are ordered to be filed, either through a stipulation or
9 motion to amend, no later than **April 23, 2018**.

10 **IV. Discovery Plan and Cut-Off Date**

11 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)
12 on or before **February 16, 2018**.

13 The parties are ordered to complete all discovery pertaining to non-experts on or before **June 20,**
14 **2018**, and all discovery pertaining to experts on or before **August 3, 2018**.

15 The parties are directed to disclose all expert witnesses, in writing, on or **June 29, 2018**, and to
16 disclose all rebuttal experts on or before **July 13, 2018**. The written designation of retained and non-
17 retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C) and shall**
18 **include all information required thereunder**. Failure to designate experts in compliance with this
19 order may result in the Court excluding the testimony or other evidence offered through such experts
20 that are not disclosed pursuant to this order.

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

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

27 A mid-discovery status conference is scheduled for **March 26, 2018** at 9:30 a.m. before the
28 Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510 19th Street, Bakersfield,

1 California. Counsel SHALL file a joint mid-discovery status conference report one week before the
2 conference. Counsel also SHALL lodge the status report via e-mail to JLTorders@caed.uscourts.gov.
3 The joint statement SHALL outline the discovery counsel have completed and that which needs to be
4 completed as well as any impediments to completing the discovery within the deadlines set forth in this
5 order. Counsel may appear via teleconference by dialing (888) 557-8511 and entering Access Code
6 1652736, provided the Magistrate Judge's Courtroom Deputy Clerk receives a written notice of the
7 intent to appear telephonically no later than five court days before the noticed hearing date.

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

9 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
10 than **August 10, 2018**, and heard on or before **September 7, 2018**. The Court hears non-dispositive
11 motions at 9:00 a.m. at the United States District Courthouse in Bakersfield, California.

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

23 All dispositive pre-trial motions shall be filed no later than **September 7, 2018**, and heard no
24 later than **October 5, 2018**, before the Honorable Jennifer L. Thurston, United States Magistrate Judge,
25 at the United States District Courthouse in Bakersfield, California. In scheduling such motions,
26 **counsel shall comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.**

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

28 **At least 21 days before** filing a motion for summary judgment or motion for summary

1 adjudication, the parties are **ORDERED** to meet, in person or by telephone, to confer about the issues
2 to be raised in the motion.

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

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

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

16 **VIII. Pre-Trial Conference**

17 **November 9, 2018**, at 10:00 a.m., located at the United States District Courthouse in
18 Bakersfield, California, before the Honorable Jennifer L. Thurston, United States Magistrate Judge.

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

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

27 **IX. Trial Date**

28 **December 10, 2018**, at 8:30 a.m. at the United States District Courthouse in Bakersfield,

1 California, before the Honorable Jennifer L. Thurston, United States Magistrate Judge.

2 A. This is a jury trial.

3 B. Counsels' Estimate of Trial Time: 3-5 days.

4 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
5 California, Rule 285.

6 **X. Settlement Conference**

7 A settlement conference is scheduled before the Honorable Sheila K. Oberto, at 11:00 a.m.,
8 **November 13, 2018**, in courtroom 7, at the Robert E. Coyle Federal Courthouse, 2500 Tulare Street,
9 Fresno, California. Unless otherwise permitted in advance by the Court, **the attorneys who will try**
10 **the case shall appear** at the Settlement Conference **with the parties** and the person or persons having
11 **full authority** to negotiate and settle the case **on terms**¹ discussed at the conference. Consideration of
12 settlement is a serious matter that requires preparation prior to the settlement conference. Set forth
13 below are the procedures the Court will employ, absent good cause, in conducting the conference.

14 **At least 21 days before** the settlement conference, Plaintiff **SHALL** submit to Defendant via
15 fax or e-mail, a written itemization of damages and a meaningful² settlement demand which includes a
16 brief explanation of why such a settlement is appropriate. Thereafter, **no later than 14 days before** the
17 settlement conference, Defendant **SHALL** respond via fax or e-mail with an acceptance of the offer or
18 with a meaningful counteroffer, which includes a brief explanation of why such a settlement is
19 appropriate.

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

24 ¹ Insurance carriers, business organizations, and governmental bodies or agencies whose settlement agreements are
25 subject to approval by legislative bodies, executive committees, boards of directors or the like shall be represented by a
26 person or persons who occupy high executive positions in the party organization and who will be directly involved in the
27 process of approval of any settlement offers or agreements. To the extent possible the representative shall have the
28 authority, if he or she deems it appropriate, to settle the action on terms consistent with the opposing party's most recent
demand.

² "Meaningful" means that 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 the settlement
conference via stipulation.

1 **XIV. Effect of this Order**

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

7 **The dates set in this Order are considered to be firm and will not be modified absent a**
8 **showing of good cause even if the request to modify is made by stipulation.** Stipulations
9 extending the deadlines contained herein will not be considered unless they are accompanied by
10 affidavits or declarations, and where appropriate attached exhibits, which establish good cause
11 for granting the relief requested.

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

13
14 IT IS SO ORDERED.

15 Dated: January 23, 2018

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