

1 **II. Appearances of Counsel**

2 Theresa Rutledge appeared on behalf of Plaintiff.

3 Sark Ohanian appeared on behalf of defendants The Estate of Baljinder Singh, Gursharan Singh
4 and Paramjit Kaur.

5 Kelly Mulrane appeared on behalf of defendants OnKar Transport, Inc., Onkar Trucking, Inc.,
6 Joshi Sangam, Nijar Transport, Inc. and Bristow Logistics, Inc.

7 **III. Magistrate Judge Consent:**

8 **Notice of Congested Docket and Court Policy of Trailing**

9 Due to the District Judges' heavy caseload, the newly adopted policy of the Fresno Division of
10 the Eastern District is to trail all civil cases. The parties are hereby notified that for a trial date set
11 before a District Judge, the parties will trail indefinitely behind any higher priority criminal or older
12 civil case set on the same date until a courtroom becomes available. The trial date will not be reset to a
13 continued date.

14 The Magistrate Judges' availability is far more realistic and accommodating to parties than that
15 of the U.S. District Judges who carry the heaviest caseloads in the nation and who must prioritize
16 criminal and older civil cases over more recently filed civil cases. A United States Magistrate Judge
17 may conduct trials, including entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule of
18 Civil Procedure 73, and Local Rule 305. Any appeal from a judgment entered by a United States
19 Magistrate Judge is taken directly to the United States Court of Appeal for the Ninth Circuit.

20 The Fresno Division of the Eastern District of California, whenever possible, is utilizing United
21 States Article III District Court Judges from throughout the nation as Visiting Judges. Pursuant to the
22 Local Rules, Appendix A, such reassignments will be random, and the parties will receive no advance
23 notice before their case is reassigned to an Article III District Court Judge from outside of the Eastern
24 District of California.

25 The parties are directed to consider consenting to Magistrate Judge jurisdiction to conduct all
26 further proceedings, including trial. **Within 10 days** of the date of this order, counsel for the defendant
27 **SHALL** file a consent/decline form (provided by the Court at the inception of this case) indicating
28 whether they will consent to the jurisdiction of the Magistrate Judge.

1 **IV. Pleading Amendment Deadline**

2 Any requested pleading amendments are ordered to be filed, either through a stipulation or
3 motion to amend, no later than **August 28, 2018**.

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

5 The parties agree that any discovery obtained in the underlying action may be used in this
6 action.

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

9 The parties are ordered to complete all discovery pertaining to non-experts and experts by
10 **December 21, 2018**.

11 The parties are directed to disclose all expert witnesses, in writing, on or before **November 16,**
12 **2018**, and to disclose all rebuttal experts on or before **December 7, 2018**. The written designation of
13 retained and non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B),**
14 **and (C) and shall include all information required thereunder**. Failure to designate experts in
15 compliance with this order may result in the Court excluding the testimony or other evidence offered
16 through such experts that are not disclosed pursuant to this Order.

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

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

23 A mid-discovery status conference is scheduled for **August 10, 2018** at 8:30 a.m. before the
24 Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510 19th Street, Bakersfield,
25 California. Counsel SHALL file a joint mid-discovery status conference report one week before the
26 conference. Counsel also SHALL lodge the status report via e-mail to JLTorders@caed.uscourts.gov.
27 The joint statement SHALL outline the discovery counsel have completed and that which needs to be
28 completed as well as any impediments to completing the discovery within the deadlines set forth in this

1 order. Counsel may appear via teleconference by dialing (888) 557-8511 and entering Access Code
2 1652736, provided the Magistrate Judge's Courtroom Deputy Clerk receives a written notice of the
3 intent to appear telephonically no later than five court days before the noticed hearing date.

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

5 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
6 than **January 18, 2019**, and heard on or before **February 15, 2019**. Non-dispositive motions are heard
7 before the Honorable Jennifer L. Thurston, United States Magistrate Judge at the United States
8 Courthouse in Bakersfield, California.

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

20 Counsel may appear and argue non-dispositive motions via teleconference by dialing (888) 557-
21 8511 and entering Access Code 1652736, provided the Magistrate Judge's Courtroom Deputy Clerk
22 receives a written notice of the intent to appear telephonically no later than five court days before the
23 noticed hearing date.

24 All dispositive pre-trial motions shall be filed no later than **February 28, 2019**, and heard no
25 later than **April 9, 2019**, in Courtroom 4 at 8:30 a.m. before the Honorable Lawrence J. O'Neill, United
26 States District Court Judge. In scheduling such motions, **counsel shall comply with Fed. R. Civ. P. 56**
27 **and Local Rules 230 and 260.**

1 **VII. Motions for Summary Judgment or Summary Adjudication¹**

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 Date**

19 **June 9, 2019** at 8:30 a.m. in Courtroom 4 before Judge O'Neill.

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

23 Counsels' attention is directed to **Rules 281 and 282 of the Local Rules** of Practice for the
24 Eastern District of California, as to the obligations of counsel in preparing for the pre-trial conference.
25 The Court will insist upon strict compliance with those rules.

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¹ The plaintiff is strongly urged to file its motion for summary judgment as soon as practical after the needed discovery is completed.

1 **IX. Trial Date**

2 **July 30, 2019** at 8:30 a.m. in Courtroom 4 before the Honorable Lawrence J. O'Neill, United
3 States District Court Judge.

4 A. This is a bench trial.

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

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

8 **X. Settlement Conference**

9 The parties may jointly request a settlement conference if they believe the case is in a settlement
10 posture.

11 **XI. Request for Bifurcation, Appointment of Special Master, or other**

12 **Techniques to Shorten Trial**

13 Not applicable at this time.

14 **XII. Related Matters Pending**

15 There are no pending related matters.

16 **XIII. Compliance with Federal Procedure**

17 All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure
18 and the Local Rules of Practice of the Eastern District of California, and to keep abreast of any
19 amendments thereto. The Court must insist upon compliance with these Rules if it is to efficiently
20 handle its increasing case load and sanctions will be imposed for failure to follow the Rules as provided
21 in both the Federal Rules of Civil Procedure and the Local Rules of Practice for the Eastern District of
22 California.

23 **XIV. Effect of this Order**

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

