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

STACY ROJAS, et al.,	)	1: 17-CV-01514 - DAD - JLT
	)	
Plaintiff,	)	SCHEDULING ORDER <sup>1</sup> (Fed. R. Civ. P. 16)
	)	
v	)	Pleading Amendment Deadline: 3/1/2022
	)	
EDMUND G. BROWN, JR., et al.,	)	Discovery Deadlines:
	)	Initial Disclosures: 12/1/2021
Defendants.	)	Non-Expert: 9/30/2022
	)	Expert: 12/16/2022
	)	Mid-Discovery Status Conference:
	)	4/15/2022 at 8:30 a.m.
	)	
	)	Non-Dispositive Motion Deadlines:
	)	Filing: 1/10/2023
	)	Hearing: 2/7/2023
	)	
	)	Dispositive Motion Deadlines:
	)	Filing: 2/21/2023
	)	Hearing: 3/21/2023
	)	
	)	Settlement Conference:
	)	2/7/2023 at 10:00 a.m.
	)	510 19th Street, Bakersfield, CA
	)	
	)	Pre-Trial Conference:
	)	7/24/2023 at 1:30 p.m.
	)	Courtroom 5

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<sup>1</sup> The Court found the information provided in the Joint Scheduling Report was sufficient to schedule the matter without a hearing, and the conference with the parties was vacated on November 12, 2021. (Docs. 90, 91.)

1 **I. Magistrate Judge Consent:**

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

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

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

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

18 Therefore, the parties are directed to consider consenting to Magistrate Judge jurisdiction to  
19 conduct all further proceedings, including trial. **Within 10 days** of the date of this order, the parties  
20 **SHALL** file a consent/decline form (provided by the Court at the inception of this case) indicating  
21 whether they will consent to the jurisdiction of the Magistrate Judge.

22 **II. Pleading Amendment Deadline**

23 Any requested pleading amendments are ordered to be filed, either through a stipulation or  
24 motion to amend, no later than **March 1, 2022**. Any motion to amend the pleadings shall be heard by  
25 the Honorable Dale A. Drozd, United States District Court Judge.

26 **III. Discovery Plan and Cut-Off Date**

27 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)  
28 on or before **December 1, 2021**.

1 The parties are ordered to complete all discovery pertaining to non-experts on or before  
2 **September 30, 2022**, and all discovery pertaining to experts on or before **December 16, 2022**.

3 The parties are directed to disclose all expert witnesses<sup>2</sup>, in writing, on or before **October 14,**  
4 **2022**, and to disclose all rebuttal experts on or before **November 15, 2022**. The written designation of  
5 retained and non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B),**  
6 **and (C) and shall include all information required thereunder**. Failure to designate experts in  
7 compliance with this order may result in the Court excluding the testimony or other evidence offered  
8 through such experts that are not disclosed pursuant to this order.

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

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

15 The Court sets a mid-discovery status conference on **April 15, 2022** at 8:30 a.m. before Judge  
16 Thurston, located at 510 19th Street, Bakersfield, California. Counsel SHALL file a joint mid-  
17 discovery status conference report one week before the conference. Counsel also SHALL lodge the  
18 status report via e-mail to JLTorders@caed.uscourts.gov. The joint statement SHALL outline the  
19 discovery counsel have completed and that which needs to be completed as well as any impediments to  
20 completing the discovery within the deadlines set forth in this order. Counsel SHALL discuss  
21 settlement and certify that they have done so. Counsel may appear via teleconference by dialing (888)  
22 557-8511 and entering Access Code 1652736, provided the Magistrate Judge's Courtroom Deputy  
23 Clerk receives a written notice of the intent to appear telephonically no later than five court days before  
24 the noticed hearing date.

25 **IV. Pre-Trial Motion Schedule**

26 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later  
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28 <sup>2</sup> 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 than **January 10, 2023**<sup>3</sup> and heard on or before **February 7, 2023**. Discovery motions are heard before  
2 Judge Thurston at the United States Courthouse in Bakersfield, California. For these hearings, counsel  
3 may appear via teleconference by dialing (888) 557-8511 and entering Access Code 1652736, provided  
4 the Magistrate Judge's Courtroom Deputy Clerk receives a written notice of the intent to appear  
5 telephonically no later than five court days before the noticed hearing date. All other non-dispositive  
6 hearings SHALL be set before Judge Drozd.

7 **No motion to amend or stipulation to amend the case schedule will be entertained unless it**  
8 **is filed at least one week before the first deadline the parties wish to extend.** Likewise, no written  
9 discovery motions shall be filed without the prior approval of the assigned Magistrate Judge. A party  
10 with a discovery dispute must first confer with the opposing party in a good faith effort to resolve by  
11 agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party promptly  
12 shall seek a telephonic hearing with all involved parties and the Magistrate Judge. It shall be the  
13 obligation of the moving party to arrange and originate the conference call to the court. To schedule  
14 this telephonic hearing, the parties are ordered to contact the Courtroom Deputy Clerk, Susan Hall, at  
15 (661) 326-6620 or via email at SHall@caed.uscourts.gov. At least three days before the conference,  
16 counsel SHALL file informal letter briefs detailing their positions. The briefs may not exceed 7 pages,  
17 excluding exhibits. **Counsel must comply with Local Rule 251 with respect to discovery disputes or**  
18 **the motion will be denied without prejudice and dropped from the Court's calendar.**

19 All dispositive pre-trial motions shall be filed no later than **February 21, 2023**, and heard no  
20 later than **March 22, 2023** in Courtroom 5 at 9:30 a.m. before the Honorable Dale A. Drozd, United  
21 States District Court Judge. In scheduling such motions, **counsel shall comply with Fed. R. Civ. P. 56**  
22 **and Local Rules 230 and 260.**

23 **V. Motions for Summary Judgment or Summary Adjudication**

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

27 \_\_\_\_\_  
28 <sup>3</sup> Non-dispositive motions related to non-expert discovery SHALL be filed within a reasonable time of  
discovery of the dispute, but in no event later than 30 days after the expiration of the non-expert discovery  
deadline.

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

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

11 In the notice of motion, the moving party **SHALL** certify that the parties have met and  
12 conferred as ordered above, or set forth a statement of good cause for the failure to meet and confer.

13 **Failure to comply may result in the motion being stricken.**

14 **VI. Pre-Trial Conference Date**

15 **July 24, 2023** at 1:30 p.m. in Courtroom 5 before Judge Drozd.

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

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

24 **VII. Settlement Conference**

25 A settlement conference is scheduled for **February 7, 2023** at 10:00 a.m., before Magistrate  
26 Judge Sheila K. Oberto, located at the Robert E. Coyle Courthouse located at 2500 Tulare Street,  
27 Fresno, California.

28 Unless otherwise permitted in advance by the Court, **the attorneys who will try the case**

1 **shall appear** at the settlement conference **with the parties** and the person or persons having **full**  
2 **authority** to negotiate and settle the case **on any reasonable terms**<sup>4</sup> discussed at the conference.  
3 Each of the participants **SHALL** participate in good faith and in the spirit of compromise. If they  
4 cannot do so, they **SHALL** alert the Court and their opponent, so that the Court can determine  
5 whether the conference should be continued or vacated.

6 Consideration of settlement is a serious matter that requires preparation prior to the settlement  
7 conference. Set forth below are the procedures the Court will employ, absent good cause, in  
8 conducting the conference.

9 **At least 21 days before** the settlement conference, Plaintiff **SHALL** submit to Defendant via  
10 fax or e-mail, a written itemization of damages and a meaningful<sup>5</sup> settlement demand which includes a  
11 brief explanation of why such a settlement is appropriate. Thereafter, **no later than 14 days before** the  
12 settlement conference, Defendant **SHALL** respond, via fax or e-mail, with an acceptance of the offer or  
13 with a meaningful counteroffer which includes a brief explanation of why such a settlement is  
14 appropriate. **The parties SHALL continue to exchange counteroffers until it is no longer**  
15 **productive.**

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

#### 19 **CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT**

20 **At least five court days before** the settlement conference, the parties shall submit, directly to  
21 Judge Oberto's chambers by e-mail to SKOOrders@caed.uscourts.gov, a Confidential Settlement  
22 Conference Statement. The statement **should not be filed** with the Clerk of the Court **nor served on**  
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24 <sup>4</sup> Insurance carriers, business organizations, and governmental bodies or agencies whose settlement  
25 agreements are subject to approval by legislative bodies, executive committees, boards of directors or the like  
26 may be represented by a person whose recommendations about settlement are relied upon by the ultimate  
27 decision makers.

28 <sup>5</sup> "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 or vacating the settlement conference via stipulation.

1 **any other party**, although the parties may file a Notice of Lodging of Settlement Conference  
2 Statement. Each statement shall be clearly marked "confidential" with the date and time of the  
3 Settlement Conference indicated prominently thereon.

4 The Confidential Settlement Conference Statement shall include the following:

- 5 A. A brief statement of the facts of the case.
- 6 B. A brief statement of the claims and defenses, i.e., statutory or other grounds upon which  
7 the claims are founded; a forthright evaluation of the parties' likelihood of prevailing on  
8 the claims and defenses; and a description of the major issues in dispute.
- 9 C. A summary of the proceedings to date.
- 10 D. An estimate of the cost and time to be expended for further discovery, pretrial and trial.
- 11 E. The relief sought.
- 12 F. The party's position on settlement, including present demands and offers and a history  
13 of past settlement discussions, offers and demands.

14 **XIII. Request for Bifurcation, Appointment of Special Master, or other**  
15 **Techniques to Shorten Trial**

16 Not applicable at this time.

17 **IX. Related Matters Pending**

18 There are no pending related matters.

19 **X. Compliance with Federal Procedure**

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

25 **XI. Effect of this Order**

26 The foregoing order represents the best estimate of the court and counsel as to the agenda most  
27 suitable to dispose of this case. The trial date reserved is specifically reserved for this case. If the  
28 parties determine at any time that the schedule outlined in this order cannot be met, counsel are ordered

