

1 **II. Appearances of Counsel**

2 Keith Altman appeared on behalf of Plaintiff.

3 Katherine Merk appeared on behalf of Defendant.

4 **III. Pleading Amendment Deadline**

5 Any requested pleading amendments are ordered to be filed, either through a stipulation or
6 motion to amend, no later than **December 26, 2018**.

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

8 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)
9 on or before **August 17, 2018**.

10 The parties are ordered to complete all discovery, pertaining to non-experts on or before **March**
11 **18, 2019**, and all discovery pertaining to experts on or before **July 1, 2019**.

12 The parties are directed to disclose all expert witnesses, in writing, on or before **April 15, 2019**,
13 and to disclose all rebuttal experts on or before **May 13, 2019**. The written designation of retained and
14 non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C) and**
15 **shall include all information required thereunder**. Failure to designate experts in compliance with
16 this order may result in the Court excluding the testimony or other evidence offered through such
17 experts that are not disclosed pursuant to this order.

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

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

24 A mid-discovery status conference is scheduled for **December 17, 2018** at 8:30 a.m. before
25 Magistrate Judge Jennifer L. Thurston located at 510 19th Street, Bakersfield, California. Counsel
26 SHALL file a joint mid-discovery status conference report one week before the conference. Counsel
27 also SHALL lodge the status report via e-mail to JLTorders@caed.uscourts.gov. The joint statement
28 SHALL outline the discovery counsel have completed and that which needs to be completed as well as

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

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

6 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
7 than **July 22, 2019**, and heard on or before **August 19, 2019**. Non-dispositive motions are heard before
8 the Honorable Jennifer L. Thurston, United States Magistrate Judge at the United States Courthouse in
9 Bakersfield, California.

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

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

25 All dispositive pre-trial motions shall be filed no later than **September 6, 2019**, and heard no
26 later than **October 22, 2019**, in Courtroom 4 at 8:30 a.m. before the Honorable Lawrence J. O'Neill,
27 United States District Court Judge. In scheduling such motions, **counsel shall comply with Fed. R.**
28 **Civ. P. 56 and Local Rules 230 and 260.**

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

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
16 conferred as ordered above, or set forth a statement of good cause for the failure to meet and confer.

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

18 **VII. Motion for class certification**

19 The motion for class certification **SHALL** be filed no later than **December 16, 2019**.
20 Opposition to the motion **SHALL** be filed no later than **January 27, 2020**. Neither the motion nor the
21 opposition **SHALL** exceed 30 pages, exclusive of evidence and evidentiary objections, unless leave
22 is granted by the Court prior to the filing. Any reply **SHALL** be filed no later than **February 24,**
23 **2020**, and shall not exceed 15 pages, exclusive of evidentiary objections.

24 Any objections to the evidence **SHALL** be filed at the same time as the opposition (for
25 Defendant) and the reply (for Plaintiff).¹ A hard-copy, courtesy copy of all filings related to the
26 class motion **SHALL** be sent via overnight mail to the Chambers of Judge Thurston at the same
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¹ No motions to strike evidence will be entertained. If the Court sustains an objection to a piece of evidence, the evidence will not be considered.

1 time the filing is submitted. All of the pages of evidence in the hard copy **SHALL** be numbered,
2 tabbed and indexed.

3 The hearing on the motion for class certification is set on **March 16, 2020**, at 9:30 a.m. before
4 Magistrate Judge Jennifer L. Thurston located at 510 19th Street, Bakersfield, California.

5 **VIII. Further Scheduling Conference**

6 **June 13, 2020**, at 8:30 a.m. before Magistrate Judge Jennifer L. Thurston located at 510 19th
7 Street, Bakersfield, California.

8 Counsel SHALL file a joint further scheduling conference report one week before the
9 conference. Counsel also SHALL lodge the status report via e-mail to JLTorders@caed.uscourts.gov.
10 The joint report SHALL outline any further discovery needed and propose dates for the pretrial
11 conference and trial. Counsel may appear via teleconference by dialing (888) 557-8511 and entering
12 Access Code 1652736, provided the Magistrate Judge's Courtroom Deputy Clerk receives a written
13 notice of the intent to appear telephonically no later than five court days before the noticed hearing
14 date.

15 **IX. Settlement Conference**

16 If the parties believe the action is in a settlement posture and a conference with the Court would
17 be fruitful, the parties may file a joint written request for a settlement posture, including proposed dates
18 for the conference.

19 Notwithstanding the requirements of Local Rule 270(b), the settlement conference will be
20 conducted by Magistrate Judge Thurston. The Court deems the deviation from the Local Rule to be
21 appropriate and in the interests of the parties and justice and sound case management based upon the
22 location of the parties. **If any party prefers that the settlement conference be conducted by a**
23 **judicial officer who is not assigned to this case, that party is directed to notify the Court no later**
24 **than 60 days in advance of the proposed settlement conference** to allow sufficient time for another
25 judicial officer to be assigned to handle the conference.

26 **X. Request for Bifurcation, Appointment of Special Master, or other**
27 **Techniques to Shorten Trial**

28 Not applicable at this time.

1 **XI. Related Matters Pending**

2 There are no pending related matters.

3 **XII. Compliance with Federal Procedure**

4 All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure
5 and the Local Rules of Practice of the Eastern District of California, and to keep abreast of any
6 amendments thereto. The Court must insist upon compliance with these Rules if it is to efficiently
7 handle its increasing case load and sanctions will be imposed for failure to follow both the Federal
8 Rules of Civil Procedure and the Local Rules of Practice for the Eastern District of California.

9 **XIII. Effect of this Order**

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

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

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

21
22 IT IS SO ORDERED.

23 Dated: July 19, 2018

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