

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GENERAL INSURANCE COMPANY OF
 AMERICA,

Plaintiff,

v.

WHIRLPOOL CORPORATION,

Defendant.

Case No.: 1:21-CV-01306-JLT

SCHEDULING ORDER (Fed. R. Civ. P. 16)

Discovery Deadlines:

Initial Disclosures: 12/17/2021

Non-Expert: 5/18/2022

Expert: 7/29/2022

Mid-Discovery Status Conference:
 2/18/2022 at 8:30 a.m.

Non-Dispositive Motion Deadlines:

Filing: 8/12/2022

Hearing: 9/9/2022

Dispositive Motion Deadlines:

Filing: 10/7/2022

Hearing: 11/4/2022

Pre-Trial Conference:

12/16/2022 at 10:00 a.m.

510 19th Street, Bakersfield, CA

Trial: 1/30/2023 at 8:30 a.m.

510 19th Street, Bakersfield, CA

I. Discovery Plan and Cut-Off Date

The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1) on or before **December 17, 2021**.

1 The parties are ordered to complete all discovery pertaining to non-experts on or before **May 18,**
2 **2022**, and all discovery pertaining to experts on or before **July 29, 2022**.

3 The parties are directed to disclose all expert witnesses, in writing, on or **June 1, 2022**, and to
4 disclose all rebuttal experts on or before **June 29, 2022**. The written designation of retained and non-
5 retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C) and shall**
6 **include all information required thereunder**. Failure to designate experts in compliance with this
7 order may result in the Court excluding the testimony or other evidence offered through such experts
8 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 A mid-discovery status conference is scheduled for February 18, 2022 at 8:30 a.m. before Judge
16 Thurston at 510 19th Street, Bakersfield, California. Counsel SHALL file a joint mid-discovery status
17 conference report one week before the conference. Counsel also SHALL lodge the status report via e-
18 mail to JLTorders@caed.uscourts.gov. The joint statement SHALL outline the discovery counsel have
19 completed and that which needs to be completed as well as any impediments to completing the
20 discovery within the deadlines set forth in this order. Counsel SHALL discuss settlement and certify
21 that they have done so. Counsel may appear via teleconference by dialing (888) 557-8511 and entering
22 Access Code 1652736, provided the Magistrate Judge's Courtroom Deputy Clerk receives a written
23 notice of the intent to appear telephonically no later than five court days before the noticed hearing
24 date.

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

26 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
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1 than **August 12, 2022¹**, and heard on or before **September 9, 2022**. The Court hears non-dispositive
2 motions at 9:00 a.m. at the United States District Courthouse in Bakersfield, California.

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

15 All dispositive pre-trial motions shall be filed no later than **October 7, 2022**, and heard no later
16 than **November 4, 2022**, before the Honorable Jennifer L. Thurston, United States Magistrate Judge, at
17 the United States District Courthouse in Bakersfield, California. In scheduling such motions, **counsel**
18 **shall comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.**

19 **III. Motions for Summary Judgment or Summary Adjudication**

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

23 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a
24 question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole
25 or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the
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27 ¹ Non-dispositive motions related to non-expert discovery SHALL be filed within a reasonable time of
28 discovery of the dispute, but in no event later than 30 days after the expiration of the non-expert discovery
deadline.

1 issues for review by the court; 5) explore the possibility of settlement before the parties incur the
2 expense of briefing a motion; and 6) to develop a joint statement of undisputed facts.

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

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

11 **IV. Pre-Trial Conference**

12 **December 16, 2022**, at 10:00 a.m., located at the United States District Courthouse in
13 Bakersfield, California, before the Honorable Jennifer L. Thurston, United States Magistrate Judge.

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

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

22 **V. Trial Date**

23 **January 30, 2023**, at 8:30 a.m. at the United States District Courthouse in Bakersfield,
24 California, before the Honorable Jennifer L. Thurston, United States Magistrate Judge.

25 A. This is a jury trial.

26 B. Estimate of Trial Time: 5 days

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

1 **VI. Settlement Conference**

2 If the parties desire a conference with the Court, they may file a joint written request for a
3 settlement conference. Alternatively, the parties may file a joint written request for referral to the
4 Court's Voluntary Dispute Resolution Program.

5 **VII. Request for Bifurcation, Appointment of Special Master, or other Techniques to Shorten**
6 **Trial**

7 Not applicable at this time.

8 **VIII. Related Matters Pending**

9 There are no pending related matters.

10 **IX. Compliance with Federal Procedure**

11 All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure
12 and the Local Rules of Practice of the Eastern District of California, and to keep abreast of any
13 amendments thereto. The Court must insist upon compliance with these Rules to efficiently handle its
14 increasing case load, and sanctions will be imposed for failure to follow both the Federal Rules of Civil
15 Procedure and the Local Rules of Practice for the Eastern District of California.

16 **X. Effect of this Order**

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

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

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

IT IS SO ORDERED.

Dated: November 18, 2021 /s/ Jennifer L. Thurston
CHIEF UNITED STATES MAGISTRATE JUDGE