



1 Disabilities Act (“ADA”); (2) disability retaliation under the ADA; (3) religious discrimination and  
2 harassment under Title VII of the Civil Rights Act of 1964 (“Title VII”); and (4) Title VII religious  
3 retaliation and harassment. Plaintiff also asserts the following state law causes of action: (5) disparate  
4 treatment discrimination on basis of disability in violation of California’s Fair Employment and  
5 Housing Act (“FEHA”); (6) disability retaliation in violation FEHA; (7) failure to provide reasonable  
6 accommodation in violation of FEHA; (8) failure to engage in a good faith interactive process in  
7 violation of FEHA; (9) retaliation in violation of Labor Code §1102.5; (10) discrimination on the basis  
8 of religious creed in violation of FEHA; (11) religious retaliation in violation of FEHA; (12) hostile  
9 work environment in violation of FEHA; and (12) intentional infliction of emotional distress.

10 The parties convened via Zoom videoconference for a scheduling conference before Magistrate  
11 Judge Christopher D. Baker on June 5, 2024. Amber Derham appeared on behalf of Plaintiff.  
12 Michael Lehman appeared on behalf of Defendants.

13 **I. Magistrate Judge Consent**

14 Currently there is no joint consent to Magistrate Judge jurisdiction.

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

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

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

26 Therefore, the parties are directed to consider consenting to Magistrate Judge jurisdiction to  
27 conduct all further proceedings, including trial, and to file a consent/decline form (provided by the  
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1 Court at the inception of this case) indicating whether they will consent to the jurisdiction of the  
2 Magistrate Judge.

3 **II. Pleading Amendment**

4 Any motions to amend the pleadings, including to add or substitute parties (including Doe  
5 defendants) and/or allegations and claims, must be filed by **August 19, 2024**. Filing a motion and/or  
6 stipulation requesting leave to amend the pleadings does not reflect on the propriety of the amendment  
7 or imply good cause to modify the existing schedule, if necessary. All proposed amendments must  
8 (A) be supported by good cause pursuant to Fed. R. Civ. P. 16(b) if the amendment requires any  
9 modification to the existing schedule, *see Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609  
10 (9th Cir. 1992), and (B) establish, under Fed. R. Civ. P. 15(a), that such an amendment is not (1)  
11 prejudicial to the opposing party, (2) the product of undue delay, (3) proposed in bad faith, or (4)  
12 futile, *see Foman v. Davis*, 371 U.S. 178, 182 (1962).

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

14 The parties shall exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1) by no  
15 later than **June 19, 2024**.

16 The parties are ordered to complete all discovery pertaining to non-experts on or before  
17 **December 9, 2024**, and all discovery pertaining to experts on or before **February 21, 2025**.

18 The parties are directed to disclose all expert witnesses<sup>1</sup>, in writing, on or before **January 10,**  
19 **2025**, and to disclose all rebuttal experts on or before **January 24, 2025**. The written designation of  
20 retained and non-retained experts shall be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B),  
21 and (C) and shall include all information required thereunder. Failure to designate experts in  
22 compliance with this order may result in the Court excluding the testimony or other evidence offered  
23 through such experts that are not disclosed pursuant to this order.

24 The provisions of Fed. R. Civ. P. 26(b)(4) and (5) shall apply to all discovery relating to  
25 experts and their opinions. Experts must be fully prepared to be examined on all subjects and opinions  
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<sup>1</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 included in the designation. Failure to comply will result in the imposition of sanctions, which may  
2 include striking the expert designation and preclusion of expert testimony.

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

5 A mid-discovery status conference is scheduled for **October 28, 2024**, at 9:30 a.m. before  
6 Judge Baker. Counsel SHALL file a joint mid-discovery status conference report no later than one  
7 week before the conference. Counsel also SHALL lodge the joint status report via e-mail to  
8 CDBorders@caed.uscourts.gov. The joint status report SHALL outline the discovery counsel have  
9 completed and that which needs to be completed as well as any impediments to completing the  
10 discovery within the deadlines set forth in this order. Counsel SHALL discuss settlement and certify  
11 in the joint status report (1) that they have met/conferred regarding settlement, and (2) proposed dates  
12 for convening a settlement conference before a U.S. Magistrate Judge.

13 **IV. Pre-Trial Motion Schedule / Informal Discovery Dispute Conferences**

14 All non-dispositive pre-trial motions, including any discovery motions, shall be filed by  
15 **March 7, 2025**, and heard on or before **April 11, 2025**. For these hearings and at the direction of the  
16 Courtroom Deputy Clerk, the Court may direct counsel to appear remotely (via Zoom). For hearings  
17 noticed to occur in-person, the Court may permit counsel to appear remotely (via Zoom) provided the  
18 Courtroom Deputy Clerk receives a written notice of the request to appear remotely no later than five  
19 court days before the noticed hearing date.

20 No motion to amend or stipulation to amend the case schedule will be entertained unless it is  
21 filed at least three days before the first deadline the parties wish to extend.

22 No written discovery motions shall be filed without the prior approval of Judge Baker. A  
23 party with a discovery dispute must first confer with the opposing party in a good faith effort to  
24 resolve by agreement the issues in dispute. If that good faith effort is unsuccessful, prior to making  
25 any filing, the requesting party promptly shall seek a conference with all involved parties and Judge  
26 Baker. To schedule this conference, the parties should contact the Courtroom Deputy Clerk, Susan  
27 Hall, at (661) 326-6620 or via email at [SHall@caed.uscourts.gov](mailto:SHall@caed.uscourts.gov). At least two days before the  
28 conference, counsel shall file a joint, informal letter brief detailing each party's position. Each party's

1 narrative shall not exceed five pages, excluding exhibits, and shall cite relevant authority in support of  
2 the party's position. At the commencement of the conference, if the parties jointly agree to Judge  
3 Baker's consideration and resolution of the discovery disputes outside the formal Local Rule 251  
4 procedures, the Court will entertain arguments by the parties and issue a written ruling. If the parties  
5 do not jointly agree to the informal discovery dispute resolution procedures set forth herein, the  
6 requesting party may then seek relief through motion to compel. Counsel must comply with Local  
7 Rule 251 with respect to discovery disputes and certify their compliance in any discovery motion.

8 All dispositive pre-trial motions shall be filed no later than **April 25, 2025**, and heard on **June**  
9 **10, 2025, at 8:30 a.m.** In scheduling such motions, absent consent to Magistrate Judge jurisdiction,  
10 counsel SHALL consult the assigned District Judge's general information and calendar accordingly  
11 and SHALL comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.

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

13 At least 21 days before filing a motion for summary judgment or motion for summary  
14 adjudication, the parties SHALL meet, in person or by telephone, to confer about the issues to be  
15 raised in the motion.

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

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

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

1 **VI. Pre-Trial Conference**

2 **August 11, 2025**, at 1:30 p.m., located at the United States District Courthouse, 2500 Tulare  
3 Street, in Fresno, California, before District Judge Jennifer L. Thurston.

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

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

12 **VII. Trial Date**

13 **October 7, 2025**, at 8:30 a.m., located at the United States District Courthouse, 2500 Tulare  
14 Street, in Fresno, California, before District Judge Jennifer L. Thurston.

15 A. This is a jury trial.

16 B. Counsels’ Estimate of Trial Time: 7 days.

17 C. Counsels’ attention is directed to Local Rules of Practice for the Eastern District of  
18 California, Rule 285.

19 **VIII. Settlement Conference**

20 The parties SHALL meet and confer and notify the Court prior to the Pre-Trial Conference  
21 whether they wish to convene a Settlement Conference. In the event the parties request a Settlement  
22 Conference, unless otherwise permitted in advance by the Court, the attorneys who will try the case  
23 shall appear at the settlement conference with the parties and the person or persons having full  
24 authority to negotiate and settle the case on any terms<sup>2</sup> at the conference.

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26 <sup>2</sup> Insurance carriers, business organizations, and governmental bodies or agencies whose  
27 settlement agreements are subject to approval by legislative bodies, executive committees, boards of  
28 directors or the like shall be represented by a person or persons who occupy high executive positions in  
the party organization and who will be directly involved in the process of approval of any settlement  
offers or agreements. To the extent possible, the representative shall have authority, if he or she deems  
it appropriate, to settle the action on terms consistent with the opposing party’s most recent demand.

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

4 At least twenty-one days before the settlement conference, Plaintiff SHALL submit to  
5 Defendant via fax or e-mail, a written itemization of damages and a meaningful<sup>3</sup> settlement demand  
6 which includes a brief explanation of why such a settlement is appropriate. Thereafter, no later than  
7 fourteen days before the settlement conference, Defendant SHALL respond, via fax or e-mail, with an  
8 acceptance of the offer or with a meaningful counteroffer which includes a brief explanation of why  
9 such a settlement is appropriate.

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

13 CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT

14 At least five court days prior to the settlement conference, the parties shall submit, directly to  
15 Judge Baker's chambers by e-mail to CDBOrders@caed.uscourts.gov, a Confidential Settlement  
16 Conference Statement. The statement should not be filed with the Clerk of the Court nor served on  
17 any other party, although the parties may file a Notice of Lodging of Settlement Conference  
18 Statement. Each statement shall be clearly marked "confidential" with the date and time of the  
19 settlement conference indicated prominently thereon.

20 The Confidential Settlement Conference Statement shall include the following:

- 21 A. A brief statement of the facts of the case.  
22 B. A brief statement of the claims and defenses, i.e., statutory or other grounds upon  
23 which the claims are founded; a forthright evaluation of the parties' likelihood of prevailing on the  
24 claims and defenses; and a description of the major issues in dispute.

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26 <sup>3</sup> "Meaningful" means the offer is reasonably calculated to settle the case on terms acceptable to  
27 the offering party. "Meaningful" does not include an offer which the offering party knows will not be  
28 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.

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- C. A summary of the proceedings to date.
- D. An estimate of the cost and time to be expended for further discovery, pretrial and trial.
- E. The relief sought.
- F. The party's position on settlement, including present demands and offers and a history of past settlement discussions, offers and demands.

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

None at this time.

**X. Related Matters Pending**

There are no pending related matters.

**XI. Compliance with Federal Procedure**

All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure and the Local Rules of the Eastern District of California, and to keep abreast of any amendments thereto. The Court requires compliance with these Rules to efficiently handle its increasing case load.

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1 **XII. 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  
5 ordered to notify the court immediately of that fact so that adjustments may be made, either by  
6 stipulation or by 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 IT IS SO ORDERED.

14 Dated: June 5, 2024

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17 UNITED STATES MAGISTRATE JUDGE  
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