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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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CHARLES H. LEWIS and JANE W. LEWIS, NO. CIV. 2:03-2646 WBS GGH

Plaintiffs,

v.

ROBERT D. RUSSELL; IRENE RUSSELL; BEN J. NEWITT; the Estate of PHILLIP NEWITT, Deceased; JUNG HANG SUH; SOO JUNG SUH; JUNG K. SEO; THE DAVIS CENTER, LLC; MELVIN R. STOVER, individually and as trustee of the Stover Family Trust; EMILY A. STOVER, individually and as trustee of the Stover Family Trust; STOVER FAMILY TRUST; RICHARD ALBERT STINCHFIELD, individually and as successor trustee of the Robert S. Stinchfield Separate Property Revocable Trust, and as trustee of the Barbara Ellen Stinchfield Testamentary Trust; ROBERT S. STINCHFIELD SEPARATE PROPERTY REVOCABLE TRUST; THE BARBARA ELLEN STINCHFIELD TESTAMENTARY TRUST; WORKROOM SUPPLY, INC., a California corporation; SAFETY-KLEEN CORPORATION,

1 California corporation; the
2 CITY OF DAVIS; JENSEN
3 MANUFACTURING COMPANY; VIC
4 MANUFACTURING COMPANY; MARTIN
5 FRANCHISES INC., aka/dba
6 MARTINIZING DRY CLEANING,

7 Defendants,

8 _____/
9 AND RELATED COUNTER-, CROSS-,
10 AND THIRD-PARTY CLAIMS.
11 _____/

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13 STATUS (PRETRIAL SCHEDULING) ORDER

14 After reviewing the parties' Joint Status Report, the
15 court hereby vacates the Status (Pretrial Scheduling) Conference
16 scheduled for April 18, 2011.

17 I. SERVICE OF PROCESS

18 With the exception of cross-defendant Jensen
19 Manufacturing Company--which the parties believe has dissolved
20 and filed Chapter 7 Bankruptcy--all named defendants and third-
21 party defendants have been served and no further service is
22 permitted without leave of court, good cause having been shown
23 under Federal Rule of Civil Procedure 16(b).

24 II. JOINER OF PARTIES/AMENDMENTS

25 No further joinder of parties or amendments to
26 pleadings will be permitted except with leave of court, good
27 cause having been shown under Federal Rule of Civil Procedure
28 16(b). See Johnson v. Mammoth Recreations, Inc., 975 F.2d 604
(9th Cir. 1992).

III. JURISDICTION/VENUE

Jurisdiction is predicated upon federal question

1 jurisdiction, 28 U.S.C. § 1331, because plaintiffs have brought
2 claims under the Comprehensive Environmental Response,
3 Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601-
4 9675. Venue is found to be proper because the events giving rise
5 to plaintiffs' claims occurred in this district. 28 U.S.C. §
6 1391(b).

7 IV. DISCOVERY¹

8 Initial disclosures as required by Federal Rule of
9 Civil Procedure 26(a)(1) having been made before the case was
10 stayed, the parties shall serve supplemental or amended
11 disclosures by no later than April 29, 2011.

12 The parties shall disclose experts and produce reports
13 in accordance with Federal Rule of Civil Procedure 26(a)(2) by no
14 later than September 13, 2013. With regard to expert testimony
15 intended solely for rebuttal, those experts shall be disclosed
16 and reports produced in accordance with Federal Rule of Civil
17 Procedure 26(a)(2) on or before November 15, 2013.

18 All discovery, including depositions for preservation
19 of testimony, is left open, save and except that it shall be so
20 conducted as to be completed by March 21, 2014. The word
21 "completed" means that all discovery shall have been conducted so
22 that all depositions have been taken and any disputes relevant to
23

24 ¹ The court declines the parties' suggestion to simply
25 set a further status conference for November due the complexity
26 of the case (and the fact that despite commencing in 2003, the
27 case has been stayed for most of its life). Instead, the court
28 has given the parties. Those dates go through 2014, which gives
the parties more time than should be necessary to get this case
ready for trial. There is no reason to grant defendant Vic
Manufacturing Company's request to stay discovery until after it
moves for judgment on the pleadings.

1 discovery shall have been resolved by appropriate order if
2 necessary and, where discovery has been ordered, the order has
3 been obeyed. All motions to compel discovery must be noticed on
4 the magistrate judge's calendar in accordance with the local
5 rules of this court and so that such motions may be heard (and
6 any resulting orders obeyed) not later than March 21, 2014.

7 V. MOTION HEARING SCHEDULE

8 All motions, except motions for continuances, temporary
9 restraining orders, or other emergency applications, shall be
10 filed on or before May 23, 2014. All motions shall be noticed
11 for the next available hearing date. Counsel are cautioned to
12 refer to the local rules regarding the requirements for noticing
13 and opposing such motions on the court's regularly scheduled law
14 and motion calendar.

15 VI. FINAL PRETRIAL CONFERENCE

16 The Final Pretrial Conference is set for July 21, 2014,
17 at 2:00 p.m. in Courtroom No. 5. The conference shall be
18 attended by at least one of the attorneys who will conduct the
19 trial for each of the parties and by any unrepresented parties.

20 Counsel for all parties are to be fully prepared for
21 trial at the time of the Pretrial Conference, with no matters
22 remaining to be accomplished except production of witnesses for
23 oral testimony. Counsel shall file separate pretrial statements,
24 and are referred to Local Rules 281 and 282 relating to the
25 contents of and time for filing those statements. In addition to
26 those subjects listed in Local Rule 281(b), the parties are to
27 provide the court with: (1) a plain, concise statement which
28 identifies every non-discovery motion which has been made to the

1 court, and its resolution; (2) a list of the remaining claims as
2 against each defendant; and (3) the estimated number of trial
3 days.

4 In providing the plain, concise statements of
5 undisputed facts and disputed factual issues contemplated by
6 Local Rule 281(b)(3)-(4), the parties shall emphasize the claims
7 that remain at issue, and any remaining affirmatively pled
8 defenses thereto. If the case is to be tried to a jury, the
9 parties shall also prepare a succinct statement of the case,
10 which is appropriate for the court to read to the jury.

11 VII. TRIAL SETTING

12 The jury trial is set for September 16, 2014, at 9:00
13 a.m. The parties estimate that the trial will last sixty court
14 days.

15 VIII. SETTLEMENT CONFERENCE

16 A Settlement Conference will be set at the time of the
17 Pretrial Conference. All parties should be prepared to advise
18 the court whether they will stipulate to the trial judge acting
19 as settlement judge and waive disqualification by virtue thereof.

20 Counsel are instructed to have a principal with full
21 settlement authority present at the Settlement Conference or to
22 be fully authorized to settle the matter on any terms. At least
23 seven calendar days before the Settlement Conference counsel for
24 each party shall submit a confidential Settlement Conference
25 Statement for review by the settlement judge. If the settlement
26 judge is not the trial judge, the Settlement Conference
27 Statements shall not be filed and will not otherwise be disclosed
28 to the trial judge.

1 IX. MODIFICATIONS TO SCHEDULING ORDER

2 Any requests to modify the dates or terms of this
3 Scheduling Order, except requests to change the date of the
4 trial, may be heard and decided by the assigned Magistrate Judge.
5 All requests to change the trial date shall be heard and decided
6 only by the undersigned judge.

7 DATED: April 14, 2011

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9 WILLIAM B. SHUBB
10 UNITED STATES DISTRICT JUDGE
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