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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSE MANUEL PEREZ,

Plaintiff,

v.

D.K. SISTO; et al.,

Defendants.

NO. CIV. S-06-2090 KJM-GGH-P

FINAL PRETRIAL ORDER

On November 30, 2011, the court conducted a final pretrial conference. Plaintiff appeared pro se via video-conference and Van Kamberian appeared for defendants. After hearing, and good cause appearing, the court makes the following findings and orders:

PRETRIAL ORDER

The court hereby adopts the pretrial order issued by the magistrate judge on August 25, 2011 (ECF 95), except page 15 lines 3 to 4, and the addendum to the pretrial order issued on September 29, 2011 (ECF 98).

JURY/NON-JURY

Trial will be by jury.

POINTS OF LAW

The parties shall brief the elements, standards and burden of proof of the claims presented by plaintiff under the applicable constitutional amendment, statutes and regulations.

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1 Trial briefs shall be filed with this court no later than **February 13, 2012**, fourteen days prior to
2 the date of trial in accordance with Local Rule 285.

3 EXHIBITS, SCHEDULES AND SUMMARIES

4 Plaintiff's exhibits are identified in the pretrial order and the court has copies
5 which plaintiff submitted on September 12, 2011. (ECF 97.) At trial, plaintiff's exhibits shall be
6 listed numerically

7 Defendants' exhibits are identified in the pretrial order. At trial, defendants'
8 exhibits shall be listed alphabetically.

9 The court encourages the parties to generate a joint exhibit list to the extent
10 possible. Joint Exhibits shall be identified as JX and listed numerically, e.g., JX-1, JX-2.

11 All exhibits must be premarked.

12 The parties must prepare exhibit binders for use by the court at trial, with a side
13 tab identifying each exhibit in accordance with the specifications above. Each binder shall have
14 an identification label on the front and spine.

15 The parties have exchanged their exhibits. Any objections to exhibits are due no
16 later than fourteen days before trial. No other exhibits will be permitted except as set forth in the
17 pretrial order.

18 DISCOVERY DOCUMENTS

19 The parties must lodge the sealed original copy of any deposition to be used at
20 trial with the Clerk of the Court and provide a copy for the court's use no later than fourteen
21 days before trial.

22 ESTIMATED TIME OF TRIAL/TRIAL DATE

23 Jury trial is set for **February 27, 2012** at 1:30 p.m. in Courtroom Three before the
24 Honorable Kimberly J. Mueller. Trial is anticipated to last two days. The parties are directed to
25 Judge Mueller's trial schedule outlined at the "other calendaring information" link above her
26 calendar on the court's website; a copy of this information will be provided to plaintiff by mail.

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1 MOTIONS IN LIMINE

2 Motions in limine must be filed by **February 13, 2012**. Any oppositions shall be
3 filed by **February 21, 2012**.

4 PROPOSED JURY VOIR DIRE AND PROPOSED JURY INSTRUCTIONS

5 The court directs the parties to meet and confer in an attempt to generate a joint
6 set of jury instructions and verdicts. The parties shall file any such joint set of instructions
7 fourteen days before trial, identified as “Jury Instructions and Verdicts Without Objection.” To
8 the extent the parties are unable to agree on all or some instructions and verdicts their respective
9 proposed instructions are due fourteen days before trial.

10 Defendants shall e-mail a copy of all proposed jury instructions and verdict forms,
11 whether agreed or disputed, as a Word Perfect (preferred) or Word attachment to
12 kjmorders@caed.uscourts.gov no later than fourteen days before trial; all blanks in form
13 instructions should be completed and all brackets removed. Plaintiff shall provide a copy of
14 proposed jury instructions and verdict forms to the court by fourteen days before trial.

15 Objections to proposed jury instructions must be filed seven days before trial;
16 each objection shall identify the challenged instruction and shall provide a concise explanation
17 of the basis for the objection along with citation of authority. When applicable, the objecting
18 party shall submit an alternative proposed instruction on the issue or identify which of his or her
19 own proposed instructions covers the subject.

20 The parties shall file any proposed jury voir dire fourteen days before trial. Each
21 party will be limited to ten minutes of jury voir dire.

22 COUNSEL

23 Given the logistics of document exchange and the defense’s proposed use of
24 certain confidential documents in connection with trial, the court has determined that
25 appointment of counsel is warranted and is attempting to locate counsel to represent plaintiff at
26 trial.

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1 CONSENT

2 Plaintiff indicated at the pretrial conference that he would consent to the
3 magistrate judge serving as the trial judge. Defense counsel indicated he would check with
4 defendants to see if they will consent.

5 OBJECTIONS TO PRETRIAL ORDER

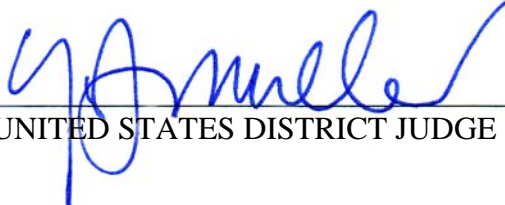
6 Each party is granted fourteen days from the date of this order to file objections to
7 the same. If no objections are filed, the order will become final without further order of this
8 court.

9 Accordingly, IT IS ORDERED:

10 1. The Clerk of the Court shall serve on plaintiff a copy of the information
11 posted at the "other calendaring information" link at the court calendar page for the undersigned.

12 2. The Clerk of the Court also shall serve on plaintiff a copy of the form by
13 which parties can consent and decline magistrate judge trial jurisdiction. Plaintiff shall return
14 the form to the court promptly, and no later than fourteen days from this order.

15 DATED: December 14, 2011.

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18 UNITED STATES DISTRICT JUDGE
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