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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT HENSMAN,	)	
	)	2:08-cv-03043-GEB-KJM
Plaintiff,	)	
	)	
v.	)	<u>STATUS (PRETRIAL</u>
	)	<u>SCHEDULING) ORDER</u>
NCO FINANCIAL SYSTEMS, INC.,	)	
	)	
Defendant.	)	
_____	)	

The status (pretrial scheduling) conference scheduled for April 13, 2009, is vacated since the parties' Joint Status Report ("JSR") indicates that the following Order should issue.

SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

No further service, joinder of parties or amendments to pleadings is permitted, except with leave of Court, good cause having been shown.

DISCOVERY

All discovery shall be completed by October 30, 2009. In

1 this context, "completed" means that all discovery shall have been  
2 conducted so that all depositions have been taken and any disputes  
3 relative to discovery shall have been resolved by appropriate orders,  
4 if necessary, and, where discovery has been ordered, the order has  
5 been complied with or, alternatively, the time allowed for such  
6 compliance shall have expired.<sup>1</sup>

7 Each party shall comply with Federal Rule of Civil Procedure  
8 26(a)(2)'s initial expert witness disclosure requirements on or before  
9 July 2, 2009, and with any authorized rebuttal expert disclosure on or  
10 before August 7, 2009.

11 MOTION HEARING SCHEDULE

12 The last hearing date for motions shall be December 21,  
13 2009, at 9:00 a.m.<sup>2</sup>

14 Motions shall be filed in accordance with Local Rule 78-  
15 230(b). Opposition papers shall be filed in accordance with Local  
16 Rule 78-230(c). Failure to comply with this local rule may be deemed  
17 consent to the motion and the Court may dispose of the motion  
18 summarily. *Brydges v. Lewis*, 18 F.3d 651, 652-53 (9th Cir. 1994).  
19 Further, failure to timely oppose a summary judgment motion may result  
20 in the granting of that motion if the movant shifts the burden to the  
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22  
23 The parties are advised that the Magistrate Judges in the  
24 Eastern District are responsible for resolving discovery  
25 disputes. See Local Rule 72-302(c)(1). Accordingly, counsel  
26 shall direct all discovery-related matters to the Magistrate  
27 Judge assigned to this case. A party conducting discovery near  
28 the discovery "completion" date runs the risk of losing the  
opportunity to have a judge resolve discovery motions pursuant to  
the Local Rules.

<sup>2</sup> This time deadline does not apply to motions for continuances,  
temporary restraining orders, emergency applications, or motions under  
Rule 16(e) of the Federal Rules of Civil Procedure.

1 nonmovant to demonstrate a genuine issue of material fact remains for  
2 trial. Cf. Marshall v. Gates, 44 F.3d 722 (9th Cir. 1995).

3 Absent highly unusual circumstances, reconsideration of a  
4 motion is appropriate only where:

5 (1) The Court is presented with newly discovered evidence  
6 that could not reasonably have been discovered prior to the filing of  
7 the party's motion or opposition papers;

8 (2) The Court committed clear error or the initial decision  
9 was manifestly unjust; or

10 (3) There is an intervening change in controlling law.

11 A motion for reconsideration based on newly discovered evidence shall  
12 set forth, in detail, the reason why said evidence could not  
13 reasonably have been discovered prior to the filing of the party's  
14 motion or opposition papers. Motions for reconsideration shall comply  
15 with Local Rule 78-230(k) in all other respects.

16 The parties are cautioned that an untimely motion  
17 characterized as a motion in limine may be summarily denied. A motion  
18 in limine addresses the admissibility of evidence.

19 FINAL PRETRIAL CONFERENCE

20 The final pretrial conference is set for February 16, 2010,  
21 at 11:00 a.m. The parties are cautioned that the lead attorney who  
22 WILL TRY THE CASE for each party shall attend the final pretrial  
23 conference. In addition, all persons representing themselves and  
24 appearing in propria persona must attend the pretrial conference.

25 The parties are warned that non-trial worthy issues could be  
26 eliminated sua sponte "[i]f the pretrial conference discloses that no  
27 material facts are in dispute and that the undisputed facts entitle

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1 one of the parties to judgment as a matter of law." Portsmouth Square  
2 v. S'holders Protective Comm., 770 F.2d 866, 869 (9th Cir. 1985).

3 The parties shall file a JOINT pretrial statement no later  
4 than seven (7) calendar days prior to the final pretrial conference.<sup>3</sup>  
5 The joint pretrial statement shall specify the issues for trial and  
6 shall estimate the length of the trial.<sup>4</sup> The Court uses the parties'  
7 joint pretrial statement to prepare its final pretrial order and could  
8 issue the final pretrial order without holding the scheduled final  
9 pretrial conference. See Mizwicki v. Helwig, 196 F.3d 828, 833 (7th  
10 Cir. 1999) ("There is no requirement that the court hold a pretrial  
11 conference.").

12 If possible, at the time of filing the joint pretrial  
13 statement counsel shall also email it in a format compatible with  
14 WordPerfect to: geborders@caed.uscourts.gov.

15 TRIAL SETTING

16 Trial is set for May 18, 2010, commencing at 9:00 a.m.

17 MISCELLANEOUS

18 The parties are reminded that pursuant to Federal Rule of  
19 Civil Procedure 16(b), the Status (Pretrial Scheduling) Order **shall**  
20 **not be modified except by leave of Court upon a showing of good cause.**

21 / / /

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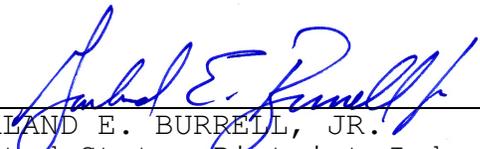
23 <sup>3</sup> The failure of one or more of the parties to participate in  
24 the preparation of any joint document required to be filed in this case  
25 does not excuse the other parties from their obligation to timely file  
26 the document in accordance with this Order. In the event a party fails  
27 to participate as ordered, the party or parties timely submitting the  
28 document shall include a declaration explaining why they were unable to  
obtain the cooperation of the other party.

<sup>4</sup> **The joint pretrial statement shall also state how much time**  
**each party desires for voir dire, opening statements, and closing**  
**arguments.**

1 Counsel are cautioned that a mere stipulation by itself to change  
2 dates does not constitute good cause.

3 IT IS SO ORDERED.

4 Dated: April 4, 2009

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8 GARLAND E. BURRELL, JR.  
9 United States District Judge  
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