

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

-----oo0oo-----

JASON NIELSEN,

Plaintiff,

v.

NO. CIV. 09-960 WBS DAD

TROFHOLZ TECHNOLOGIES, INC., a  
California Corporation; ANDREW  
PARKER, an individual; BRENNNA  
PEDONE, an individual, YVONNE  
GLENN, an individual; TROY  
GLENN, an individual; and DOES  
1-10, inclusive,

Defendants.

\_\_\_\_\_ /

-----oo0oo-----

STATUS (PRETRIAL SCHEDULING) ORDER

After reviewing the parties' Joint Status Report, the  
court hereby vacates the Status (Pretrial Scheduling) Conference  
scheduled for August 10, 2009, and makes the following findings  
and orders without needing to consult with the parties any  
further.

I. SERVICE OF PROCESS

All named defendants except Andrew Parker have been

1 served. Plaintiff states that he has been unsuccessful in  
2 locating and serving Parker, and he believes that Parker may  
3 currently be on active duty in the United States Army. Plaintiff  
4 expects to be able to serve Parker within 160 days of filing the  
5 complaint, i.e., approximately forty days from the date of this  
6 Order.

7 Plaintiff shall complete service on Parker within forty  
8 (40) days of the date of this Order. Other than the service of  
9 defendant Parker, no further service will be permitted without  
10 leave of court, good cause having been shown under Federal Rule  
11 of Civil Procedure 16(b).

12 II. JOINDER OF PARTIES/AMENDMENTS

13 No further amendments to pleadings or joinder of  
14 parties will be permitted except with leave of court, good cause  
15 having been shown under Federal Rule of Civil Procedure 16(b).  
16 See Johnson v. Mammoth Recreations, Inc., 975 F.2d 604 (9th Cir.  
17 1992).

18 III. JURISDICTION/VENUE

19 Jurisdiction is predicated upon 42 U.S.C. § 2000e-5  
20 (Title VII of the Civil Rights Act of 1964). Supplemental  
21 jurisdiction is predicated upon 28 U.S.C. § 1367. Venue is  
22 undisputed and is hereby found to be proper.

23 IV. DISCOVERY

24 The parties shall serve initial disclosures required by  
25 Federal Rule of Civil Procedure 26(a)(1) no later than September  
26 21, 2009.

27 The parties shall disclose any experts and produce  
28 reports in accordance with Federal Rule of Civil Procedure

1 26(a)(2) no later than March 1, 2010. With regard to expert  
2 testimony intended solely for rebuttal, those experts shall be  
3 disclosed and reports produced in accordance with Federal Rule of  
4 Civil Procedure 26(a)(2) on or before April 5, 2010.

5 All discovery, including depositions for preservation  
6 of testimony, is left open, save and except that it shall be so  
7 conducted as to be completed by June 7, 2010. The word  
8 "completed" means that all discovery shall have been conducted so  
9 that all depositions have been taken and any disputes relevant to  
10 discovery shall have been resolved by appropriate order if  
11 necessary and, where discovery has been ordered, the order has  
12 been obeyed. All motions to compel discovery must be noticed on  
13 the Magistrate Judge's calendar in accordance with the local  
14 rules of this court and so that such motions may be heard (and  
15 any resulting orders obeyed) no later than June 7, 2010.

16 V. MOTION HEARING SCHEDULE

17 All motions, except motions for continuances, temporary  
18 restraining orders, or other emergency applications, shall be  
19 filed on or before July 26, 2010. All motions shall be noticed  
20 for the next available hearing date. Counsel are cautioned to  
21 refer to the local rules regarding the requirements for noticing  
22 and opposing such motions on the court's regularly scheduled law  
23 and motion calendar.

24 VI. FINAL PRETRIAL CONFERENCE

25 The Final Pretrial Conference is set for October 4,  
26 2010, at 2:00 p.m. in Courtroom No. 5. The conference shall be  
27 attended by at least one of the attorneys who will conduct the  
28 trial for each of the parties and by any unrepresented parties.

1 Counsel for all parties are to be fully prepared for  
2 trial at the time of the Pretrial Conference, with no matters  
3 remaining to be accomplished except production of witnesses for  
4 oral testimony. Counsel shall file separate pretrial statements,  
5 and are referred to Local Rules 16-281 and 16-282 relating to the  
6 contents of and time for filing those statements. In addition to  
7 those subjects listed in Local Rule 16-281(b), the parties are to  
8 provide the court with: (1) a plain, concise statement that  
9 identifies every non-discovery motion that has been made to the  
10 court, and its resolution; (2) a list of the remaining claims as  
11 against each defendant; and (3) the estimated number of trial  
12 days.

13 In providing the plain, concise statements of  
14 undisputed facts and disputed factual issues contemplated by  
15 Local Rule 16-281(b)(3)-(4), the parties shall emphasize the  
16 claims that remain at issue and any remaining affirmatively pled  
17 defenses thereto. If the case is to be tried to a jury, the  
18 parties shall also prepare a succinct statement of the case,  
19 which is appropriate for the court to read to the jury.

20 VII. TRIAL SETTING

21 The jury trial is set for December 14, 2010, at 9:00  
22 a.m. The parties anticipate that a trial will last seven to ten  
23 days.

24 VIII. SETTLEMENT CONFERENCE

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

1 Counsel are instructed to have a principal with full  
2 settlement authority present at the Settlement Conference or to  
3 be fully authorized to settle the matter on any terms. At least  
4 seven calendar days before the Settlement Conference, counsel for  
5 each party shall submit a confidential Settlement Conference  
6 Statement for review by the settlement judge. If the settlement  
7 judge is not the trial judge, the Settlement Conference  
8 Statements shall not be filed and will not otherwise be disclosed  
9 to the trial judge.

10 IX. MODIFICATIONS TO SCHEDULING ORDER

11 Any requests to modify the dates or terms of this  
12 Scheduling Order, except requests to change the date of the  
13 trial, may be heard and decided by the assigned Magistrate Judge.  
14 All requests to change the trial date shall be heard and decided  
15 only by the undersigned judge.

16 DATED: August 5, 2009

17  
18 

19 WILLIAM B. SHUBB  
20 UNITED STATES DISTRICT JUDGE  
21  
22  
23  
24  
25  
26  
27  
28