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

HOWARD EURITT,	)	
	)	2:09-cv-03442-GEB-CMK
Plaintiff,	)	
	)	<u>STATUS (PRETRIAL</u>
v.	)	<u>SCHEDULING) ORDER</u>
	)	
CARD WORKS SERVICING a/k/a	)	
CARDHOLDER MANAGEMENT SERVICES,	)	
	)	
Defendant.	)	
_____	)	

The status (pretrial scheduling) conference scheduled for April 12, 2010, is vacated since the parties indicate in the Joint Status Report 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 March 16, 2011. In this context, "completed" means that all discovery shall have been conducted so that all depositions have been taken and any disputes relative to discovery shall have been resolved by appropriate orders, if necessary, and, where discovery has been ordered, the order has

1 been complied with or, alternatively, the time allowed for such  
2 compliance shall have expired.<sup>1</sup>

3 Each party shall comply with Federal Rule of Civil Procedure  
4 26(a)(2)(c)(i)'s initial expert witness disclosure requirements on or  
5 before October 29, 2010, and any contradictory and/or rebuttal expert  
6 disclosure authorized under Rule 26(a)(2)(c)(ii) on or before November  
7 29, 2010.

8 MOTION HEARING SCHEDULE

9 The last hearing date for motions shall be May 16, 2011, at  
10 9:00 a.m.<sup>2</sup>

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

14 FINAL PRETRIAL CONFERENCE

15 The final pretrial conference is set for July 11, 2011, at  
16 3:30 p.m. The parties are cautioned that the lead attorney who WILL  
17 TRY THE CASE for each party shall attend the final pretrial  
18 conference. In addition, all persons representing themselves and  
19 appearing in propria persona must attend the pretrial conference.

20 The parties are warned that non-trial worthy issues could be  
21 eliminated sua sponte "[i]f the pretrial conference discloses that no  
22 material facts are in dispute and that the undisputed facts entitle  
23 \_\_\_\_\_

24 <sup>1</sup> The Magistrate Judges in the Eastern District are responsible  
25 for resolving discovery disputes. See Local Rule 302(c)(1). A party  
26 conducting discovery near the discovery "completion" date risks losing  
27 the opportunity to have a judge resolve a discovery dispute concerning  
28 that discovery.

<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 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 parties shall include in the joint pretrial statement: (1) a list  
6 of the remaining claims against each defendant; (2) a list of the  
7 remaining affirmative defenses; and (3) the estimated number of trial  
8 days.<sup>4</sup> Further, in accordance with Local Rule 281(b)(3)-(4), the  
9 parties shall provide the undisputed facts they agree can be read to  
10 the jury before opening statements, or used by the judge in deciding a  
11 bench trial; and a concise statement of disputed factual issues  
12 pertinent to the claims and affirmative defenses to be tried.

13 The Court uses the parties’ joint pretrial statement to  
14 prepare its final pretrial order and could issue the final pretrial  
15 order without holding the scheduled final pretrial conference. See  
16 Mizwicki v. Helwig, 196 F.3d 828, 833 (7th Cir. 1999) (“There is no  
17 requirement that the court hold a pretrial conference.”).

18 If possible, at the time of filing the joint pretrial  
19 statement counsel shall also email it in a format compatible with  
20 WordPerfect to: geborders@caed.uscourts.gov.  
21  
22

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.**

