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

ENERGY 2001,

CIV. S-10-415 JAM KJN

Plaintiff,

v.

STATUS (Pre-trial
Scheduling) ORDER

PACIFIC INSURANCE COMPANY
LIMITED INCORPORATED, et al
Defendants.

After review of the Joint Status Report, the court
makes the following order:

SERVICE OF PROCESS

All parties defendant to this lawsuit have been served and
no further service will be permitted except with leave of court,
good cause having been shown.

JOINDER OF ADDITIONAL PARTIES/AMENDMENTS

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

1 motion cut-off date, substantial sanctions may be assessed for
2 the failure to file the appropriate pre-trial motion.

3 **Unless prior permission has been granted, memoranda of law**
4 **in support of and in opposition to motions are limited to twenty-**
5 **five (25) pages, and reply memoranda are limited to ten (10)**
6 **pages. The parties are also cautioned against filing multiple**
7 **briefs to circumvent this rule.**

8 DISCOVERY

9 All discovery shall be completed by September 16, 2011. In
10 this context, "completed" means that all discovery shall have
11 been conducted so that all depositions have been taken and any
12 disputes relative to discovery shall have been resolved by
13 appropriate order if necessary and, where discovery has been
14 ordered, the order has been complied with.

15 DISCLOSURE OF EXPERT WITNESSES

16 The plaintiff shall make expert witness disclosures under
17 Fed. R. Civ. P. 26(a)(2) by June 1, 2011. The defendants shall
18 make expert witness disclosures under Fed. R. Civ. P. 26(a)(2) by
19 July 1, 2011. Supplemental disclosure and disclosure of any
20 rebuttal experts under Fed. R. Civ. P. 26(a)(2)(c) shall be made
21 by July 15, 2011.

22 Failure of a party to comply with the disclosure schedule as
23 set forth above in all likelihood will preclude that party from
24 calling the expert witness at the time of trial absent a showing
25 that the necessity for the witness could not have been reasonably
26 anticipated at the time the disclosures were ordered and that the

1 failure to make timely disclosure did not prejudice any other
2 party. See Fed. R. Civ. P. 37(c).

3 All experts designated are to be fully prepared at the time
4 of designation to render an informed opinion, and give their
5 reasons therefore, so that they will be able to give full and
6 complete testimony at any deposition taken by the opposing
7 parties. Experts will not be permitted to testify at the trial
8 as to any information gathered or evaluated, or opinion formed,
9 after deposition taken subsequent to designation.

10 JOINT MID-LITIGATION STATEMENTS

11 Not later than fourteen (14) days prior to the close of
12 discovery, the parties shall file with the court a brief joint
13 statement summarizing all law and motion practice heard by the
14 court as of the date of the filing of the statement, whether the
15 court has disposed of the motion at the time the statement is
16 filed and served, and the likelihood that any further motions
17 will be noticed prior to the close of law and motion. The filing
18 of this statement shall not relieve the parties or counsel of
19 their obligation to timely notice all appropriate motions as set
20 forth above.

21 FINAL PRE-TRIAL CONFERENCE

22 The final pre-trial conference is set for January 13, 2012
23 at 2:00 p.m. In each instance an attorney who will try the case
24 for a given party shall attend the final pretrial conference on
25 behalf of that party; provided, however, that if by reason of
26 illness or other unavoidable circumstance the trial attorney is

1 unable to attend, the attorney who attends in place of the trial
2 attorney shall have equal familiarity with the case and equal
3 authorization to make commitments on behalf of the client. All
4 pro se parties must attend the pre-trial conference.

5 Counsel for all parties and all pro se parties are to be
6 fully prepared for trial at the time of the pre-trial conference,
7 with no matters remaining to be accomplished except production of
8 witnesses for oral testimony. The parties shall file with the
9 court, no later than seven days prior to the final pre-trial
10 conference, a joint pre-trial statement.

11 **Also at the time of filing the Joint Pretrial Statement, counsel**
12 **are requested to e-mail the Joint Pretrial Statement in WPD or**
13 **Word format to Judge Mendez's assistant, Jane Pratt**
14 **at: jpratt@caed.uscourts.gov.**

15 Where the parties are unable to agree as to what legal or
16 factual issues are properly before the court for trial, they
17 should nevertheless list all issues asserted by any of the
18 parties and indicate by appropriate footnotes the disputes
19 concerning such issues. The provisions of Local Rule 16-281
20 shall, however, apply with respect to the matters to be included
21 in the joint pre-trial statement. Failure to comply with Local
22 Rule 16-281, as modified herein, may be grounds for sanctions.

23 The parties are reminded that pursuant to Local Rule
24 16-281(b)(10) and (11) they are required to list in the final
25 pre-trial statement all witnesses and exhibits they propose to
26 offer at trial, no matter for what purpose. These lists shall

1 not be contained in the body of the final pre-trial statement
2 itself, but shall be attached as separate documents so that the
3 court may attach them as an addendum to the final pre-trial
4 order. The final pre-trial order will contain a stringent
5 standard for the offering at trial of witnesses and exhibits not
6 listed in the final pre-trial order, and the parties are
7 cautioned that the standard will be strictly applied. On the
8 other hand, the listing of exhibits or witnesses that a party
9 does not intend to offer will be viewed as an abuse of the
10 court's processes.

11 The parties are also reminded that pursuant to Rule 16,
12 Fed. R. Civ. P., it will be their duty at the final pre-trial
13 conference to aid the court in: (a) formulation and
14 simplification of issues and the elimination of frivolous claims
15 or defenses; (b) settling of facts which should properly be
16 admitted; and (c) the avoidance of unnecessary proof and
17 cumulative evidence. Counsel must cooperatively prepare the
18 joint pre-trial statement and participate in good faith at the
19 final pre-trial conference with these aims in mind. A failure to
20 do so may result in the imposition of sanctions which may include
21 monetary sanctions, orders precluding proof, elimination of
22 claims or defenses, or such other sanctions as the court deems
23 appropriate.

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TRIAL SETTING

Jury trial in this matter is set for March 12, 2012 at 9:00 a.m. The parties estimate a trial length of approximately 7 to 10 days.

SETTLEMENT CONFERENCE

No Settlement Conference is currently scheduled. If the parties wish to have a settlement conference, one will be scheduled at the final pretrial conference or at an earlier time upon request of the parties.

OBJECTIONS TO STATUS (PRETRIAL SCHEDULING) ORDER

This Status Order will become final without further Order of Court unless objection is lodged within seven (7) days of the date of the filing of this Order.

IT IS SO ORDERED.

Dated: May 19, 2010

/s/ John A. Mendez
JOHN A. MENDEZ
United States District Judge