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

G.M., a minor, by and through)	
his Guardian ad Litem; KEVIN)	2:10-cv-00944-GEB-GGH
MARCHESE, an individual; and)	
LYNDI MARCHESE, an individual,)	
)	<u>STATUS (PRETRIAL SCHEDULING)</u>
Plaintiff,)	<u>ORDER</u>
)	
v.)	
)	
DRYCREEK JOINT ELEMENTARY SCHOOL)	
DISTRICT,)	
)	
Defendant.)	
_____)	

The status (pretrial scheduling) conference scheduled for January 31, 2011, is vacated since the parties' Joint Status Report filed on January 14, 2011 ("JSR") indicates that the following Order should issue.

SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

Plaintiffs state in the JSR that they "will seek leave to file [a] supplemental pleading to set forth allegations that have taken place since the original pleading was filed[, and the] District advises that they will object to such amendment of the Plaintiffs' pleading." (ECF No. 49, 2:14-17.)

Plaintiffs have thirty (30) days from the date this order is filed within which to file a motion seeking leave to file the referenced amendment, after which time no further service, joinder of parties, or

1 amendments to the pleadings is permitted, except with leave of Court for
2 good cause shown. The referenced motion must be noticed for hearing on
3 the Court's earliest available law and motion date.

4 DISCOVERY

5 All discovery shall be completed by February 16, 2012. In this
6 context, "completed" means that all discovery shall have been conducted
7 so that all depositions have been taken and any disputes relative to
8 discovery shall have been resolved by appropriate orders, if necessary,
9 and, where discovery has been ordered, the order has been complied with
10 or, alternatively, the time allowed for such compliance shall have
11 expired.

12 Each party shall comply with Federal Rule of Civil Procedure
13 26(a)(2)(c)(i)'s initial expert witness disclosure requirements on or
14 before September 30, 2011, and any contradictory and/or rebuttal expert
15 disclosure authorized under Rule 26(a)(2)(c)(ii) on or before October
16 28, 2011.

17 MOTION HEARING SCHEDULE

18 The last hearing date for motions shall be April 16, 2012, at
19 9:00 a.m.¹

20 Motions shall be filed in accordance with Local Rule 230(b).
21 Opposition papers shall be filed in accordance with Local Rule 230(c).
22 **Failure to comply with this local rule may be deemed consent to the**
23 **motion and the Court may dispose of the motion summarily.** Brydges v.
24 Lewis, 18 F.3d 651, 652-53 (9th Cir. 1994). Further, failure to timely
25 oppose a summary judgment motion may result in the granting of that
26

27 ¹ This time deadline does not apply to motions for continuances,
28 temporary restraining orders, emergency applications, or motions under
Rule 16(e) of the Federal Rules of Civil Procedure.

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

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

7 FINAL PRETRIAL CONFERENCE

8 The final pretrial conference is set for June 11, 2012, at
9 1:30 p.m. The parties are cautioned that the lead attorney who WILL TRY
10 THE CASE for each party shall attend the final pretrial conference. In
11 addition, all persons representing themselves and appearing in propria
12 persona must attend the pretrial conference.

13 The parties are warned that **non-trial worthy issues could be**
14 **eliminated sua sponte** "[i]f the pretrial conference discloses that no
15 material facts are in dispute and that the undisputed facts entitle one
16 of the parties to judgment as a matter of law." Portsmouth Square v.
17 S'holders Protective Comm., 770 F.2d 866, 869 (9th Cir. 1985).

18 The parties shall file a **JOINT** pretrial statement no later
19 than seven (7) calendar days prior to the final pretrial conference.²
20 The joint pretrial statement shall specify the issues for trial,
21 including a description of each theory of liability and affirmative
22 defense, and shall estimate the length of the trial.³ The Court uses the

23
24 ² The failure of one or more of the parties to participate in
25 the preparation of any joint document required to be filed in this case
26 does not excuse the other parties from their obligation to timely file
27 the document in accordance with this Order. In the event a party fails
to participate as ordered, the party or parties timely submitting the
document shall include a declaration explaining why they were unable to
obtain the cooperation of the other party.

28 ³ If a trial by jury has been preserved, the joint pretrial
(continued...)

1 parties' joint pretrial statement to prepare its final pretrial order
2 and could issue the final pretrial order without holding the scheduled
3 final pretrial conference. See Mizwicki v. Helwig, 196 F.3d 828, 833
4 (7th Cir. 1999) ("There is no requirement that the court hold a pretrial
5 conference.").

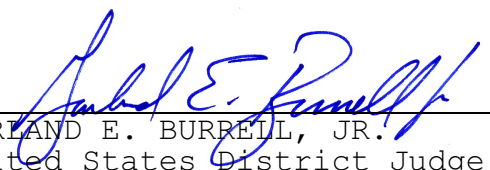
6 If possible, at the time of filing the joint pretrial
7 statement counsel shall also email it in a format compatible with
8 WordPerfect to: geborders@caed.uscourts.gov.

9 TRIAL SETTING

10 Trial shall commence at 9:00 a.m. on September 11, 2012.

11 IT IS SO ORDERED.

12 Dated: January 26, 2011

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15 _____
16 GARLAND E. BURRELL, JR.
17 United States District Judge
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27 _____
28 ³(...continued)

statement shall also state how much time each party desires for voir
dire, opening statements, and closing arguments.