IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

National Asset Management, LLC,)
) 2:10-cv-02287-GEB-GGH
             Plaintiff,)
)
        v.) STATUS (PRETRIAL SCHEDULING)
) ORDER
June Coleman, Esq., and Ellis)
Coleman Poirer La Voie and)
Steinheimer, LLC,)
)
           Defendants.)
_____)

         The August 26, 2010, Order Setting Status (Pretrial Scheduling) Conference scheduled a status conference in this case for January 31, 2011, and required the parties to file a joint status report no later than fourteen days prior to the status conference. A Joint Status Report ("JSR") was untimely filed on January 21, 2011. (ECF No. 53.) The parties are warned that sanctions may be imposed against them and/or their counsel for the failure to comply with a court order.

         The status (pretrial scheduling) conference scheduled for January 31, 2011, is vacated since the parties' JSR indicates that the following Order should issue.

SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

         The parties state in the JSR, that "any additional parties shall be joined," and "pleadings shall be amended" by June 11, 2010. (ECF No. 53, 3:19-22.) However, the parties do not describe the nature of the referenced amendments nor why they cannot be sought earlier.

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Therefore, the parties have ninety (90) days from the date this order is filed within which to file a motion seeking leave to file the referenced amendments, after which time no further service, joinder of parties, or amendments to the pleadings is permitted, except with leave of Court for good cause shown.

ADDED DEFENDANT'S OPPORTUNITY TO SEEK AMENDMENT OF THIS ORDER

If any party joins a party pursuant to the leave given above, a copy of this Order shall be served on that party concurrently with the service of process.

That party has 30 days after said service within which to file a "Notice of Proposed Modification of Status Order." Although a newly-joined party's proposed modification filed within this thirty day period will not have to meet the good cause standard, no further amendments will be permitted, except with leave of Court for good cause shown.

DISCOVERY

Since the parties proposed schedule for the case in the JSR are mainly impractical proposals, those proposals are disregarded.

All discovery shall be completed by March 30, 2012. 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 been complied with or, alternatively, the time allowed for such compliance shall have expired.

Each party shall comply with Federal Rule of Civil Procedure 26(a)(2)(c)(i)'s initial expert witness disclosure requirements on or before October 28, 2011, and any contradictory and/or rebuttal expert

disclosure authorized under Rule 26(a)(2)(c)(ii) on or before November 28, 2011.

MOTION HEARING SCHEDULE

The last hearing date for motions shall be May 14, 2012, at 9:00 a.m.[1]

Motions shall be filed in accordance with Local Rule 230(b). Opposition papers shall be filed in accordance with Local Rule 230(c). **Failure to comply with this local rule may be deemed consent to the motion and the Court may dispose of the motion summarily.** Brydges v. Lewis, 18 F.3d 651, 652-53 (9th Cir. 1994). Further, failure to timely oppose a summary judgment motion may result in the granting of that motion if the movant shifts the burden to the nonmovant to demonstrate a genuine issue of material fact remains for trial. Cf. Marshall v. Gates, 44 F.3d 722 (9th Cir. 1995).

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

FINAL PRETRIAL CONFERENCE

The final pretrial conference is set for July 23, 2012, at 3:30 p.m. The parties are cautioned that the lead attorney who WILL TRY THE CASE for each party shall attend the final pretrial conference. In addition, all persons representing themselves and appearing in propria persona must attend the pretrial conference.

The parties are warned that **non-trial worthy issues could be eliminated *sua sponte*** "[i]f the pretrial conference discloses that no

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[1] 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.

material facts are in dispute and that the undisputed facts entitle one of the parties to judgment as a matter of law." <u>Portsmouth Square v. S'holders Protective Comm.</u>, 770 F.2d 866, 869 (9th Cir. 1985).

The parties shall file a **JOINT** pretrial statement no later than seven (7) calendar days prior to the final pretrial conference. The joint pretrial statement shall specify the issues for trial, including a description of each theory of liability and affirmative defense, and shall estimate the length of the trial.[2] The Court uses the parties' joint pretrial statement to prepare its final pretrial order and could issue the final pretrial order without holding the scheduled final pretrial conference. <u>See</u> <u>Mizwicki v. Helwig</u>, 196 F.3d 828, 833 (7th Cir. 1999) ("There is no requirement that the court hold a pretrial conference.").
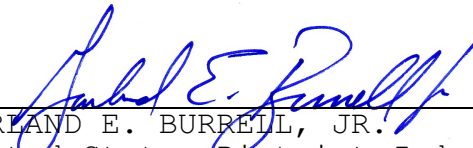
If possible, at the time of filing the joint pretrial statement counsel shall also email it in a format compatible with WordPerfect to: geborders@caed.uscourts.gov.

<u>TRIAL SETTING</u>

Trial shall commence at 9:00 a.m. on October 23, 2012.

IT IS SO ORDERED.

Dated: January 25, 2011

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GARLAND E. BURRELL, JR.
United States District Judge

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[2]   If a trial by jury has been preserved, the joint pretrial statement shall also state how much time each party desires for voir dire, opening statements, and closing arguments.