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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

 Plaintiff,

 v.

JAMES O. MOLEN, et al.,

 Defendants.

No. 2:10-cv-2591-MCE-KJN

ORDER

Defendant James Molen (“defendant”) is proceeding without counsel in this action.¹ On April 11, 2013, the court issued an order giving the parties until September 20, 2013, to file “all dispositive motions.” (ECF No. 132 at 2.) Plaintiff filed a motion for partial summary judgment on September 20, 2013. (ECF No. 139.) On September 25, United States District Judge Morrison C. England *sua sponte* moved the trial date from February 3, 2014, to August 4, 2014. (ECF Nos. 122, 144.) Additionally, Judge England notified parties that their Joint Final Pretrial Statement will be due no later than May 22, 2014. (Id.)

After reviewing plaintiff’s motion for partial summary judgment, the court *sua sponte* scheduled a status conference to facilitate the defendant’s response thereto, especially given that defendant is pro se. (ECF Nos. 139-1, 139-2, 139-3, 145.) As expressed at the hearing, the court

¹ This action was referred to the undersigned pursuant to Eastern District Local Rule 302(c)(21). (ECF No. 11.)

1 was concerned that defendant would have unnecessary difficulty appropriately responding to the
2 motion in its current state.² (ECF No. 146.)

3 The status conference came on for hearing on October 3, 2013. (Id.) Defendant appeared
4 telephonically on his own behalf. (Id.) Attorney Guy Patrick Jennings appeared on behalf of the
5 plaintiff. (Id.) During the status conference, plaintiff and defendant jointly requested that
6 plaintiff be permitted to withdraw its motion for partial summary judgment and to re-file a more
7 straightforward motion. (ECF No. 139, 146.) In light of the joint nature of the request and in the
8 interests of judicial economy, the request is granted. (ECF No. 146.) The undersigned also finds
9 that there is good cause to amend his scheduling order (ECF No. 132) and to continue the
10 deadline for filing dispositive motions from September 20, 2013, to November 21, 2013.³

11 For the benefit of both defendant and the court, when plaintiff re-files its motion for
12 partial summary judgment, plaintiff shall present its legal arguments with more precision.
13 Specifically, plaintiff shall indicate *which particular claim(s)* it seeks entry of summary judgment
14 upon, including citations to the statute(s) or other legal authorities that are the legal bases for
15 those claim(s). Moreover, plaintiff's revised motion for partial summary judgment shall include a
16 separate statement of undisputed facts supported by citations to *specific pages and lines* in
17 plaintiff's exhibits. See E.D. Cal. L.R. 260(a). Plaintiff shall also include computations in
18 support of its requested money damages, potentially broken down by each year (or quarter) of
19 defendants' alleged liability, including citations to documents showing defendants' underlying tax
20 liabilities during each period, citations to the sources and amounts of additions to such liabilities
21 that plaintiff seeks in the form of penalties arising during each period — as well as the legal bases
22 for the requested penalties — and the appropriate interest rates to be used in calculating the
23 current total amount of money allegedly due. With these changes and the changes discussed at

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25 ² At the hearing, defendant stated that he had not received a copy of plaintiff's motion. Neither
26 the court nor defendant called into question the certificate of service plaintiff filed with its
27 motion. Plaintiff's counsel stated that he will serve future motions and papers upon defendant via
28 FedEx and will also email defendant to notify him to expect a FedEx delivery.

³ Except for the dispositive motion deadline, all other dates will remain unchanged.

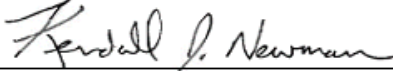
1 the hearing, defendant and the court will be able to more fully analyze and respond to plaintiff's
2 motion.⁴

3 Accordingly, IS HEREBY ORDERED that:

- 4 1. Pursuant to the parties' joint request, plaintiff's pending motion for partial
5 summary judgment (ECF No. 139) is WITHDRAWN, and the associated
6 hearing date of October 24, 2013, is VACATED. Good cause appearing, the
7 deadline for filing dispositive motions as stated in operative Scheduling Order
8 (ECF No. 132) is CONTINUED from September 20, 2013, to **November 21,**
9 **2013.**⁵
- 10 2. A hearing on plaintiff's revised motion for partial summary judgment is set for
11 **January 23, 2014**, at 10:00 a.m., in Courtroom 25.
- 12 3. Plaintiff's revised motion for partial summary judgment shall be filed no later
13 than **November 21, 2013**.
- 14 4. Defendant's opposition shall be filed no later than **January 2, 2014**.
- 15 5. Plaintiff's reply shall be filed no later than **January 9, 2014**.

16 IT IS SO ORDERED.

17 Dated: October 8, 2013

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19 _____
20 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

21 ⁴ The court notes that plaintiff filed what appeared to be portions of a deposition transcript in
22 support of its original motion. If plaintiff plans on citing to any deposition transcripts in its
revised motion, such filings shall comply with Eastern District Local Rule 260(e).

23 ⁵ The court is cognizant of the impact the Federal Government shutdown may have on plaintiff's
24 ability to timely file its motion. As discussed at the hearing, the briefing schedule herein gives
25 plaintiff an extended period of time in light of the Federal Government's current budgetary
26 troubles. If the Federal Government shutdown continues and it appears that this will materially
27 impact plaintiff's ability to meet this filing deadline, plaintiff may contact the court and request
28 an extension. Likewise, the court's timetable anticipates and should avoid any scheduling
conflicts created by the criminal case pending against defendant, but if potential delays caused by
that action so warrant, defendant may request an extension of time in which to file his opposition
to plaintiff's renewed motion for partial summary judgment.