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

RUDOLPH DURAN,)	
)	2:11-cv-02312-GEB-CKD
Plaintiff,)	
)	
v.)	<u>STATUS (PRETRIAL SCHEDULING)</u>
)	<u>ORDER</u>
STOCKTON RECYCLING, INC.,)	
)	
Defendant. ¹)	
_____)	

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

DISMISSAL OF DOE DEFENDANTS

Since Plaintiff has not justified Doe defendants remaining in this action, Does 1 through 50 are dismissed. See Order Setting Status (Pretrial Scheduling) Conference filed August 31, 2011, at 2 n.2 (indicating that if justification for "Doe" defendant allegations not provided Doe defendants would be dismissed).

¹ The caption has been amended according to the Dismissal of Doe Defendants portion of this Order.

1 SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

2 No further service, joinder of parties or amendments to
3 pleadings is permitted, except with leave of Court for good cause shown.

4 DISCOVERY

5 All discovery shall be completed by August 17, 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)(B) and (C)'s initial expert witness disclosure requirements on
14 or before May 1, 2012, and any contradictory and/or rebuttal expert
15 disclosure authorized under Rule 26(a)(2)(D)(ii) on or before June 1,
16 2012.

17 MOTION HEARING SCHEDULE

18 The last hearing date for a motion is October 17, 2012,
19 commencing at 9:00 a.m.² A motion shall be briefed as prescribed in Local
20 Rule 230.

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

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28 ² 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 FINAL PRETRIAL CONFERENCE

2 The final pretrial conference is set for December 17, 2012, at
3 2:30 p.m. The parties are cautioned that the lead attorney who WILL TRY
4 THE CASE for each party shall attend the final pretrial conference. In
5 addition, all persons representing themselves and appearing in propria
6 persona must attend the pretrial conference.

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

12 The parties shall file a **JOINT** pretrial statement no later
13 than seven (7) calendar days prior to the final pretrial conference.³ The
14 joint pretrial statement shall specify the issues for trial, including
15 a description of each theory of liability and affirmative defense, and
16 shall estimate the length of the trial.⁴ The Court uses the parties’
17 joint pretrial statement to prepare its final pretrial order and could
18 issue the final pretrial order without holding the scheduled final
19 pretrial conference. See Mizwicki v. Helwig, 196 F.3d 828, 833 (7th Cir.
20 1999) (“There is no requirement that the court hold a pretrial
21 conference.”).

22
23 ³ 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.

⁴ 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.

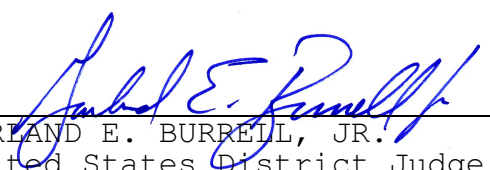
1 If possible, at the time of filing the joint pretrial
2 statement counsel shall also email it in a format compatible with
3 WordPerfect to: geborders@caed.uscourts.gov.

4 TRIAL SETTING

5 Trial shall commence at 9:00 a.m. on March 26, 2013.

6 IT IS SO ORDERED.

7 Dated: November 7, 2011

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11 GARLAND E. BURRELL, JR.
12 United States District Judge
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