

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

|                                |   |                                     |
|--------------------------------|---|-------------------------------------|
| MARIO ALBERTO ZARCO,           | ) |                                     |
|                                | ) | 2:12-cv-00826-GEB-CMK               |
| Plaintiff,                     | ) |                                     |
|                                | ) |                                     |
| v.                             | ) | <u>STATUS (PRETRIAL SCHEDULING)</u> |
|                                | ) | <u>ORDER</u>                        |
| VECOPLAN, LLC, and TOTER, INC. | ) |                                     |
|                                | ) |                                     |
| Defendants.*                   | ) |                                     |
| _____                          | ) |                                     |

The status (pretrial scheduling) conference scheduled for hearing on July 23, 2012, is vacated since the parties' Joint Status Report filed on July 6, 2012 ("JSR") indicates the following Order should issue.

DISMISSAL OF DOE DEFENDANTS

Since Plaintiff has not justified Doe defendants remaining in this action, the Doe defendants are dismissed. See Order Setting Status (Pretrial Scheduling) Conference filed March 30, 2012, at 2 n.2 (indicating that if justification for "Doe" defendant allegations not provided Doe defendants would be dismissed).

\_\_\_\_\_  
\* The caption has been amended according to the Dismissal of Doe Defendants portion of this Order and Plaintiff's Dismissal of Defendant Shredfast Mobile Data Destruction, Inc. See ECF No. 1-1, 2:19-23.

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 7, 2013. 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 March 7, 2013, and any contradictory and/or rebuttal expert  
15 disclosure authorized under Rule 26(a)(2)(D)(ii) on or before April 8,  
16 2013.

17                    MOTION HEARING SCHEDULE

18                    The last hearing date for a motion is October 7, 2013,  
19 commencing at 9:00 a.m.<sup>1</sup> 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.

---

24  
25  
26  
27                    <sup>1</sup> 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 FINAL PRETRIAL CONFERENCE

2 The final pretrial conference is set for December 9, 2013, at  
3 11:00 a.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. The  
14 joint pretrial statement shall address the applicable portions of Local  
15 Rule 281(b), and shall set forth each theory of liability (“claim”) and  
16 affirmative defense which remains to be tried, and the ultimate facts on  
17 which each theory/defense is based. Furthermore, each party shall  
18 estimate the length of trial.<sup>2</sup> The Court uses the parties’ joint pretrial  
19 statement to prepare its final pretrial order and could issue the final  
20 pretrial order without holding the scheduled final pretrial conference.  
21 See Mizwicki v. Helwig, 196 F.3d 828, 833 (7th Cir. 1999) (“There is no  
22 requirement that the court hold a pretrial conference.”).

23 If feasible, at the time of filing the joint pretrial  
24 statement counsel shall also email it in a format compatible with  
25 WordPerfect to: geborders@caed.uscourts.gov.

26  
27  
28 

---

<sup>2</sup> 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.

