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

JUDY HELTSLEY and  
JOHN HELTSLEY,

CIV. S-12-2947 JAM EFB

Plaintiffs,

v.

STATUS (Pre-trial  
Scheduling) ORDER

LOWE'S HIW, INC.,

Defendant.

After review of the Joint Status Report, the court  
makes the following order:

SERVICE OF PROCESS

All parties defendant to this lawsuit have been served and  
no further service will be permitted except with leave of court,  
good cause having been shown.

JOINDER OF ADDITIONAL PARTIES/AMENDMENTS

No further joinder of parties or amendments to pleadings is  
permitted except with leave of court, good cause having been  
shown.

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JURISDICTION AND VENUE

Jurisdiction and venue are not contested.

FICTITIOUSLY-NAMED DEFENDANTS

This action, including any counterclaims, cross-claims, and third party complaints is hereby DISMISSED as to all DOE or other fictitiously-named defendants.

MOTION HEARINGS SCHEDULES

All dispositive motions shall be filed by **March 5, 2014**.  
Hearing on such motions shall be on **April 9, 2013 at 9:30 a.m.**  
**The parties are reminded of the notice requirements as outlined in Local Rule 230(b).**

The time deadline for dispositive motions does not apply to motions for continuances, temporary restraining orders or other emergency applications.

All purely legal issues are to be resolved by timely pre-trial motions. The parties are reminded that motions in limine are procedural devices designed to address the admissibility of evidence and are cautioned that the court will look with disfavor upon substantive motions presented at the final pre-trial conference or at trial in the guise of motions in limine. The parties are further cautioned that if any legal issue which should have been tendered to the court by proper pre-trial motion requires resolution by the court after the established law and motion cut-off date, substantial sanctions may be assessed for the failure to file the appropriate pre-trial motion.

1 Unless prior permission has been granted, memoranda of law  
2 in support of and in opposition to motions are limited to twenty-  
3 five (25) pages, and reply memoranda are limited to ten (10)  
4 pages. The parties are also cautioned against filing multiple  
5 briefs to circumvent this rule.

#### 6 DISCOVERY

7 All discovery shall be completed by **January 27, 2014**. In  
8 this context, "completed" means that all discovery shall have  
9 been conducted so that all depositions have been taken and any  
10 disputes relative to discovery shall have been resolved by  
11 appropriate order if necessary and, where discovery has been  
12 ordered, the order has been complied with.

#### 13 DISCLOSURE OF EXPERT WITNESSES

14 The parties shall make expert witness disclosures under  
15 Fed. R. Civ. P. 26(a)(2) by **November 27, 2013**. Supplemental  
16 disclosure and disclosure of any rebuttal experts under  
17 Fed. R. Civ. P. 26(a)(2)(c) shall be made by **December 27, 2013**.

18 Failure of a party to comply with the disclosure schedule as  
19 set forth above in all likelihood will preclude that party from  
20 calling the expert witness at the time of trial absent a showing  
21 that the necessity for the witness could not have been reasonably  
22 anticipated at the time the disclosures were ordered and that the  
23 failure to make timely disclosure did not prejudice any other  
24 party. See Fed. R. Civ. P. 37(c).

25 All experts designated are to be fully prepared at the time  
26 of designation to render an informed opinion, and give their

1 reasons therefore, so that they will be able to give full and  
2 complete testimony at any deposition taken by the opposing  
3 parties. Experts will not be permitted to testify at the trial  
4 as to any information gathered or evaluated, or opinion formed,  
5 after deposition taken subsequent to designation.

6 JOINT MID-LITIGATION STATEMENTS

7 Not later than fourteen (14) days prior to the close of  
8 discovery, the parties shall file with the court a brief joint  
9 statement summarizing all law and motion practice heard by the  
10 court as of the date of the filing of the statement, whether the  
11 court has disposed of the motion at the time the statement is  
12 filed and served, and the likelihood that any further motions  
13 will be noticed prior to the close of law and motion. The filing  
14 of this statement shall not relieve the parties or counsel of  
15 their obligation to timely notice all appropriate motions as set  
16 forth above.

17 FINAL PRE-TRIAL CONFERENCE

18 The final pre-trial conference is set for **May 16, 2014 at**  
19 **10:00 a.m.** In each instance an attorney who will try the case  
20 for a given party shall attend the final pretrial conference on  
21 behalf of that party; provided, however, that if by reason of  
22 illness or other unavoidable circumstance the trial attorney is  
23 unable to attend, the attorney who attends in place of the trial  
24 attorney shall have equal familiarity with the case and equal  
25 authorization to make commitments on behalf of the client. All  
26 pro se parties must attend the pre-trial conference.

1 Counsel for all parties and all pro se parties are to be  
2 fully prepared for trial at the time of the pre-trial conference,  
3 with no matters remaining to be accomplished except production of  
4 witnesses for oral testimony. The parties shall file with the  
5 court, no later than seven days prior to the final pre-trial  
6 conference, a joint pre-trial statement.

7 **Also at the time of filing the Joint Pretrial Statement, counsel**  
8 **are requested to e-mail the Joint Pretrial Statement in WPD or**  
9 **Word format to Judge Mendez's assistant, Jane Klingelhoets**  
10 **at: [jklingelhoets@caed.uscourts.gov](mailto:jklingelhoets@caed.uscourts.gov).**

11 Where the parties are unable to agree as to what legal or  
12 factual issues are properly before the court for trial, they  
13 should nevertheless list all issues asserted by any of the  
14 parties and indicate by appropriate footnotes the disputes  
15 concerning such issues. The provisions of Local Rule 16-281  
16 shall, however, apply with respect to the matters to be included  
17 in the joint pre-trial statement. Failure to comply with Local  
18 Rule 16-281, as modified herein, may be grounds for sanctions.

19 The parties are reminded that pursuant to Local Rule  
20 16-281(b)(10) and (11) they are required to list in the final  
21 pre-trial statement all witnesses and exhibits they propose to  
22 offer at trial, no matter for what purpose. These lists shall  
23 not be contained in the body of the final pre-trial statement  
24 itself, but shall be attached as separate documents so that the  
25 court may attach them as an addendum to the final pre-trial  
26 order. The final pre-trial order will contain a stringent

1 standard for the offering at trial of witnesses and exhibits not  
2 listed in the final pre-trial order, and the parties are  
3 cautioned that the standard will be strictly applied. On the  
4 other hand, the listing of exhibits or witnesses that a party  
5 does not intend to offer will be viewed as an abuse of the  
6 court's processes.

7 The parties are also reminded that pursuant to Rule 16,  
8 Fed. R. Civ. P., it will be their duty at the final pre-trial  
9 conference to aid the court in: (a) formulation and  
10 simplification of issues and the elimination of frivolous claims  
11 or defenses; (b) settling of facts which should properly be  
12 admitted; and (c) the avoidance of unnecessary proof and  
13 cumulative evidence. Counsel must cooperatively prepare the  
14 joint pre-trial statement and participate in good faith at the  
15 final pre-trial conference with these aims in mind. A failure to  
16 do so may result in the imposition of sanctions which may include  
17 monetary sanctions, orders precluding proof, elimination of  
18 claims or defenses, or such other sanctions as the court deems  
19 appropriate.

20 TRIAL SETTING

21 Jury trial in this matter is set for **June 23, 2014 at**  
22 **9:00 a.m.** The parties estimate a trial length of approximately 5  
23 to 7 days.

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SETTLEMENT CONFERENCE

No Settlement Conference is currently scheduled. If the parties wish to have a settlement conference, one will be scheduled at the final pretrial conference or at an earlier time upon request of the parties.

OBJECTIONS TO STATUS (PRETRIAL SCHEDULING) ORDER

This Status Order will become final without further Order of Court unless objection is e-filed within seven (7) days of the date of the filing of this Order.

IT IS SO ORDERED.

Dated: February 4, 2013

/s/ John A. Mendez  
JOHN A. MENDEZ  
United States District Court Judge