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4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF CALIFORNIA
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7 GINA McKEEN-CHAPLIN, MONICA
8 ALVAREZ, SUSAN CLAYTON, KAREN
9 HONOUR, ANNA NEAL, JAMES
10 PERRY, CARMEN PHAN, RANDALL
11 STEWART, and KRISTI SUAREZ,

12 Plaintiffs,

13 v.

14 PROVIDENT SAVINGS BANK, FSB,
15 Defendant.

No. 2:12-cv-03035-GEB-AC

**ORDER VACATING FINAL PRETRIAL
ORDER AND AMENDING STATUS ORDER**

16 On June 30, 2015, the parties filed a Joint Motion,
17 under Federal Rule of Civil Procedure ("Rule") 1, in which they
18 request the Court "permit[] supplemental briefing on the Parties'
19 cross motions for summary judgment[,] and "reconsider its order
20 on the Parties' cross motions for summary judgment with the
21 benefit of the Parties' supplemental briefing and in light of the
22 fact that the trial of this matter will be a nonjury trial."¹
23 (Joint Mot. 2:4-8, ECF No. 94 (citations omitted).)
24 "Specifically, the Parties propose to submit supplemental briefs
25 of seven pages or fewer (plus any supplemental exhibits) on or by
26 July 24, 2015, and four page reply briefs on or by July 31,
27 2015." (Id. at 4:4-6.) The parties further request "that the

28 ¹ On June 26, 2015, the parties filed under Rule 39(a)(1) a Joint Stipulation for Non-Jury Trial. (ECF No. 93.)

1 Court continue the August 11 trial date for 60 days to allow the
2 Court to hear and rule on summary judgment.” (Id. at 4:8-9.) The
3 parties argue in support of their motion as follows:

4 Because the parties have waived a jury
5 trial by stipulation, this case is now set to
6 be tried to the Court. In the interest of a
7 “just, speedy, and inexpensive” resolution of
8 this Action, Fed. R. Civ. P. 1, the Parties
9 respectfully request that the court
10 reconsider the Parties’ motions for summary
11 judgment with the benefit of additional
12 briefing. The . . . Parties agree that there
13 are significant material facts over which
14 there are no disputes; the Court’s order
15 denying the Parties’ cross motions for
16 summary judgment identifies a host of
17 undisputed material facts. The Parties
18 respectfully submit that there are one or
19 more legal issues which can and should be
20 resolved based on the undisputed material
21 facts in the record, and that a ruling on
22 these issues prior to trial will
23 significantly limit scope of witness
24 testimony and documentary evidence needed for
25 the trial of this action, if not eliminate
26 the need for a trial altogether.

27 For example, the Court’s analysis of the
28 second prong of the administrative exemption
(work directly related to Provident’s
management or general business operations)
does not identify any disputed material
facts. And yet the Court made no ruling as to
whether the undisputed facts were sufficient
for Provident to carry its burden on this
prong of the exemption. Without additional
guidance from the Court, the Parties will
inevitably present these and similar
undisputed facts to the Court, in a bench
trial, through a series of witnesses and
documents, and then ask the Court to reach a
legal conclusion the parties believe can and
should be made now.

The Court also denied Provident’s motion
on the third prong of the exemption (exercise
of discretion and independent judgment). As
with the second prong, a clear ruling as to
the sufficiency or insufficiency of the
undisputed material facts, and a demarcation
of the disputed facts left for trial, could
significantly narrow the factual issues to be

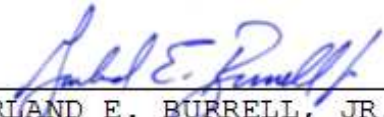
1 presented regarding the third prong, if not
2 eliminate the need for a trial altogether.
3 The Parties respectfully submit that
4 resolving these issues on summary judgment,
5 rather than through live witnesses in a bench
6 trial, will promote judicial economy.

7 (Id. at 3:4-28 (citations omitted).)

8 In light of the parties' Joint Motion and Joint
9 Stipulation for Non-Jury Trial, the Final Pretrial Order filed on
10 May 15, 2015, is vacated, and the Status (Pretrial Scheduling)
11 Order filed on November 19, 2013, is amended as follows:

12 The parties' supplemental briefing schedule on the
13 referenced cross motions for summary judgment is adopted as
14 follows: supplemental briefs of seven pages or fewer (plus any
15 supplemental exhibits) shall be filed no later than July 24,
16 2015, and any reply briefs of four pages or fewer shall be filed
17 no later than July 31, 2015²; the hearing on the motions is
18 scheduled to commence at 9:00 a.m. on August 11, 2015; a final
19 pretrial conference is scheduled in courtroom 10 at 11:00 a.m. on
20 October 19, 2015; the parties shall file a further JOINT pretrial
21 statement no later than seven (7) calendar days prior to the
22 final pretrial conference; and trial commences at 9:00 a.m. on
23 December 1, 2015, in courtroom 10.

24 Dated: July 7, 2015

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26 _____
27 GARLAND E. BURRELL, JR.
28 Senior United States District Judge

29 _____
30 ² The deadline prescribed in the Status Order to complete all other
31 law and motion remains unchanged.