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

ELIZABETH SAMUELS,)	
)	2:13-cv-00713-GEB-DAD
Plaintiff,)	
)	
v.)	<u>STATUS (PRETRIAL SCHEDULING)</u>
)	<u>ORDER</u>
OWENS-BROCKWAY GLASS CONTAINER,)	
INC.; and DOES I through V,)	
)	
Defendants.)	

The status (pretrial scheduling) conference scheduled for hearing on July 8, 2013, is vacated since the parties' Joint Status Report filed on June 24, 2013 ("JSR") indicates the following Order should issue.

DOE DEFENDANTS, SERVICE, AMENDMENT

Plaintiff states in the JSR that she "does not anticipate joining additional parties unless discovery indicates that Owens-Illinois, Inc., whom Defendant identified as an Interested Party, should be a defendant in this action or that other parties should be joined. Plaintiff will effect any joinders, if necessary, by September 30, 2013." (JSR 2:8-11, ECF No. 8.)

The parties also state in the JSR that "they do not presently anticipate the need for amendments of the pleadings[,]" but that if "discovery reveals" any amendments are necessary, they "shall be filed by December 1, 2013." (Id. at 2:13-14.)

1 Therefore, Plaintiff has until September 30, 2013, to file a
2 motion in which leave is sought to file an Amended Complaint to add a
3 new defendant. If leave is not sought as stated, Does I through V will
4 be automatically dismissed from this action.

5 Further, the parties have until December 2, 2013, to file a
6 motion in which leave is sought under Federal Rule of Civil Procedure
7 15(a) to amend their pleadings in response to information obtained
8 during discovery.

9 The referenced motions must be noticed for hearing on the
10 Court's earliest available law and motion date.

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

13 ADDED DEFENDANT'S OPPORTUNITY TO SEEK AMENDMENT OF THIS ORDER

14 If Plaintiff joins a party pursuant to the leave given above,
15 a copy of this Order shall be served on that defendant concurrently with
16 the service of process.

17 That defendant has 30 days after said service within which to
18 file a "Notice of Proposed Modification of Status Order." Although a
19 newly-joined party's proposed modification filed within this thirty day
20 period will not have to meet the good cause standard, no further
21 amendments will be permitted, except with leave of Court for good cause
22 shown.

23 DISCOVERY

24 All discovery shall be completed by October 14, 2014. In this
25 context, "completed" means that all discovery shall have been conducted
26 so that all depositions have been taken and any disputes relative to
27 discovery shall have been resolved by appropriate orders, if necessary,
28 and, where discovery has been ordered, the order has been complied with

1 or, alternatively, the time allowed for such compliance shall have
2 expired.

3 Each party shall comply with Federal Rule of Civil Procedure
4 26(a)(2)(B) and (C)'s initial expert witness disclosure requirements on
5 or before April 7, 2014, and any contradictory and/or rebuttal expert
6 disclosure authorized under Rule 26(a)(2)(D)(ii) on or before May 5,
7 2014.

8 MOTION HEARING SCHEDULE

9 The last hearing date for a motion is December 22, 2014,
10 commencing at 9:00 a.m.¹ A motion shall be briefed as prescribed in Local
11 Rule 230.

12 The parties are cautioned that an untimely motion
13 characterized as a motion in limine may be summarily denied.

14 FINAL PRETRIAL CONFERENCE

15 The final pretrial conference is set for February 23, 2015, at
16 11:00 a.m. The parties are cautioned that the lead attorney who WILL TRY
17 THE CASE for each party shall attend the final pretrial conference. In
18 addition, all persons representing themselves and appearing in propria
19 persona must attend the pretrial conference.

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

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28 ¹ 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 The parties shall file a **JOINT** pretrial statement no later
2 than seven (7) calendar days prior to the final pretrial conference. The
3 joint pretrial statement shall address the applicable portions of Local
4 Rule 281(b), and shall set forth each theory of liability ("claim") and
5 affirmative defense which remains to be tried, and the ultimate facts on
6 which each theory/defense is based. Furthermore, each party shall
7 estimate the length of trial.² The Court uses the parties' joint pretrial
8 statement to prepare its final pretrial order and could issue the final
9 pretrial order without holding the scheduled final pretrial conference.
10 See Mizwicki v. Helwig, 196 F.3d 828, 833 (7th Cir. 1999) ("There is no
11 requirement that the court hold a pretrial conference.").

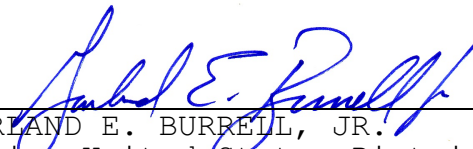
12 If feasible, at the time of filing the joint pretrial
13 statement counsel shall also email it in a format compatible with
14 WordPerfect to: geborders@caed.uscourts.gov.

15 TRIAL SETTING

16 Trial shall commence at 9:00 a.m. on May 19, 2015.

17 IT IS SO ORDERED.

18 Dated: July 5, 2013

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21 _____
22 GARLAND E. BURRELL, JR.
23 Senior United States District Judge
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² 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.