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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

YVONNE HALL,  
  
Plaintiff,  
  
v.  
  
NATIONAL RAILROAD PASSENGER  
CORPORATION dba AMTRACK,  
  
Defendant.

No. 2:14-cv-00236-GEB-AC

**ORDER AMENDING THE PRETRIAL  
SCHEDULING ORDER**

The status (pretrial scheduling) conference scheduled for hearing on February 23, 2015, is vacated since the parties' Joint Status Report filed on February 9, 2015 ("JSR") indicates the following Order should issue.

Pursuant to Chief Judge Morrison England's December 12, 2014 Recusal Order, and the parties' JSR, the November 19, 2014 Pretrial Scheduling Order, (ECF No. 7), is amended as follows:

DISCOVERY

All discovery shall be completed by February 18, 2016. "Completed" means all discovery shall be conducted so that any dispute relative to discovery shall have been resolved by appropriate orders, if necessary, and, where discovery has been ordered, the order has been complied with on or before the prescribed "completion" date.

1           Each party shall comply with Federal Rule of Civil  
2 Procedure 26(a)(2)(B) and (C)'s initial expert witness disclosure  
3 requirements on or before September 18, 2015, and any  
4 contradictory and/or rebuttal expert disclosure authorized under  
5 Rule 26(a)(2)(D)(ii) on or before October 19, 2015.

6                           MOTION HEARING SCHEDULE

7           The last hearing date for a motion is April 18, 2016,  
8 commencing at 9:00 a.m. Any motion shall be briefed as prescribed  
9 in Local Rule 230.

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

12                           FINAL PRETRIAL CONFERENCE

13          The final pretrial conference is set for June 20, 2016,  
14 at 2:30 p.m. The parties are cautioned that the lead attorney who  
15 WILL TRY THE CASE for each party shall attend the final pretrial  
16 conference. In addition, all persons representing themselves and  
17 appearing in propria persona must attend the pretrial conference.

18          The parties shall file a JOINT pretrial statement no  
19 later than seven (7) calendar days prior to the final pretrial  
20 conference. **The joint pretrial statement shall address the**  
21 **applicable portions of Local Rule 281(b), and shall set forth**  
22 **each theory of liability ("claim") and affirmative defense which**  
23 **remains to be tried, and the ultimate facts on which each**  
24 **theory/defense is based.** Furthermore, each party shall estimate  
25 the length of trial. The Court uses the parties' joint pretrial  
26 statement to prepare its final pretrial order and could issue the  
27 final pretrial order without holding the scheduled final pretrial  
28

1 conference. See Mizwicki v. Helwig, 196 F.3d 828, 833 (7th Cir.  
2 1999) ("There is no requirement that the court hold a pretrial  
3 conference.").

4 Final pretrial procedures are "critical for 'promoting  
5 efficiency and conserving judicial resources by identifying the  
6 real issues prior to trial, thereby saving time and expense for  
7 everyone.'" Friedman & Friedman, Ltd. v. Tim McCandless, Inc.,  
8 606 F.3d 494, 498 (8th Cir. 2010) (quoting Fed. R. Civ. P. 16  
9 Advisory Committee Note (1983 Amendment to subdivision (c)).  
10 "Toward that end, Rule 16 directs courts to use pretrial  
11 conferences to weed out unmeritorious claims and defenses before  
12 trial begins." Smith v. Gulf Oil Co., 995 F.2d 638, 642 (6th Cir.  
13 1993). The parties are therefore provided notice that a claim or  
14 affirmative defense may be dismissed *sua sponte* if it is not  
15 shown to be triable in the joint final pretrial statement. Cf.  
16 Portland Retail Druggists Ass'n v. Kaiser Found. Health Plan, 662  
17 F.2d 641, 645 (9th Cir. 1981) (indicating that a party shall be  
18 provided notice and an opportunity to respond with facts  
19 sufficient to justify having a claim or affirmative defense  
20 proceed to trial); Portsmouth Square, Inc. v. S'holders  
21 Protective Comm., 770 F.2d 866, 869 (9th Cir. 1985) (stating "the  
22 district court has . . . authority to grant summary judgment *sua*  
23 *sponte* in the context of a final pretrial conference").

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

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TRIAL SETTING

Trial shall commence at 9:00 a.m. on September 27, 2016.

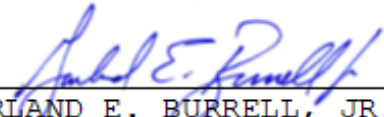
EARLY SETTLEMENT CONFERENCE

The parties state they "are interested in an effort to settle the matter, and would welcome a settlement conference with the trial judge or a magistrate." (JSR at 4:2-3.)

The parties are hereby authorized to contact the courtroom deputy assigned to a magistrate judge for the purpose of attempting to schedule a settlement conference at a mutually convenient date and time.

IT IS SO ORDERED.

Dated: February 13, 2015

  
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GARLAND E. BURRELL, JR.  
Senior United States District Judge