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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

**SUPERCEDING STATUS (PRETRIAL
SCHEDULING) ORDER**

The February 13, 2015 Order Amending the Pretrial Scheduling Order, (ECF No. 11), is superseded by this order.¹

SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

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

DISCOVERY

Non-Expert discovery shall be completed by July 9, 2015. Expert discovery shall be completed by December 3, 2015. "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

¹ This superseding order issues because most of the scheduling dates herein were previously issued, but were vacated by the December 12, 2014 recusal order, (ECF No. 8). It was attempted to keep those scheduling dates or to modify them, if necessary, as little as possible.

1 ordered, the order has been complied with on or before the
2 prescribed "completion" date.

3 Each party shall comply with Federal Rule of Civil
4 Procedure 26(a)(2)(B) and (C)'s initial expert witness disclosure
5 requirements on or before September 9, 2015, and any
6 contradictory and/or rebuttal expert disclosure authorized under
7 Rule 26(a)(2)(D)(ii) on or before October 13, 2015.

8 MOTION HEARING SCHEDULE

9 The last hearing date for a motion is February 8, 2016,
10 commencing at 9:00 a.m. Any motion shall be briefed as prescribed
11 in Local 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 April 4, 2016,
16 at 1:30 p.m. The parties are cautioned that the lead attorney who
17 WILL TRY THE CASE for each party shall attend the final pretrial
18 conference. In addition, all persons representing themselves and
19 appearing in propria persona must attend the pretrial conference.

20 The parties shall file a JOINT pretrial statement no
21 later than seven (7) calendar days prior to the final pretrial
22 conference. **The joint pretrial statement shall address the**
23 **applicable portions of Local Rule 281(b), and shall set forth**
24 **each theory of liability ("claim") and affirmative defense which**
25 **remains to be tried, and the ultimate facts on which each**
26 **theory/defense is based.** Furthermore, each party shall estimate
27 the length of trial. The Court uses the parties' joint pretrial
28

1 statement to prepare its final pretrial order and could issue the
2 final pretrial order without holding the scheduled final pretrial
3 conference. See Mizwicki v. Helwig, 196 F.3d 828, 833 (7th Cir.
4 1999) ("There is no requirement that the court hold a pretrial
5 conference.").

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

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

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TRIAL SETTING

Trial shall commence at 9:00 a.m. on May 17, 2016.

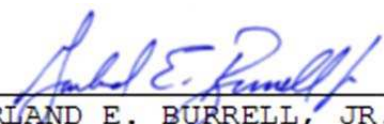
EARLY SETTLEMENT CONFERENCE

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." (Joint Status Report 4:2-3, ECF No. 10.)

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 17, 2015



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