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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

COLLEEN STEWART,
Plaintiff,
v.
KEVIN CASSIDY,
Defendant.

No. 2:14-cv-0326 CKD

ORDER

STATUS (PRETRIAL SCHEDULING) ORDER

READ THIS ORDER CAREFULLY. IT CONTAINS IMPORTANT DATES WHICH THE COURT WILL STRICTLY ENFORCE AND WITH WHICH ALL PARTIES MUST COMPLY. A FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER MAY RESULT IN THE IMPOSITION OF MONETARY AND ALL OTHER SANCTIONS WITHIN THE POWER OF THE COURT, INCLUDING DISMISSAL OR AN ORDER OF JUDGMENT.

Pursuant to court order, a Status (Pretrial Scheduling) Conference was held on May 7, 2014. David May appeared for plaintiff. Michael Pazdernik appeared for defendant.

After hearing, the court makes the following findings and orders:

SERVICE OF PROCESS

Defendant has been served and no further service is permitted except with leave of court, good cause having been shown.

1 **JOINDER OF PARTIES/AMENDMENTS**

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

4 **JURISDICTION/VENUE**

5 Jurisdiction is undisputed and is hereby found to be proper, as is venue.

6 **DISCOVERY**

7 The parties shall make initial disclosures under Federal Rule of Civil Procedure 26 no
8 later than May 14, 2014. All discovery is left open, save and except that it shall be so conducted
9 as to be completed by December 10, 2014. The word “completed” means that all discovery shall
10 have been conducted so that all depositions have been taken and any disputes relative to
11 discovery shall have been resolved by appropriate order if necessary and, where discovery has
12 been ordered, the order has been complied with. Expert disclosures shall be made no later than
13 150 days prior to the discovery cut-off; rebuttal expert disclosures shall be made no later than 120
14 days prior to the discovery cut-off.

15 **MOTION HEARING SCHEDULE**

16 All law and motion except as to discovery is left open, save and except that it shall be
17 conducted so as to be completed by February 25, 2015. The word “completed” in this context
18 means that all law and motion matters must be heard by the above date. The parties are cautioned
19 to refer to the local rules regarding the requirements for noticing such motions on the court’s
20 regularly scheduled law and motion calendar. This paragraph does not preclude motions for
21 continuances, temporary restraining orders or other emergency applications, and is subject to any
22 special scheduling set forth in the “MISCELLANEOUS PROVISIONS” paragraph below.

23 The parties should keep in mind that the purpose of law and motion is to narrow and
24 refine the legal issues raised by the case, and to dispose of by pretrial motion those issues that are
25 susceptible to resolution without trial. To accomplish that purpose, the parties need to identify
26 and fully research the issues presented by the case, and then examine those issues in light of the
27 evidence gleaned through discovery. If it appears after examining the legal issues and facts that

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1 an issue can be resolved by pretrial motion, the parties are to file the appropriate motion by the
2 law and motion cutoff set forth supra.

3 ALL PURELY LEGAL ISSUES ARE TO BE RESOLVED BY TIMELY PRETRIAL
4 MOTION. The parties are reminded that motions in limine are procedural devices designed to
5 address the admissibility of evidence. THE PARTIES ARE CAUTIONED THAT THE COURT
6 WILL LOOK WITH DISFAVOR UPON SUBSTANTIVE MOTIONS PRESENTED IN THE
7 GUISE OF MOTIONS IN LIMINE AT THE TIME OF TRIAL.

8 **FINAL PRETRIAL CONFERENCE**

9 The Final Pretrial Conference is set for April 29, 2015 at 10:00 a.m. in courtroom no. 24
10 before the undersigned.

11 The parties are to be fully prepared for trial at the time of the Pretrial Conference, with no
12 matters remaining to be accomplished except production of witnesses for oral testimony. The
13 parties are referred to Local Rules 281 and 282 relating to the contents of and time for filing
14 Pretrial Statements. A FAILURE TO COMPLY WITH LOCAL RULES 281 AND 282 WILL
15 BE GROUNDS FOR SANCTIONS.

16 Notwithstanding the provisions of Local Rule 281, which contemplates the filing of
17 separate Pretrial Statements by plaintiffs and defendants, the parties are to prepare a JOINT
18 STATEMENT with respect to the undisputed facts and disputed factual issues of the case. The
19 undisputed facts and disputed factual issues are to be set forth in two separate sections. The
20 parties should identify those facts which are relevant to each separate cause of action. In this
21 regard, the parties are to number each individual fact or factual issue. Where the parties are
22 unable to agree as to what factual issues are properly before the court for trial, they should
23 nevertheless list in the section on "DISPUTED FACTUAL ISSUES" all issues asserted by any of
24 the parties and explain by parenthetical the controversy concerning each issue. The parties should
25 keep in mind that, in general, each fact should relate or correspond to an element of the relevant
26 cause of action. The parties should also keep in mind that the purpose of listing the disputed
27 factual issues is to apprise the court and all parties about the precise issues that will be litigated at
28 trial. The court is not interested in a listing of all evidentiary facts underlying the issues that are

1 in dispute. However, with respect to the listing of undisputed facts, the court will accept
2 agreements as to evidentiary facts. The joint statement of undisputed facts and disputed factual
3 issues is to be filed with the court concurrently with the filing of plaintiff's Pretrial Statement. If
4 the case is tried to a jury, the undisputed facts will be read to the jury.

5 Pursuant to Local Rule 281(b)(10) and (11), the parties are required to provide in their
6 Pretrial Statements a list of witnesses and exhibits that they propose to proffer at trial, no matter
7 for what purpose. These lists shall not be contained in the Pretrial Statement itself, but shall be
8 attached as separate documents to be used as addenda to the Final Pretrial Order. Plaintiff's
9 exhibits shall be listed numerically; defendant's exhibits shall be listed alphabetically. The
10 Pretrial Order will contain a stringent standard for the proffering of witnesses and exhibits at trial
11 not listed in the Pretrial Order. Counsel are cautioned that the standard will be strictly applied.
12 On the other hand, the listing of exhibits or witnesses which counsel do not intend to call or use
13 will be viewed as an abuse of the court's processes.

14 The parties are also reminded that, pursuant to Fed. R. Civ. P. 16, it will be their duty at
15 the Pretrial Conference to aid the court in (a) formulation and simplification of issues and the
16 elimination of frivolous claims or defenses; (b) settling of facts which should be properly
17 admitted; and (c) the avoidance of unnecessary proof and cumulative evidence. The parties must
18 prepare their Pretrial Statements, and participate in good faith at the Pretrial Conference, with
19 these aims in mind. A FAILURE TO DO SO MAY RESULT IN THE IMPOSITION OF
20 SANCTIONS which may include monetary sanctions, orders precluding proof, eliminations of
21 claims or defenses, or such other sanctions as the court deems appropriate.

22 **TRIAL SETTING**

23 Trial is set on June 8, 2015 at 9:00 a.m. in courtroom no. 24 before the undersigned. Trial
24 will be by jury. The court expects the trial will take approximately six days.

25 **SETTLEMENT CONFERENCE**

26 If the parties determine a settlement conference would be beneficial, the courtroom deputy
27 may be contacted to arrange a date for the settlement conference. In the alternative, the parties
28 may request a referral to the court's Voluntary Dispute Resolution Program ("VDRP"). In

1 absence of a waiver of disqualification of the undersigned, the settlement conference will be set
2 before another magistrate judge.

3 **MISCELLANEOUS PROVISIONS**

4 There appear to be no other matters presently pending before the court that will aid the
5 just and expeditious disposition of this matter.

6 Pursuant to Fed. R. Civ. P. 16(b), THE COURT SUMMARIZES THE SCHEDULING
7 ORDER AS FOLLOWS:

- 8 1. Initial disclosures shall be made no later than May 14, 2014.
- 9 2. Discovery shall be completed by December 10, 2014; expert disclosures 150 days prior
10 to discovery cut-off; rebuttal expert disclosures 120 days prior to discovery cut-off.
- 11 3. All pretrial motions, except motions to compel discovery, shall be completed by
12 February 25, 2015.
- 13 4. Pretrial conference is set for April 29, 2015 at 10:00 a.m. in courtroom no. 24 before
14 the undersigned.
- 15 5. This matter is set for jury trial on June 8, 2015 at 9:00 a.m. in courtroom no. 24 before
16 the undersigned.

17 Dated: May 8, 2014

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20 CAROLYN K. DELANEY
21 UNITED STATES MAGISTRATE JUDGE

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