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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

Scott Johnson,  
  
Plaintiff,  
  
v.  
  
Azizur Rehman; Omar Ghaith;  
and Does 1-10,  
  
Defendants.

No. 2:14-cv-01454-GEB-AC

**STATUS (PRETRIAL SCHEDULING)  
ORDER**

The status (pretrial scheduling) conference scheduled for hearing on December 15, 2014, is vacated since the parties' Joint Status Report filed on December 1, 2014 ("JSR") indicates the following Order should issue.

DOE DEFENDANTS, SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

The parties state in the JSR concerning the possible joinder of additional parties and amendment of pleadings as follows:

**(b) Possible Joinder of Additional Parties**

Plaintiff: anticipates joining additional parties.

Defendants: anticipate[] joining such parties who are discovered to be participating in a conspiracy to commit fraud.

**(c) Anticipated Amendments to the Pleadings**

Plaintiff: does not anticipate amendment to the pleadings.

1            Defendants: do[] not anticipate amendment  
2            unless cross-defendants are discovered.

3            (JSR 2:4-13, ECF No. 21.)

4            These statements fail to comply with the parties'  
5            obligation under Rule 16 to provide meaningful information on  
6            when the referenced joinders and/or amendment will be sought.<sup>1</sup>  
7            Therefore, the parties shall conduct discovery pertinent to  
8            identifying any additional parties forthwith, and are authorized  
9            to file a motion(s) in which they seek leave authorizing them to  
10           file the referenced pleadings provided that the motion(s) in  
11           which leave is sought are filed no later than ninety from the  
12           date on which this order is filed; the motion(s) shall be noticed  
13           for hearing on the earliest available regularly scheduled law and  
14           motion hearing date. If leave is not sought as stated, Does 1-10  
15           will be automatically dismissed from this action.

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

19           ADDED PARTIES' OPPORTUNITY TO SEEK AMENDMENT OF THIS ORDER

20           If a party is joined pursuant to the leave given above,  
21           a copy of this Order shall be served on that party concurrently  
22           with service of process.

23           That party has 30 days after said service within which  
24           to file a "Notice of Proposed Modification of Status Order."  
25           Although a newly-joined party's proposed modification filed

26           <sup>1</sup>        The November 6, 2014 Order Continuing Status Conference, (ECF No. 20),  
27           continued the status conference so additional information concerning the  
28           timing of the anticipated joinder of parties could be addressed in a further  
                 joint status report. Notwithstanding that order, the parties provided no  
                 further information concerning this timing in the December 1, 2014 JSR.

1 within this thirty day period will not have to meet the good  
2 cause standard, no further amendments will be permitted, except  
3 with leave of Court for good cause shown.

4 DISCOVERY

5 All discovery shall be completed by September 14, 2015.  
6 "Completed" means all discovery shall be conducted so that any  
7 dispute relative to discovery shall have been resolved by  
8 appropriate orders, if necessary, and, where discovery has been  
9 ordered, the order has been complied with on or before the  
10 prescribed "completion" date.

11 Each party shall comply with Federal Rule of Civil  
12 Procedure 26(a)(2)(B) and (C)'s initial expert witness disclosure  
13 requirements on or before April 14, 2015, and any contradictory  
14 and/or rebuttal expert disclosure authorized under Rule  
15 26(a)(2)(D)(ii) on or before May 14, 2015.

16 MOTION HEARING SCHEDULE

17 The last hearing date for a motion is November 16,  
18 2015, commencing at 9:00 a.m. Any motion shall be briefed as  
19 prescribed in Local Rule 230.

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

22 FINAL PRETRIAL CONFERENCE

23 The final pretrial conference is set for January 25,  
24 2016, at 2:30 p.m. The parties are cautioned that the lead  
25 attorney who WILL TRY THE CASE for each party shall attend the  
26 final pretrial conference. In addition, all persons representing  
27 themselves and appearing in propria persona must attend the  
28

1 pretrial conference.

2           The parties shall file a JOINT pretrial statement no  
3 later than seven (7) calendar days prior to the final pretrial  
4 conference. **The joint pretrial statement shall address the**  
5 **applicable portions of Local Rule 281(b), and shall set forth**  
6 **each theory of liability ("claim") and affirmative defense which**  
7 **remains to be tried, and the ultimate facts on which each**  
8 **theory/defense is based.** Furthermore, each party shall estimate  
9 the length of trial. The Court uses the parties' joint pretrial  
10 statement to prepare its final pretrial order and could issue the  
11 final pretrial order without holding the scheduled final pretrial  
12 conference. See Mizwicki v. Helwig, 196 F.3d 828, 833 (7th Cir.  
13 1999) ("There is no requirement that the court hold a pretrial  
14 conference.").

15           Final pretrial procedures are "critical for 'promoting  
16 efficiency and conserving judicial resources by identifying the  
17 real issues prior to trial, thereby saving time and expense for  
18 everyone.'" Friedman & Friedman, Ltd. v. Tim McCandless, Inc.,  
19 606 F.3d 494, 498 (8th Cir. 2010) (quoting Fed. R. Civ. P. 16  
20 Advisory Committee Note (1983 Amendment to subdivision (c)).  
21 "Toward that end, Rule 16 directs courts to use pretrial  
22 conferences to weed out unmeritorious claims and defenses before  
23 trial begins." Smith v. Gulf Oil Co., 995 F.2d 638, 642 (6th Cir.  
24 1993). The parties are therefore provided notice that a claim or  
25 affirmative defense may be dismissed *sua sponte* if it is not  
26 shown to be triable in the joint final pretrial statement. Cf.  
27 Portland Retail Druggists Ass'n v. Kaiser Found. Health Plan, 662  
28 F.2d 641, 645 (9th Cir. 1981) (indicating that a party shall be

1 provided notice and an opportunity to respond with facts  
2 sufficient to justify having a claim or affirmative defense  
3 proceed to trial); Portsmouth Square, Inc. v. S'holders  
4 Protective Comm., 770 F.2d 866, 869 (9th Cir. 1985) (stating "the  
5 district court has . . . authority to grant summary judgment *sua*  
6 *sponte* in the context of a final pretrial conference").

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

10 TRIAL SETTING

11 Trial shall commence at 9:00 a.m. on April 19, 2016.

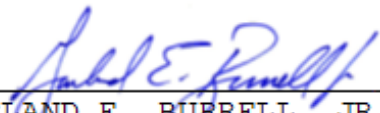
12 IT IS SO ORDERED.

13 Dated: December 5, 2014

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

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