

1
2
3
4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF CALIFORNIA
6

7 Scott Johnson,
8 Plaintiff,

9 v.

10 Nancy L. Moore, in her
11 individual and representative
12 capacity as Trustee-- Nancy
13 L. Moore Trust; Jeffrey W
14 Chappell,
15 Defendants*.

No. 2:14-cv-01531-GEB-KJN

**STATUS (PRETRIAL SCHEDULING)
ORDER**

16 The status (pretrial scheduling) conference scheduled
17 for hearing on November 10, 2014, is vacated since the parties'
18 Joint Status Report filed on October 27, 2014 ("JSR") indicates
19 the following Order should issue.

20 DISMISSAL OF DOE DEFENDANTS

21 Since Plaintiff has not justified Doe defendants
22 remaining in this action, Does 1-10 are dismissed. See Order
23 Setting Status (Pretrial Scheduling) Conference filed June 30,
24 2014, at 2 n.2 (indicating that if justification for "Doe"
25 defendant allegations not provided Doe defendants would be
26 dismissed).

27
28 * The caption has been amended according to the Dismissal of Doe Defendants portion of this Order.

1 SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

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

5 DISCOVERY

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

12 Each party shall comply with Federal Rule of Civil
13 Procedure 26(a)(2)(B) and (C)'s initial expert witness disclosure
14 requirements on or before July 27, 2015, and any contradictory
15 and/or rebuttal expert disclosure authorized under Rule
16 26(a)(2)(D)(ii) on or before August 27, 2015.

17 MOTION HEARING SCHEDULE

18 The last hearing date for a motion is December 14,
19 2015, commencing at 9:00 a.m. Any motion shall be briefed as
20 prescribed in Local Rule 230.

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

23 FINAL PRETRIAL CONFERENCE

24 The final pretrial conference is set for February 14,
25 2016, at 2:30 p.m. The parties are cautioned that the lead
26 attorney who WILL TRY THE CASE for each party shall attend the
27 final pretrial conference. In addition, all persons representing
28

1 themselves and appearing in propria persona must attend the
2 pretrial conference.

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

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

1 F.2d 641, 645 (9th Cir. 1981) (indicating that a party shall be
2 provided notice and an opportunity to respond with facts
3 sufficient to justify having a claim or affirmative defense
4 proceed to trial); Portsmouth Square, Inc. v. S'holders
5 Protective Comm., 770 F.2d 866, 869 (9th Cir. 1985) (stating "the
6 district court has . . . authority to grant summary judgment *sua*
7 *sponte* in the context of a final pretrial conference").

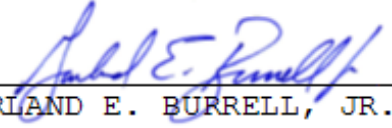
8 If feasible, at the time of filing the joint pretrial
9 statement counsel shall also email it in a format compatible with
10 WordPerfect to: geborders@caed.uscourts.gov.

11 TRIAL SETTING

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

13 IT IS SO ORDERED.

14 Dated: November 5, 2014

15
16 
17 GARLAND E. BURRELL, JR.
18 Senior United States District Judge
19
20
21
22
23
24
25
26
27
28