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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MISTY DAWN REITZ, and  
NICHOLAS IVEY,  
  
                                Plaintiffs,  
  
                                v.  
  
PROGRESSIVE DIRECT INSURANCE  
COMPANY, an Ohio Corporation  
registered to do business in  
the State of California; and  
Does I through CC, inclusive,  
  
                                Defendants.

No. 2:14-cv-01614-GEB-EFB

**STATUS (PRETRIAL SCHEDULING)  
ORDER**

The parties' Joint Status Report filed on November 10, 2014 ("JSR") indicates the following Order should issue.

SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

Plaintiffs state in the JSR that they "may move to amend their pleadings to allege the true names and capacities of defendants named as DOES . . . on or before January 16, 2015." (JSR 3:7-12, ECF No. 17.)

Plaintiffs have until January 16, 2015, to file a motion in which leave is sought under Federal Rule of Civil Procedure 15(a) to file an Amended Complaint substituting a named

1 defendant in place of a Doe defendant. The referenced motion must  
2 be noticed for hearing on the Court's earliest available law and  
3 motion date. If leave is not sought as stated, Does I-CC will be  
4 automatically dismissed from this action.

5 Other than an amendment that could be authorized if all  
6 or part of the pending motion to strike is granted, no further  
7 service, joinder of parties, or amendments to pleadings is  
8 permitted, except with leave of Court for good cause shown.

9 ADDED DEFENDANT'S OPPORTUNITY TO SEEK AMENDMENT OF THIS ORDER

10 If Plaintiffs substitute a named defendant in place of  
11 a Doe defendant pursuant to the leave given above, a copy of this  
12 Order shall be served on that defendant concurrently with the  
13 service of process.

14 That defendant has 30 days after said service within  
15 which to file a "Notice of Proposed Modification of Status  
16 Order." Although a newly-joined party's proposed modification  
17 filed within this thirty day period will not have to meet the  
18 good cause standard, no further amendments will be permitted,  
19 except with leave of Court for good cause shown.

20 DISCOVERY

21 All discovery shall be completed by July 15, 2015.  
22 "Completed" means all discovery shall be conducted so that any  
23 dispute relative to discovery shall have been resolved by  
24 appropriate orders, if necessary, and, where discovery has been  
25 ordered, the order has been complied with on or before the  
26 prescribed "completion" date.

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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 February 13, 2015, and any  
4 contradictory and/or rebuttal expert disclosure authorized under  
5 Rule 26(a)(2)(D)(ii) on or before March 17, 2015.

6 MOTION HEARING SCHEDULE

7 The last hearing date for a motion is September 28,  
8 2015, commencing at 9:00 a.m. Any motion shall be briefed as  
9 prescribed 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 November 23,  
14 2015, at 2:30 p.m. The parties are cautioned that the lead  
15 attorney who WILL TRY THE CASE for each party shall attend the  
16 final pretrial conference. In addition, all persons representing  
17 themselves and appearing in propria persona must attend the  
18 pretrial conference.

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

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

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

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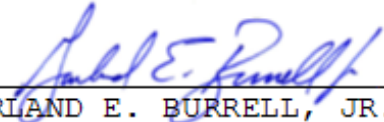
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TRIAL SETTING

Trial shall commence at 9:00 a.m. on February 23, 2016.

IT IS SO ORDERED.

Dated: November 20, 2014

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