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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

WILLIAM A. SASSMAN,  
Plaintiff,

v.

EDMUND G. BROWN, JR., Governor  
of California, et al.,  
Defendants.

No. 2:14-cv-01679-MCE-KJN

**PRETRIAL SCHEDULING ORDER**

The Court has reviewed the parties' submissions with regard to Plaintiff's Motion for Reconsideration (ECF No. 35), which was still pending, in part, as to Plaintiff's request to further expedite the discovery and summary judgment schedule. That Motion is now DENIED in its entirety, and the Court makes the following Pretrial Scheduling Order.

I. **DISCOVERY**

All discovery, with the exception of expert discovery, shall be completed by **November 28, 2015**. In this context, "completed" means that all discovery shall have been conducted so that all depositions have been taken and any disputes relative to discovery shall have been resolved by appropriate order if necessary and, where discovery has been ordered, the order has been obeyed. All motions to compel

1 discovery must be noticed on the magistrate judge's calendar in accordance with the  
2 local rules of this Court.

3 II. DISCLOSURE OF EXPERT WITNESSES

4 All counsel are to designate in writing, file with the Court, and serve upon all other  
5 parties the name, address, and area of expertise of each expert that they propose to  
6 tender at trial not later than **December 31, 2015**.<sup>1</sup> The designation shall be  
7 accompanied by a written report prepared and signed by the witness. The report shall  
8 comply with Fed. R. Civ. P. 26(a)(2)(B).

9 Within twenty (20) days after the designation of expert witnesses, any party may  
10 designate a supplemental list of expert witnesses who will express an opinion on a  
11 subject covered by an expert designated by an adverse party. The right to designate a  
12 supplemental expert for rebuttal purposes only shall apply to a party who has not  
13 previously disclosed an expert witness on the date set for expert witness disclosure by  
14 this Pretrial Scheduling Order.

15 Failure of a party to comply with the disclosure schedule as set forth above in all  
16 likelihood will preclude that party from calling the expert witness at the time of trial. An  
17 expert witness not appearing on the designation will not be permitted to testify unless the  
18 party offering the witness demonstrates: (a) that the necessity for the witness could not  
19 have been reasonably anticipated at the time the list was proffered; (b) that the Court  
20 and opposing counsel were promptly notified upon discovery of the witness; and (c) that  
21 the witness was promptly made available for deposition.

22 For purposes of this Pretrial Scheduling Order, an "expert" is any person who may  
23 be used at trial to present evidence under Rules 702, 703, and 705 of the Federal Rules  
24 of Evidence, which include both "percipient experts" (persons who, because of their  
25 expertise, have rendered expert opinions in the normal course of their work duties or  
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27 <sup>1</sup> The discovery of experts will include whether any motions based on Daubert v. Merrell Dow  
28 Pharmaceuticals, Inc., 509 U.S. 579 (1993) and/or Kumho Tire Co. v. Carmichael, 526 U.S. 137 (1999)  
are anticipated.

1 observations pertinent to the issues in the case) and “retained experts” (persons  
2 specifically designated by a party to be a testifying expert for the purposes of litigation).

3 Each party shall identify whether a disclosed expert is percipient, retained, or  
4 both. It will be assumed that a party designating a retained expert has acquired the  
5 express permission of the witness to be so listed. Parties designating percipient experts  
6 must state in the designation who is responsible for arranging the deposition of such  
7 persons.

8 All experts designated are to be fully prepared at the time of designation to render  
9 an informed opinion, and give their bases for their opinion, so that they will be able to  
10 give full and complete testimony at any deposition taken by the opposing party. Experts  
11 will not be permitted to testify at the trial as to any information gathered or evaluated, or  
12 opinion formed, after deposition taken subsequent to designation.

13 Counsel are instructed to complete all discovery of expert witnesses in a timely  
14 manner in order to comply with the Court’s deadline for filing dispositive motions.

15 **III. MOTION HEARING SCHEDULE**

16 Motions for summary judgment shall be heard on **March 19, 2015**. All papers  
17 should be filed in conformity with the Local Rules. However, with respect to Motions for  
18 Summary Judgment only, the parties shall comply with the following filing deadlines:

19 Motion for Summary Judgment Filed not later than **January 30, 2015**

20 Opposition Filed not later than **February 20, 2015**

21 Reply Filed not later than **March 5, 2015**

22 Absent leave of the Court, all issues the parties wish to resolve on summary  
23 judgment must be raised together in one (1) motion. Should the parties wish to file  
24 additional motions for summary judgment, they must seek leave of the Court.  
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26 All purely legal issues are to be resolved by timely pretrial motions. When  
27 appropriate, failure to comply with Local Rules 230 and 260, as modified by this Order,  
28 may be deemed consent to the motion and the Court may dispose of the motion

1 summarily. With respect to motions for summary judgment, failure to comply with Local  
2 Rules 230 and 260, as modified by this Order, may result in dismissal for failure to  
3 prosecute (or failure to defend) pursuant to this Court's inherent authority to control its  
4 docket and/or Federal Rule of Civil Procedure 41(b). Further, failure to timely oppose a  
5 summary judgment motion<sup>2</sup> may result in the granting of that motion if the movant shifts  
6 the burden to the nonmovant to demonstrate that a genuine issue of material fact  
7 remains for trial.

8 The Court places a page limit for points and authorities (exclusive of exhibits and  
9 other supporting documentation) of twenty (20) pages on all initial moving papers, twenty  
10 (20) pages on oppositions, and ten (10) pages for replies. All requests for page limit  
11 increases must be made in writing to the Court setting forth any and all reasons for any  
12 increase in page limit at least seven (7) days prior to the filing of the motion.

13 For the Court's convenience, citations to the Supreme Court Lexis database  
14 should include parallel citations to the Westlaw database.

15 The parties are reminded that a motion in limine is a pretrial procedural device  
16 designed to address the admissibility of evidence. The Court will look with disfavor upon  
17 dispositional motions presented at the Final Pretrial Conference or at trial in the guise of  
18 motions in limine.

19 The parties are cautioned that failure to raise a dispositive legal issue that could  
20 have been tendered to the court by proper pretrial motion prior to the dispositive motion  
21 cut-off date may constitute waiver of such issue.

#### 22 IV. FURTHER PRETRIAL AND TRIAL PROCEEDINGS

23 If necessary, after the motion(s) for summary judgment have been decided, an  
24 amended pretrial scheduling order will issue setting, among other things, dates for the  
25 final pretrial conference and for trial.

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28 <sup>2</sup> The Court urges any party that contemplates bringing a motion for summary judgment or who  
must oppose a motion for summary judgment to review Local Rule 260.

1 V. MODIFICATION OF PRETRIAL SCHEDULING ORDER

2 The parties are reminded that pursuant to Rule 16(b) of the Federal Rules of Civil  
3 Procedure, the Pretrial Scheduling Order shall not be modified except by leave of court  
4 upon a showing of **good cause**. Agreement by the parties pursuant to stipulation alone  
5 to modify the Pretrial Scheduling Order does not constitute good cause. Except in  
6 extraordinary circumstances, unavailability of witnesses or counsel will not constitute  
7 good cause.

8 VI. OBJECTIONS TO PRETRIAL SCHEDULING ORDER

9 This Pretrial Scheduling Order will become final without further order of the Court  
10 unless objections are filed within seven (7) court days of service of this Order.

11 IT IS SO ORDERED.

12 Dated: November 20, 2014

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16 MORRISON C. ENGLAND, JR., CHIEF JUDGE  
17 UNITED STATES DISTRICT COURT  
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