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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRENDA PICKERN,

Plaintiff,

v.

US FOOD CORP, INC. dba LONG
JOHN SILVERS #31918,

Defendant*.

No. 2:14-cv-01806-GEB-CMK

**STATUS (PRETRIAL SCHEDULING)
ORDER**

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

SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

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

DISCOVERY

All discovery shall be completed by May 18, 2016. "Completed" means all discovery shall be conducted so that any dispute relative to discovery shall have been resolved by appropriate orders, if necessary, and, where discovery has been

* The caption has been amended according to the August 27, 2014 dismissal of Defendant Lojon Property, LLC. (ECF No. 5.)

1 ordered, the order has been complied with on or before the
2 prescribed "completion" date.

3 Each party shall comply with Federal Rule of Civil
4 Procedure 26(a)(2)(B) and (C)'s initial expert witness disclosure
5 requirements on or before February 22, 2016, and any
6 contradictory and/or rebuttal expert disclosure authorized under
7 Rule 26(a)(2)(D)(ii) on or before March 22, 2016.

8 MOTION HEARING SCHEDULE

9 The last hearing date for a motion is August 22, 2016,
10 commencing at 9:00 a.m. Any motion shall be briefed as prescribed
11 in Local Rule 230.

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

14 FINAL PRETRIAL CONFERENCE

15 The final pretrial conference is set for October 17,
16 2016, at 1:30 p.m. The parties are cautioned that the lead
17 attorney who WILL TRY THE CASE for each party shall attend the
18 final pretrial conference. In addition, all persons representing
19 themselves and appearing in propria persona must attend the
20 pretrial conference.

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

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

27 If feasible, at the time of filing the joint pretrial
28 statement counsel shall also email it in a format compatible with

1 WordPerfect to: geborders@caed.uscourts.gov.

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TRIAL SETTING

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Trial shall commence at 9:00 a.m. on January 24, 2017.

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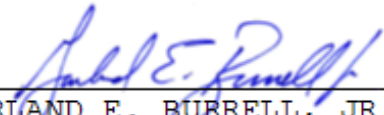
IT IS SO ORDERED.

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Dated: November 6, 2014

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

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