

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Scott Johnson,

Plaintiff,

v.

Joseph P Ratto, in his
individual and representative
capacity as Trustee--Joseph P
Ratto & Linda A Ratto 2000
Trust; Linda A Ratto, in her
individual and representative
capacity as Trustee-- Joseph
P Ratto & Linda A Ratto 2000
Trust; and Harry Marvin
Costa,

Defendants* .

No. 2:14-cv-01981-GEB-DD

**STATUS (PRETRIAL SCHEDULING)
ORDER**

The status (pretrial scheduling) conference scheduled for hearing on November 24, 2014, is vacated since the parties' Joint Status Report filed on November 10, 2014 ("JSR") indicates the following Order should issue.

DISMISSAL OF DOE DEFENDANTS

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

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

1 dismissed).

2 SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

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

6 DISCOVERY

7 All discovery shall be completed by December 22, 2015.
8 "Completed" means all discovery shall be conducted so that any
9 dispute relative to discovery shall have been resolved by
10 appropriate orders, if necessary, and, where discovery has been
11 ordered, the order has been complied with on or before the
12 prescribed "completion" date.

13 Each party shall comply with Federal Rule of Civil
14 Procedure 26(a)(2)(B) and (C)'s initial expert witness disclosure
15 requirements on or before August 28, 2015, and any contradictory
16 and/or rebuttal expert disclosure authorized under Rule
17 26(a)(2)(D)(ii) on or before September 28, 2015.

18 MOTION HEARING SCHEDULE

19 The last hearing date for a motion is February 22,
20 2016, commencing at 9:00 a.m. Any motion shall be briefed as
21 prescribed in Local Rule 230.

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

24 FINAL PRETRIAL CONFERENCE

25 The final pretrial conference is set for April 25,
26 2016, at 1:30 p.m. The parties are cautioned that the lead
27 attorney who WILL TRY THE CASE for each party shall attend the
28

1 final pretrial conference. In addition, all persons representing
2 themselves and appearing in propria persona must attend the
3 pretrial conference.

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

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

1 Portland Retail Druggists Ass'n v. Kaiser Found. Health Plan, 662
2 F.2d 641, 645 (9th Cir. 1981) (indicating that a party shall be
3 provided notice and an opportunity to respond with facts
4 sufficient to justify having a claim or affirmative defense
5 proceed to trial); Portsmouth Square, Inc. v. S'holders
6 Protective Comm., 770 F.2d 866, 869 (9th Cir. 1985) (stating "the
7 district court has . . . authority to grant summary judgment *sua*
8 *sponte* in the context of a final pretrial conference").

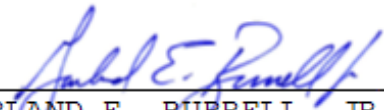
9 If feasible, at the time of filing the joint pretrial
10 statement counsel shall also email it in a format compatible with
11 WordPerfect to: geborders@caed.uscourts.gov.

12 TRIAL SETTING

13 Trial shall commence at 9:00 a.m. on July 26, 2016.

14 IT IS SO ORDERED.

15 Dated: November 20, 2014

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