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6	UNITED STATES DISTRICT COURT
7	EASTERN DISTRICT OF CALIFORNIA
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9	Scott Johnson, No. 2:14-cv-02052-GEB-DAD
10	Plaintiff,
11	V. STATUS (PRETRIAL SCHEDULING) ORDER
12	Mike Patel,
13	Defendant*.
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15	The status (pretrial scheduling) conference scheduled
16	for hearing on May 18, 2015, is vacated since the parties' Joint
17	Status Report filed on May 6, 2015 ("JSR") indicates the
18	following Order should issue.
19	DISMISSAL OF DOE DEFENDANTS
20	Since Plaintiff has not justified Doe defendants
21	remaining in this action, Does 1-10 are dismissed. <u>See</u> Order
22	Setting Status (Pretrial Scheduling) Conference filed November
23	21, 2014, at 2 n.2 (indicating that if justification for "Doe"
24	defendant allegations not provided Doe defendants would be
25	dismissed).
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 $^{^{\}star}$ The caption has been amended according to the $\frac{\text{Dismissal of Doe}}{\text{Defendants}}$ portion of this Order.

SERVICE, JOINDER OF ADDITIONAL PARTIES, AMENDMENT

Plaintiff states in the JSR:

Plaintiff intends to conduct an expert led site inspection to identify each barrier that would affect his type of disability and, then, amend the complaint to ensure that the ADA claim reflects his intention to have all unlawful barrier removed or remediated. This is the two-step process permitted and required by Doran v. 7-Eleven Inc., (9th Cir. 2008) 524 F.3d 103 and Chapman v. Pier 1 Imports (US) Inc., 631 F.3d 939 (9th Cir. 2011).

(JSR 2:10-16, ECF No. 21.)

This statement fails to comply with Plaintiff's obligation under Rule 16 to provide meaningful information on when the referenced amendment would be sought.

Parties anticipating possible amendments. . have an unflagging obligation to alert the Rule 16 scheduling judge of the . . . timing of such anticipated amendments in their status reports so that the judge can consider whether such amendments may properly be sought solely under the Rule 15(a) standard, and whether structuring discovery pertinent to the parties' decision whether to amend is feasible.

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<u>Jackson v. Laureate, Inc.</u>, 186 F.R.D. 605, 608 (E.D. Cal. 1999) (internal quotation marks omitted).

Therefore, Plaintiff shall conduct discovery pertinent to the referenced amendment forthwith, and is authorized to file a motion in which leave is sought under Federal Rule of Civil Procedure 15(a) to file the referenced amendment provided that the motion in which leave is sought is filed no later than sixty days from the date on which this order is filed; the motion shall be noticed for hearing on the earliest available regularly scheduled law and motion hearing date.

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

DISCOVERY

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

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

MOTION HEARING SCHEDULE

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

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

FINAL PRETRIAL CONFERENCE

The final pretrial conference is set for October 24, 2016, at 11:00 a.m. The parties are cautioned that the lead attorney who WILL TRY THE CASE for each party shall attend the final pretrial conference. In addition, all persons representing themselves and appearing in propria persona must attend the

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pretrial conference.

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

Final pretrial procedures are "critical for 'promoting efficiency and conserving judicial resources by identifying the real issues prior to trial, thereby saving time and expense for everyone.'" Friedman & Friedman, Ltd. v. Tim McCandless, Inc., 606 F.3d 494, 498 (8th Cir. 2010) (quoting Fed. R. Civ. P. 16 Advisory Committee Note (1983 Amendment to subdivision (c)). "Toward that end, Rule 16 directs courts to use pretrial conferences to weed out unmeritorious claims and defenses before trial begins." Smith v. Gulf Oil Co., 995 F.2d 638, 642 (6th Cir. 1993). The parties are therefore provided notice that a claim or affirmative defense may be dismissed sua sponte if it is not shown to be triable in the joint final pretrial statement. Cf. Portland Retail Druggists Ass'n v. Kaiser Found. Health Plan, 662 F.2d 641, 645 (9th Cir. 1981) (indicating that a party shall be

provided notice and an opportunity to respond with facts sufficient to justify having a claim or affirmative defense proceed to trial); Portsmouth Square, Inc. v. S'holders Protective Comm., 770 F.2d 866, 869 (9th Cir. 1985) (stating "the district court has . . . authority to grant summary judgment sua sponte in the context of a final pretrial conference"). If feasible, at the time of filing the joint pretrial statement counsel shall also email it in a format compatible with WordPerfect to: geborders@caed.uscourts.gov. TRIAL SETTING Trial shall commence at 9:00 a.m. on January 24, 2017. IT IS SO ORDERED. Dated: May 12, 2015 Senior United States District Judge