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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 KATHERINE ROBINSON, et al.

No. 2:14-cv-2910-KJM-KJN

12 Plaintiffs,

13 v.

ORDER

14 CITY OF REDDING, et al.,

15 Defendants.
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18 Presently pending before the court is plaintiffs' motion to strike defendants' supplemental
19 expert disclosure, filed on September 22, 2017. (ECF No. 79.) The motion has not been noticed
20 for a hearing in accordance with Local Rule 251. For the reasons discussed below, the motion is
21 DENIED WITHOUT PREJUDICE as untimely.

22 The district judge's operative scheduling order required expert disclosures to be made
23 simultaneously on July 31, 2017, and supplemental expert disclosures to be made simultaneously
24 on August 14, 2017. (ECF No. 65.) The order also required expert discovery to be completed by
25 September 30, 2017. (ECF No. 63.) For purposes of the scheduling order, "completed" means
26 that "all discovery shall have been conducted so that all depositions have been taken and any
27 disputes relative to discovery shall have been resolved by appropriate order if necessary and,
28 where discovery has been ordered, the order has been obeyed." (ECF No. 56.)

1 In this case, both plaintiffs and defendants timely filed initial expert witness disclosures
2 on July 31, 2017, and defendants also timely filed a supplemental expert witness disclosure on
3 August 14, 2017. (ECF Nos. 69, 70, 75.) Plaintiffs then filed the instant motion on September
4 22, 2017, seeking to strike defendants' supplemental expert witness disclosure as purportedly
5 improper. (ECF No. 79.)


6 Plaintiffs' motion is clearly untimely under the operative scheduling order, because it was
7 filed mere days before the expert discovery completion deadline, and with insufficient time for
8 the motion to be heard pursuant to Local Rule 251 and decided prior to September 30, 2017.
9 Furthermore, the undersigned cannot modify the scheduling order in this case, which specifically
10 provides that "while the assigned magistrate judge handles discovery motions, the magistrate
11 judge cannot change the schedule set in this order, even in connection with a discovery matter."
12 (ECF No. 56 at 2.) Moreover, even if the undersigned were authorized to modify the scheduling
13 order, plaintiffs have not set forth any good cause to do so. Because defendants' supplemental
14 expert disclosure was timely made on August 14, 2017, plaintiffs had sufficient time to bring and
15 have heard an appropriate motion prior to expiration of the expert discovery completion deadline.

16 Therefore, the court DENIES the motion WITHOUT PREJUDICE as untimely. Nothing
17 in this order precludes the parties from raising this matter with the district judge as a motion *in*
18 *limine* or other appropriate trial motion, to be decided in the district judge's discretion.

19 IT IS SO ORDERED.

20 This order resolves ECF No. 79.

21 Dated: September 28, 2017

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23 KENDALL J. NEWMAN
24 UNITED STATES MAGISTRATE JUDGE
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