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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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VERINA FREEMAN and VALECEA
DIGGS, individually and on
behalf of all others
similarly situated,

Plaintiffs,

v.

WILSHIRE COMMERCIAL CAPITAL
LLC d/b/a "Wilshire Consumer
Credit," a California limited
liability company,

Defendant.

CIV. NO. 2:15-1428 WBS AC

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STATUS (PRETRIAL SCHEDULING) ORDER

After reviewing the parties' Joint Status Report, the court hereby vacates the Status (Pretrial Scheduling) Conference scheduled for September 26, 2016, and makes the following findings and orders without needing to consult with the parties any further.

1 I. SERVICE OF PROCESS

2 The named defendant has been served, and no further
3 service is permitted without leave of court, good cause having
4 been shown under Federal Rule of Civil Procedure 16(b).

5 II. JOINDER OF PARTIES/AMENDMENTS

6 Plaintiff may file an amended complaint by October 11,
7 2016. After that date, no further joinder of parties or
8 amendments to pleadings will be permitted except with leave of
9 court, good cause having been shown under Federal Rule of Civil
10 Procedure 16(b). See Johnson v. Mammoth Recreations, Inc., 975
11 F.2d 604 (9th Cir. 1992).

12 III. JURISDICTION/VENUE

13 Jurisdiction is predicated upon federal question
14 jurisdiction, 28 U.S.C. § 1331, because plaintiffs' claim arises
15 under the Telephone Consumer Protection Act, 47 U.S.C. § 227.
16 Venue is undisputed and hereby found to be proper.

17 IV. DISCOVERY

18 The parties shall serve the initial disclosures
19 required by Federal Rule of Civil Procedure 26(a)(1) by no later
20 than November 7, 2016.

21 The parties shall disclose experts and produce reports
22 in accordance with Federal Rule of Civil Procedure 26(a)(2) by no
23 later than January 3, 2017. With regard to expert testimony
24 intended solely for rebuttal, those experts shall be disclosed
25 and reports produced in accordance with Federal Rule of Civil
26 Procedure 26(a)(2) on or before February 3, 2017.

27 Discovery concerning plaintiffs' Article III standing
28 in this case shall be so conducted as to be completed by November

1 30, 2016. Discovery concerning the alleged capacity of
2 defendant's Automatic Telephone Dialing System to make autodialed
3 calls to plaintiffs and proposed class members shall be so
4 conducted as to be completed by February 6, 2017.

5 All other discovery, including depositions for
6 preservation of testimony, is left open, save and except that it
7 shall be so conducted as to be completed by September 11, 2017.
8 The word "completed" means that all discovery shall have been
9 conducted so that all depositions have been taken and any
10 disputes relevant to discovery shall have been resolved by
11 appropriate order if necessary and, where discovery has been
12 ordered, the order has been obeyed. All motions to compel
13 discovery must be noticed on the magistrate judge's calendar in
14 accordance with the local rules of this court and so that such
15 motions may be heard (and any resulting orders obeyed) not later
16 than September 11, 2017.

17 V. MOTION HEARING SCHEDULE

18 Any hearing for a motion regarding plaintiffs' Article
19 III standing in this case shall take place on February 6, 2017 at
20 1:30 p.m. Any motion regarding plaintiffs' Article III standing
21 in this case shall be filed by January 9, 2017. Any opposition
22 to such motion shall be filed by January 23, 2017. Any reply to
23 such opposition shall be filed by January 30, 2017.

24 Any hearing for a motion regarding the alleged capacity
25 of defendant's Automatic Telephone Dialing System to make
26 autodialed calls to plaintiffs and proposed class members shall
27 take place on April 3, 2017 at 1:30 p.m. Any motion regarding
28 the alleged capacity of defendant's Automatic Telephone Dialing

1 System to make autodialed calls to plaintiffs and proposed class
2 members shall be filed by March 6, 2017. Any opposition to such
3 motion shall be filed by March 20, 2017. Any reply to such
4 opposition shall be filed by March 27, 2017.

5 Any hearing for a motion for class certification shall
6 take place on July 10, 2017 at 1:30 p.m. Any motion for class
7 certification shall be filed by June 12, 2017. Any opposition to
8 such motion shall be filed by June 26, 2017. Any reply to such
9 opposition shall be filed by July 3, 2017.

10 All other motions, except motions for continuances,
11 temporary restraining orders, or other emergency applications,
12 shall be filed on or before November 13, 2017. All motions shall
13 be noticed for the next available hearing date. Counsel are
14 cautioned to refer to the local rules regarding the requirements
15 for noticing and opposing such motions on the court's regularly
16 scheduled law and motion calendar.

17 VI. FINAL PRETRIAL CONFERENCE

18 The Final Pretrial Conference is set for January 29,
19 2018, at 1:30 p.m. in Courtroom No. 5. The conference shall be
20 attended by at least one of the attorneys who will conduct the
21 trial for each of the parties and by any unrepresented parties.

22 Counsel for all parties are to be fully prepared for
23 trial at the time of the Pretrial Conference, with no matters
24 remaining to be accomplished except production of witnesses for
25 oral testimony. Counsel shall file separate pretrial statements,
26 and are referred to Local Rules 281 and 282 relating to the
27 contents of and time for filing those statements. In addition to
28 those subjects listed in Local Rule 281(b), the parties are to

1 provide the court with: (1) a plain, concise statement which
2 identifies every non-discovery motion which has been made to the
3 court, and its resolution; (2) a list of the remaining claims as
4 against each defendant; and (3) the estimated number of trial
5 days.

6 In providing the plain, concise statements of
7 undisputed facts and disputed factual issues contemplated by
8 Local Rule 281(b) (3)-(4), the parties shall emphasize the claims
9 that remain at issue, and any remaining affirmatively pled
10 defenses thereto. If the case is to be tried to a jury, the
11 parties shall also prepare a succinct statement of the case,
12 which is appropriate for the court to read to the jury.

13 VII. TRIAL SETTING

14 The jury trial is set for March 27, 2018 at 9:00 a.m.
15 The parties estimate that a jury trial will last seven to ten
16 days.

17 VIII. SETTLEMENT CONFERENCE

18 A Settlement Conference will be set at the time of the
19 Pretrial Conference. All parties should be prepared to advise
20 the court whether they will stipulate to the trial judge acting
21 as settlement judge and waive disqualification by virtue thereof.

22 Counsel are instructed to have a principal with full
23 settlement authority present at the Settlement Conference or to
24 be fully authorized to settle the matter on any terms. At least
25 seven calendar days before the Settlement Conference counsel for
26 each party shall submit a confidential Settlement Conference
27 Statement for review by the settlement judge. If the settlement
28 judge is not the trial judge, the Settlement Conference

1 Statements shall not be filed and will not otherwise be disclosed
2 to the trial judge.

3 IX. MODIFICATIONS TO SCHEDULING ORDER

4 Any requests to modify the dates or terms of this
5 Scheduling Order, except requests to change the date of the
6 trial, may be heard and decided by the assigned Magistrate Judge.
7 All requests to change the trial date shall be heard and decided
8 only by the undersigned judge.

9 Dated: September 22, 2016

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11 WILLIAM B. SHUBB
12 UNITED STATES DISTRICT JUDGE
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