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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MID-CENTURY INSURANCE  
COMPANY a/s/o DOUGLAS AND  
JOAN BRANIGAN,

Plaintiff,

v.

ELECTROLUX HOME PRODUCTS,  
INC.

Defendants.

No. 2:15-cv-02089-MCE-AC

**SUPPLEMENTAL PRETRIAL  
SCHEDULING ORDER**

This action is assigned to the Honorable Morrison C. England, Jr. Pursuant to the provisions of Rule 16 of the Federal Rules of Civil Procedure, IT IS HEREBY ORDERED:

**I. DISCOVERY**

Pursuant to the Court’s September 7, 2016 Stipulation and Order (ECF No. 17), all discovery was completed by February 6, 2017, and expert discovery by March 6, 2017.

In this context, “completed” means that all discovery shall have been conducted so that all depositions have been taken and any disputes relative to discovery shall have been resolved by appropriate order if necessary and, where discovery has been ordered, the order has been obeyed.

1 All motions to compel discovery must be noticed on the magistrate judge's calendar in  
2 accordance with the Local Rules.<sup>1</sup>

3 Not later than **May 6, 2017**, any party may designate a supplemental list of expert  
4 witnesses who will express an opinion on a subject covered by an expert designated by  
5 an adverse party. The right to designate a supplemental expert for rebuttal purposes  
6 only shall apply to a party who has not previously disclosed an expert witness on the  
7 date set for expert witness disclosure by this Order.

8 Failure of a party to comply with the disclosure schedule as set forth above in all  
9 likelihood will preclude that party from calling the expert witness at the time of trial. An  
10 expert witness not appearing on the designation will not be permitted to testify unless the  
11 party offering the witness demonstrates: (a) good cause for the party's failure to  
12 designate the expert witness in accordance with this Order; (b) that the Court and  
13 opposing counsel were promptly notified upon discovery of the witness; and (c) that the  
14 witness was promptly made available for deposition.

15 For purposes of this Order, an "expert" is any person who may be used at trial to  
16 present evidence under Federal Rules of Evidence 702, 703, and 705, which include  
17 both "percipient experts" (persons who, because of their expertise, have rendered expert  
18 opinions in the normal course of their work duties or observations pertinent to the issues  
19 in the case) and "retained experts" (persons specifically designated by a party to be a  
20 testifying expert for the purposes of litigation).

21 Each party shall identify whether a disclosed expert is percipient, retained, or  
22 both. It will be assumed that a party designating a retained expert has acquired the  
23 express permission of the witness to be so listed. Parties designating percipient experts  
24 must state in the designation who is responsible for arranging the deposition of such  
25 persons.

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28 <sup>1</sup> A copy of the current Local Rules is available at <http://www.caed.uscourts.gov/caednew/index.cfm/rules/local-rules/>

1 All experts designated are to be fully prepared at the time of designation to render  
2 an informed opinion, and given their bases for their opinion, so that they will be able to  
3 give full and complete testimony at any deposition taken by the opposing party. Experts  
4 will not be permitted to testify at the trial as to any information gathered or evaluated, or  
5 opinion formed, after deposition taken subsequent to designation.

6 Counsel are instructed to complete all discovery of expert witnesses in a timely  
7 manner in order to comply with the Court's deadline for filing dispositive motions.

## 8 **II. DISPOSITIVE MOTIONS**

9 The last day to hear dispositive motions shall be **June 27, 2017**. All papers  
10 should be filed in conformity with the Local Rules. Absent leave of the Court, all issues  
11 the parties wish to resolve on summary judgment must be raised together in one (1)  
12 motion or cross-motion. Should the parties wish to file additional motions for summary  
13 judgment, they must seek leave of the Court.

14 All purely legal issues are to be resolved in timely pretrial motions. When  
15 appropriate, failure to comply with Local Rules 230 and 260, as modified by this Order,  
16 may be deemed consent to the motion and the Court may dispose of the motion  
17 summarily. With respect to motions for summary judgment, failure to comply with Local  
18 Rules 230 and 260, as modified by this Order, may result in dismissal for failure to  
19 prosecute (or failure to defend) pursuant to this Court's inherent authority to control its  
20 docket and or Federal Rule of Civil Procedure 41(b). Further, failure to timely oppose a  
21 summary judgment motion<sup>2</sup> may result in the granting of that motion if the movant shifts  
22 the burden to the nonmovant to demonstrate that a genuine issue of material fact  
23 remains for trial.

24 The Court places a page limit for points and authorities (exclusive of exhibits and  
25 other supporting documentation) of twenty (20) pages on all initial moving papers, twenty  
26 (20) pages on oppositions, and ten (10) pages for replies.

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28 <sup>2</sup> The Court urges any party that contemplates bringing a motion for summary judgment or who  
must oppose a motion for summary judgment to review Local Rule 260.

1 Sur-replies are viewed with disfavor and will only be considered upon a showing of good  
2 cause. All requests for page limit increases must be made in writing with a proposed  
3 order setting forth any and all reasons for any increase in page limit at least seven (7)  
4 days prior to the filing of the motion.

5 The parties are directed to the Court's website for available hearing dates and  
6 Judge England's standard procedures. ([www.caed.uscourts.gov](http://www.caed.uscourts.gov) – select "Judges" –  
7 select "Judge England" – select "Standard Information").

8 Citations to the Supreme Court Lexis database shall include parallel citations to  
9 the Westlaw database.

10 The parties are reminded that a motion in limine is a pretrial procedural device  
11 designated to address the admissibility of evidence. The Court will look with disfavor  
12 upon dispositional motions presented at the Final Pretrial Conference or at trial in the  
13 guise of motions in limine.

14 The parties are cautioned that failure to raise a dispositive legal issue that could  
15 have been tendered to the Court by proper pretrial motion prior to the dispositive motion  
16 cut-off date may constitute waiver of such issue.

### 17 **III. TRIAL SETTING**

18 The parties are ordered to file a Joint Notice of Trial Readiness not later than  
19 thirty (30) days after receiving this Court's ruling(s) on the last filed dispositive motion(s).  
20 If the parties do not intend to file dispositive motions, the parties are ordered to file a  
21 Joint Notice of Trial Readiness not later than thirty (30) days after the close of the  
22 designation of supplemental expert witnesses and the notice must include statements of  
23 intent to forgo the filing of dispositive motions.

24 The parties are to set forth in their Notice of Trial Readiness, the appropriateness  
25 of special procedures, whether this case is related to any other case(s) on file in the  
26 Eastern District of California, the prospect for settlement, their estimated trial length, any  
27 request for a jury, and their availability for trial.

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1 The parties' Notice of Trial Readiness Statement shall also estimate how many court  
2 days each party will require to present its case, including opening statements and  
3 closing arguments. Plaintiff's estimate shall also include the time necessary for jury  
4 selection, and Defendant's estimate shall include the time necessary to finalize jury  
5 instructions and instruct the jury.

6 This Court is in session for jury selection, opening statements, presentation of  
7 evidence, closing arguments, finalizing proposed jury instructions and verdict forms, and  
8 instruction of the jury Monday through Wednesday, only. During trial days, the Court  
9 adheres to the following schedule:

10 Trial: 9:00—10:30 A.M.

11 Break: 10:30—10:50 A.M.

12 Trial: 10:50—12:00 P.M.

13 Lunch: 12:00—1:30 P.M.

14 Trial: 1:30—3:00 P.M.

15 Break: 3:00—3:20 P.M.

16 Trial: 3:20—4:30 P.M.

17 Jury deliberations only are Monday through Friday if necessary.

18 After review of the parties' Joint Notice of Trial Readiness, the Court will issue an  
19 order that sets forth dates for a final pretrial conference and trial.

#### 20 **IV. SETTLEMENT CONFERENCE**

21 If the parties agree to a settlement conference, a magistrate judge will be  
22 randomly assigned to the case to preside over the settlement conference. If the parties  
23 specifically request that the assigned District Judge or Magistrate Judge conduct the  
24 settlement conference, the parties shall file the appropriate waiver of disqualification in  
25 accordance with Local Rule 270(b).

26 If the parties elect to participate in the Voluntary Dispute Resolution Program (VDRP), a  
27 stipulation of election is required pursuant to Local Rule 271. See, Attachments 2-1 and  
28 2-2 of this Order.

1 In accordance with Local Rule 160, counsel are to immediately file a notice of  
2 settlement or other disposition of this case.

3 **V. MODIFICATION OF INITIAL PRETRIAL SCHEDULING ORDER**

4 The parties are reminded that pursuant to Rule 16(b) of the Federal Rules of Civil  
5 Procedure, the Initial Pretrial Scheduling Order shall not be modified except by leave of  
6 court upon a showing of **good cause**. Agreement by the parties pursuant to stipulation  
7 alone to modify the Initial Pretrial Scheduling Order does not constitute good cause.  
8 Except in extraordinary circumstances, unavailability of witnesses or counsel will not  
9 constitute good cause.

10 **VI. COURTESY COPIES**

11 No party shall submit paper courtesy copies of pleadings or exhibits to the Court  
12 unless expressly ordered to do so.

13 **VII. OBJECTIONS TO INITIAL PRETRIAL SCHEDULING ORDER**

14 This Initial Pretrial Scheduling Order will become final without further order of the  
15 Court unless objections are filed within seven (7) days from the date of this Order.

16 Dated: April 28, 2017

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18 MORRISON C. ENGLAND, JR.  
19 UNITED STATES DISTRICT JUDGE  
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