

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 WILLIAM SCHROEDER,

12 Plaintiff,

13 v.

14 GILL PETROLEUM, INC., et al.

15 Defendants.
16

No. 2:16-cv-00239-MCE-CMK

**SUPPEMENTAL PRETRIAL
SCHEDULING ORDER**

17 This action is assigned to the Honorable Morrison C. England, Jr. Pursuant to the
18 provisions of Rule 16 of the Federal Rules of Civil Procedure, IT IS HEREBY
19 ORDERED:
20

I. DISCOVERY

21 Within sixty (60) days¹ from the date of this Order, the parties shall meet and
22 confer as required by Federal Rule of Civil Procedure 26(f) regarding their discovery
23 plan.
24

25 All discovery, with the exception of expert discovery, shall be completed no later
26 than three hundred sixty-five (365) days from the date of this Order.

27 ///

28 ¹ The parties shall refer to Federal Rule of Civil Procedure 6(a) in computing the time periods specified in this Order.

1 In this context, “completed” means that all discovery shall have been conducted so that
2 all depositions have been taken and any disputes relative to discovery shall have been
3 resolved by appropriate order if necessary and, where discovery has been ordered, the
4 order has been obeyed. All motions to compel discovery must be noticed on the
5 magistrate judge’s calendar in accordance with the Local Rules.²

6 **II. DISCLOSURE OF EXPERT WITNESSES**

7 All counsel are to designate in writing and serve upon all other parties the name,
8 address, and area of expertise of each expert that they propose to tender at trial not later
9 than sixty (60) days after the close of discovery. The designation shall be accompanied
10 by a written report prepared and signed by the witness. The report shall comply with
11 Federal Rule of Civil Procedure 26(a)(2)(B).

12 Within thirty (30) days after the designation of expert witnesses, any party may
13 designate a supplemental list of expert witnesses who will express an opinion on a
14 subject covered by an expert designated by an adverse party. The right to designate a
15 supplemental expert for rebuttal purposes only shall apply to a party who has not
16 previously disclosed an expert witness on the date set for expert witness disclosure by
17 this Order.

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

25 ///

26 ///

27 ² A copy of the current Local Rules is available at [http://www.caed.uscourts.gov/caednew/index.cfm/rules/local-](http://www.caed.uscourts.gov/caednew/index.cfm/rules/local-rules/)
28 [rules/](http://www.caed.uscourts.gov/caednew/index.cfm/rules/local-rules/)

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

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

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

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

19 **III. DISPOSITIVE MOTIONS**

20 The parties shall file dispositive motions no later than one hundred eighty (180)
21 days after the close of non-expert discovery. All papers should be filed in conformity
22 with the Local Rules. Absent leave of the Court, all issues the parties wish to resolve on
23 summary judgment must be raised together in one (1) motion or cross-motion. Should
24 the parties wish to file additional motions for summary judgment, they must seek leave of
25 the Court.

26 ///

27 ///

28 ///

1 All purely legal issues are to be resolved in timely pretrial motions. When
2 appropriate, failure to comply with Local Rules 230 and 260, as modified by this Order,
3 may be deemed consent to the motion and the Court may dispose of the motion
4 summarily. With respect to motions for summary judgment, failure to comply with Local
5 Rules 230 and 260, as modified by this Order, may result in dismissal for failure to
6 prosecute (or failure to defend) pursuant to this Court's inherent authority to control its
7 docket and or Federal Rule of Civil Procedure 41(b). Further, failure to timely oppose a
8 summary judgment motion³ may result in the granting of that motion if the movant shifts
9 the burden to the nonmovant to demonstrate that a genuine issue of material fact
10 remains for trial.

11 The Court places a page limit for points and authorities (exclusive of exhibits and
12 other supporting documentation) of twenty (20) pages on all initial moving papers, twenty
13 (20) pages on oppositions, and ten (10) pages for replies. Sur-replies are viewed with
14 disfavor and will only be considered upon a showing of good cause. All requests for
15 page limit increases must be made in writing with a proposed order setting forth any and
16 all reasons for any increase in page limit at least seven (7) days prior to the filing of the
17 motion.

18 The parties are directed to the Court's website for available hearing dates and
19 Judge England's standard procedures. (www.caed.uscourts.gov – select "Judges" –
20 select "Judge England" – select "Standard Information").

21 Citations to the Supreme Court Lexis database shall include parallel citations to
22 the Westlaw database.

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

27 ³ The Court urges any party that contemplates bringing a motion for summary judgment or who
28 must oppose a motion for summary judgment to review Local Rule 260.

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

4 **IV. TRIAL SETTING**

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

11 The parties are to set forth in their Notice of Trial Readiness, the appropriateness
12 of special procedures, whether this case is related to any other case(s) on file in the
13 Eastern District of California, the prospect for settlement, their estimated trial length, any
14 request for a jury, and their availability for trial. The parties' Notice of Trial Readiness
15 Statement shall also estimate how many court days each party will require to present its
16 case, including opening statements and closing arguments. Plaintiff's estimate shall
17 also include the time necessary for jury selection, and Defendant's estimate shall include
18 the time necessary to finalize jury instructions and instruct the jury.

19 This Court is in session for jury selection, opening statements, presentation of
20 evidence, closing arguments, finalizing proposed jury instructions and verdict forms, and
21 instruction of the jury Monday through Wednesday, only.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

During trial days, the Court adheres to the following schedule:

Trial: 9:00—10:30 A.M.

Break: 10:30—10:50 A.M.

Trial: 10:50—12:00 P.M.

Lunch: 12:00—1:30 P.M.

Trial: 1:30—3:00 P.M.

Break: 3:00—3:20 P.M.

Trial: 3:20—4:30 P.M.

Jury deliberations only are Monday through Friday if necessary.

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

V. SETTLEMENT CONFERENCE

If the parties agree to a settlement conference, a magistrate judge will be randomly assigned to the case to preside over the settlement conference. If the parties specifically request that the assigned District Judge or Magistrate Judge conduct the settlement conference, the parties shall file the appropriate waiver of disqualification in accordance with Local Rule 270(b). If the parties elect to participate in the Voluntary Dispute Resolution Program (VDRP), a stipulation of election is required pursuant to Local Rule 271. See, Attachments 2-1 and 2-2 of this Order.

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

VI. MODIFICATION OF INITIAL PRETRIAL SCHEDULING ORDER

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

1 **VII. COURTESY COPIES**

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

4 **VIII. OBJECTIONS TO INITIAL PRETRIAL SCHEDULING ORDER**

5 This Initial Pretrial Scheduling Order will become final without further order of the
6 Court unless objections are filed within sixty (60) days of service on all defendant(s).

7 Dated: September 5, 2017

8 
9 MORRISON C. ENGLAND, JR.
10 UNITED STATES DISTRICT JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28