

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KRISTINE OCLARINO, an individual,

Plaintiff,

v.

MOUNTAIN LION ACQUISITIONS,
INC., et al.,

Defendants.

No. 2:16-cv-01533-MCE-EFB

**SUPPLEMENTAL PRETRIAL
SCHEDULING ORDER**

After review of the parties' Joint Trial Readiness Statement, the Court makes the following Supplemental Pretrial Scheduling Order.

Within fourteen (14) calendar days from the date of this Order, counsel is directed to contact the Courtroom Deputy Clerk for the Honorable Kendall J. Newman, for the scheduling of a settlement conference.

Counsel are instructed to have a principal with full settlement authority present at the Settlement Conference or to be fully authorized to settle the matter on any terms. At least seven (7) calendar days before the settlement conference, counsel for each party shall submit to the chambers of the settlement judge a confidential Settlement Conference Statement. Such statements are neither to be filed with the Clerk nor served on opposing counsel. Each party, however, shall serve notice on all other parties that the statement has been submitted.

1 **I. FINAL PRETRIAL CONFERENCE**

2 A Final Pretrial Conference is set on **November 16, 2017, at 2:00 p.m., in**
3 **courtroom 7.** At least one of the attorneys who will conduct the trial for each of the
4 parties shall attend the Final Pretrial Conference. If by reason of illness or other
5 unavoidable circumstance a trial attorney is unable to attend, the attorney who attends in
6 place of the trial attorney shall have equal familiarity with the case and equal
7 authorization to make commitments on behalf of the client.

8 Counsel for all parties are to be fully prepared for trial at the time of the Final
9 Pretrial Conference, with no matters remaining to be accomplished except production of
10 witnesses for oral testimony.

11 The parties shall file, not later than **October 19, 2017**, a Joint Final Pretrial
12 Conference Statement. The provisions of Local Rule 281 shall apply with respect to the
13 matters to be included in the Joint Final Pretrial Conference Statement. In addition to
14 those subjects listed in Local Rule 281(b), the parties are to provide the Court with a
15 plain, concise statement that identifies every non-discovery motion tendered to the Court
16 and its resolution. Failure to comply with Local Rule 281, as modified by this
17 Supplemental Pretrial Scheduling Order, may be grounds for sanctions.

18 At the time of filing the Joint Final Pretrial Conference Statement, counsel shall
19 also electronically mail to the Court in digital format compatible with Microsoft Word, the
20 Joint Final Pretrial Statement in its entirety including the witness and exhibit lists. **These**
21 **documents shall be sent to mceorders@caed.uscourts.gov.**

22 The parties should identify first the core undisputed facts relevant to all claims.
23 The parties should then, in a concise manner, identify those undisputed core facts that
24 are relevant to each claim. The disputed facts should be identified in the same manner.
25 Where the parties are unable to agree as to what disputed facts are properly before the
26 Court for trial, they should nevertheless list all disputed facts asserted by each party.
27 Each disputed fact or undisputed fact should be separately numbered or lettered.

28 ///

1 Each party shall identify and concisely list each disputed evidentiary issue which
2 will be the subject of a motion in limine.

3 Each party shall identify the points of law which concisely describe the legal
4 issues of the trial which will be discussed in the parties' respective trial briefs. Points of
5 law should reflect issues derived from the core undisputed and disputed facts. Parties
6 shall not include argument or authorities with any point of law.

7 Each party shall confirm the number of court days required to submit the case to
8 the jury. The parties shall further confirm how many court days they will each require to
9 present their cases, inclusive of opening statements and closing arguments. Plaintiff's
10 estimate shall also include the time necessary for jury selection, and Defendant's
11 estimate shall include the time necessary to finalize jury instructions and to instruct the
12 jury. If the parties later submit a revised trial length estimate, the Court will attempt to
13 accommodate them, but, due to its impacted docket, cannot guarantee that it will be able
14 to do so.

15 The parties are reminded that pursuant to Local Rule 281 they are required to list
16 in the Joint Final Pretrial Conference Statement all witnesses and exhibits they propose
17 to offer at trial. After the name of each witness, each party shall provide a brief
18 statement of the nature of the testimony to be proffered. The parties may file a joint list
19 or each party may file separate lists. These list(s) shall not be contained in the body of
20 the Joint Final Pretrial Conference Statement itself, but shall be attached as separate
21 documents to be used as addenda to the Final Pretrial Order.

22 Plaintiff's(s') exhibits shall be listed numerically. Defendant's(s') exhibits shall be
23 listed alphabetically. The parties shall use the standard exhibit stickers provided by the
24 Court Clerk's Office: pink for plaintiff(s) and blue for defendant(s). In the event that the
25 alphabet is exhausted, the exhibits shall be marked "AA-ZZ" and "AAA-ZZZ". After three
26 letters, note the number of letters (i.e., 4A) to reduce confusion at trial. Placement of the
27 exhibit sticker shall not overlie any part of the exhibit to be offered. All photographs shall
28 be marked individually.

1 The list of exhibits shall not include excerpts of depositions, which may be used to
2 impeach witnesses. In the event that Plaintiff(s) and Defendant(s) offer the same exhibit
3 during trial, that exhibit shall be referred to by the designation the exhibit is first
4 identified. The Court cautions the parties to pay attention to this detail so that all
5 concerned will not be confused by one exhibit being identified with both a number and a
6 letter.

7 The parties will be ordered to provide an electronic version of each individual
8 exhibit and their exhibit lists prior to trial.

9 The Final Pretrial Order will contain a stringent standard for the offering at trial of
10 witnesses and exhibits not listed in the Final Pretrial Order, and the parties are cautioned
11 that the standard will be strictly applied. The listing of exhibits or witnesses that a party
12 does not intend to offer will be viewed as an abuse of the Court's processes.

13 The parties are reminded that pursuant to Rule 16 of the Federal Rules of Civil
14 Procedure it will be their duty at the Final Pretrial Conference to aid the Court in: (a) the
15 formulation and simplification of issues and the elimination of frivolous claims or
16 defenses; (b) the settling of facts that should properly be admitted; and (c) the avoidance
17 of unnecessary proof and cumulative evidence. Counsel must cooperatively prepare the
18 Joint Final Pretrial Conference Statement and participate in good faith at the Final
19 Pretrial Conference with these aims in mind. A failure to do so may result in the
20 imposition of sanctions which may include monetary sanctions, orders precluding proof,
21 elimination of claims or defenses, or such other sanctions as the Court deems
22 appropriate.

23 **II. TRIAL BRIEFS**

24 The parties shall file trial briefs not later than **October 19, 2017**. Counsel are
25 directed to Local Rule 285 regarding the content of trial briefs.

26 ///

27 ///

28 ///

