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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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ELNORA COLLINS,  
  
                    Plaintiff,  
  
v.  
  
AMTRAK NATIONAL RAILROAD  
PASSENGER CORPORATION and  
DOES 1 through 10, inclusive,  
  
                    Defendant.

CIV. NO. 2:16-2023 WBS EFB

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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 January 3, 2017, and makes the following findings and orders without needing to consult with the parties any further.

I. SERVICE OF PROCESS

The named defendant has been served, and no further

1 service is permitted without leave of court, good cause having  
2 been shown under Federal Rule of Civil Procedure 16(b).

3 II. JOINDER OF PARTIES/AMENDMENTS

4 No further joinder of parties or amendments to  
5 pleadings will be permitted by any party except with leave of  
6 court, good cause having been shown under Federal Rule of Civil  
7 Procedure 16(b). See Johnson v. Mammoth Recreations, Inc., 975  
8 F.2d 604 (9th Cir. 1992).

9 III. JURISDICTION/VENUE

10 Jurisdiction is predicated upon federal question  
11 jurisdiction, 28 U.S.C. § 1331, and 28 U.S.C. § 1349.<sup>1</sup> Venue is  
12 undisputed and hereby found to be proper.

13 IV. DISCOVERY

14 The parties shall serve the initial disclosures  
15 required by Federal Rule of Civil Procedure 26(a)(1) by no later  
16 than February 3, 2017.

17 The parties shall disclose experts and produce reports  
18 in accordance with Federal Rule of Civil Procedure 26(a)(2) by no  
19 later than June 2, 2017. With regard to expert testimony

20 <sup>1</sup> 28 U.S.C. § 1349 provides that district courts "shall  
21 not have jurisdiction of any civil action by or against any  
22 corporation upon the ground that it was incorporated by or under  
23 an Act of Congress, unless the United States is the owner of more  
24 than one-half of its capital stock." 28 U.S.C. § 1349.

25 "Congress incorporated the National Railroad Passenger  
26 Corporation ('Amtrak') in 1970. Because a majority of the  
27 capital stock of Amtrak is owned by the United States, the  
28 federal courts have subject matter jurisdiction over any action  
involving Amtrak." Hollus v. Amtrak Ne. Corridor, 937 F. Supp.  
1110, 1113 (D.N.J. 1996) (internal citations omitted); see also  
Chiwewe v. Burlington N. & Santa Fe Ry. Co., No. 02-0397 JP/LFG-  
ACE, 2002 WL 31924776, at \*2 (D.N.M. Aug. 21, 2002) (same);  
Estate of Wright By & Through Johnson v. Illinois Cent. R. Co.,  
831 F. Supp. 574, 574 (S.D. Miss. 1993) (same).

1 intended solely for rebuttal, those experts shall be disclosed  
2 and reports produced in accordance with Federal Rule of Civil  
3 Procedure 26(a)(2) on or July 5, 2017.

4 All other discovery, including depositions for  
5 preservation of testimony, is left open, save and except that it  
6 shall be so conducted as to be completed by November 3, 2017.  
7 The word "completed" means that all discovery shall have been  
8 conducted so that all depositions have been taken and any  
9 disputes relevant to discovery shall have been resolved by  
10 appropriate order if necessary and, where discovery has been  
11 ordered, the order has been obeyed. All motions to compel  
12 discovery must be noticed on the magistrate judge's calendar in  
13 accordance with the local rules of this court and so that such  
14 motions may be heard (and any resulting orders obeyed) not later  
15 than November 3, 2017.

16 V. MOTION HEARING SCHEDULE

17 All motions, except motions for continuances, temporary  
18 restraining orders, or other emergency applications, shall be  
19 filed on or before December 4, 2017. All motions shall be  
20 noticed for the next available hearing date. Counsel are  
21 cautioned to refer to the local rules regarding the requirements  
22 for noticing and opposing such motions on the court's regularly  
23 scheduled law and motion calendar.

24 VI. FINAL PRETRIAL CONFERENCE

25 The Final Pretrial Conference is set for February 12,  
26 2018, at 1:30 p.m. in Courtroom No. 5. The conference shall be  
27 attended by at least one of the attorneys who will conduct the  
28 trial for each of the parties and by any unrepresented parties.

1 Counsel for all parties are to be fully prepared for  
2 trial at the time of the Pretrial Conference, with no matters  
3 remaining to be accomplished except production of witnesses for  
4 oral testimony. Counsel shall file separate pretrial statements,  
5 and are referred to Local Rules 281 and 282 relating to the  
6 contents of and time for filing those statements. In addition to  
7 those subjects listed in Local Rule 281(b), the parties are to  
8 provide the court with: (1) a plain, concise statement which  
9 identifies every non-discovery motion which has been made to the  
10 court, and its resolution; (2) a list of the remaining claims as  
11 against each defendant; and (3) the estimated number of trial  
12 days.

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

20 VII. TRIAL SETTING

21 A jury trial is set for April 10, 2018 at 9:00 a.m.  
22 The parties estimate that trial will last five to seven days.

23 VIII. SETTLEMENT CONFERENCE

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

28 Counsel are instructed to have a principal with full

1 settlement authority present at the Settlement Conference or to  
2 be fully authorized to settle the matter on any terms. At least  
3 seven calendar days before the Settlement Conference counsel for  
4 each party shall submit a confidential Settlement Conference  
5 Statement for review by the settlement judge. If the settlement  
6 judge is not the trial judge, the Settlement Conference  
7 Statements shall not be filed and will not otherwise be disclosed  
8 to the trial judge.

9 IX. MODIFICATIONS TO SCHEDULING ORDER

10 Any requests to modify the dates or terms of this  
11 Scheduling Order, except requests to change the date of the  
12 trial, may be heard and decided by the assigned Magistrate Judge.  
13 All requests to change the trial date shall be heard and decided  
14 only by the undersigned judge.

15 Dated: December 28, 2016

  

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WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE

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