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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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SCOTT JOHNSON,  
Plaintiff,  
  
v.  
  
A&J PETRO INC., a California  
corporation, and DOES 1  
through 10,  
  
Defendant.

CIV. NO. 2:16-2311 WBS CKD

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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 25, 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 service is permitted without leave of court, good cause having

1 been shown under Federal Rule of Civil Procedure 16(b).

2 II. JOINDER OF PARTIES/AMENDMENTS

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

8 III. JURISDICTION/VENUE

9 Jurisdiction is predicated upon federal question  
10 jurisdiction, 28 U.S.C. §§ 1331, 1343, because plaintiff's claim  
11 arises under the Americans with Disabilities Act of 1990, 42  
12 U.S.C. § 12101, et seq. The court has supplemental jurisdiction  
13 over the claims brought under the Unruh Act pursuant to 28 U.S.C.  
14 § 1367(a) as the claims arise from the same incident. Venue is  
15 undisputed and hereby found to be proper.

16 IV. DISCOVERY

17 The parties have served the initial disclosures  
18 required by Federal Rule of Civil Procedure 26(a)(1).

19 The parties shall disclose experts and produce reports  
20 in accordance with Federal Rule of Civil Procedure 26(a)(2) by no  
21 later than December 1, 2017. With regard to expert testimony  
22 intended solely for rebuttal, those experts shall be disclosed  
23 and reports produced in accordance with Federal Rule of Civil  
24 Procedure 26(a)(2) on or before January 2, 2018.

25 According to Federal Rule of Civil Procedure 33, a  
26 party may serve on any other party no more than twenty-five  
27 written interrogatories. However, the court may grant leave to  
28 serve additional interrogatories to the extent it is consistent

1 with Federal Rule of Civil Procedure 269b) (1) and(2). Fed. R.  
2 Civ. P. 33. The Advisory Committee Notes to Rule 33 explain that  
3 the "aim is not to prevent needed discovery, but to provide  
4 judicial scrutiny before parties make potentially excessive use  
5 of this discovery device. In many cases it will be appropriate  
6 for the court to permit a larger number of interrogatories in the  
7 scheduling order." Id. Here, plaintiff offers no explanation  
8 for why he requests leave to serve forty-five, rather than  
9 twenty-five. As a result, the court denies plaintiff's request.

10 All other discovery, including depositions for  
11 preservation of testimony, is left open, save and except that it  
12 shall be so conducted as to be completed by February 3, 2018.  
13 The word "completed" means that all discovery shall have been  
14 conducted so that all depositions have been taken and any  
15 disputes relevant to discovery shall have been resolved by  
16 appropriate order if necessary and, where discovery has been  
17 ordered, the order has been obeyed. All motions to compel  
18 discovery must be noticed on the magistrate judge's calendar in  
19 accordance with the local rules of this court and so that such  
20 motions may be heard (and any resulting orders obeyed) not later  
21 than February 3, 2018.

22 V. MOTION HEARING SCHEDULE

23 All motions, except motions for continuances, temporary  
24 restraining orders, or other emergency applications, shall be  
25 filed on or before March 16, 2018. All motions shall be noticed  
26 for the next available hearing date. Counsel are cautioned to  
27 refer to the local rules regarding the requirements for noticing  
28 and opposing such motions on the court's regularly scheduled law

1 and motion calendar.

2 VI. FINAL PRETRIAL CONFERENCE

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

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

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

26 VII. TRIAL SETTING

27 The jury trial is set for July 24, 2018 at 9:00 a.m.  
28 The parties estimate that a jury trial will last two to three

1 days.

2 VIII. SETTLEMENT CONFERENCE

3 The court referred this case to the Voluntary Dispute  
4 Resolution Program ("VDPR"), but the parties have not yet  
5 completed their VDPR session. A Settlement Conference will be  
6 set at the time of the Pretrial Conference. All parties should  
7 be prepared to advise the court whether they will stipulate to  
8 the trial judge acting as settlement judge and waive  
9 disqualification by virtue thereof.

10 Counsel are instructed to have a principal with full  
11 settlement authority present at the Settlement Conference or to  
12 be fully authorized to settle the matter on any terms. At least  
13 seven calendar days before the Settlement Conference counsel for  
14 each party shall submit a confidential Settlement Conference  
15 Statement for review by the settlement judge. If the settlement  
16 judge is not the trial judge, the Settlement Conference  
17 Statements shall not be filed and will not otherwise be disclosed  
18 to the trial judge.

19 IX. MODIFICATIONS TO SCHEDULING ORDER

20 Any requests to modify the dates or terms of this Scheduling  
21 Order, except requests to change the date of the trial, may be  
22 heard and decided by the assigned Magistrate Judge. All requests  
23 to change the trial date shall be heard and decided only by the  
24 undersigned judge.

25 IT IS SO ORDERED.

26 Dated: September 20, 2017



27 **WILLIAM B. SHUBB**  
28 **UNITED STATES DISTRICT JUDGE**