

1 own behalf. Attorney Barbara Blackburn appeared on behalf of the defendant.

2 After hearing, the court makes the following findings and orders:

3 **SERVICE OF PROCESS**

4 Service of process has been completed. No further service is permitted except with leave
5 of court, good cause having been shown.

6 **JOINER OF PARTIES/AMENDMENTS**

7 No further joinder of parties or amendment to pleadings is permitted except with leave of
8 court, good cause having been shown. See Johnson v. Mammoth Recreations, Inc., 975 F.2d 604,
9 609-10 (9th Cir. 1992).

10 **JURISDICTION/VENUE**

11 Jurisdiction over this action is predicated on the court's federal question jurisdiction
12 pursuant to 28 U.S.C. § 1331. Defendant does not dispute either jurisdiction or venue and both
13 appear to be proper.

14 **DISCOVERY**

15 The parties shall make initial disclosures under Federal Rule of Civil Procedure 26 no
16 later than 28 days from the date of the March 9, 2018 hearing. Plaintiff shall disclose experts no
17 later than **September 14, 2018**. Defendant shall disclose experts no later than **September 28,**
18 **2018**. Rebuttal experts shall be disclosed no later than **October 12, 2018**. All discovery is left
19 open, save and except that it shall be so conducted as to be completed by **November 9, 2018**.
20 The word "completed" means that all discovery shall have been conducted so that all depositions
21 have been taken and any disputes relative to discovery shall have been resolved by appropriate
22 order if necessary and, where discovery has been ordered, the order has been complied with.

23 **MOTION HEARING SCHEDULE**

24 All law and motion, except as to discovery, is left open, save and except that it shall be
25 conducted so as to be completed by **December 28, 2018**. The word "completed" in this context
26 means that all law and motion matters must be heard by the above date. The parties are cautioned
27 to refer to the local rules, specifically Local Rule 230, regarding the requirements for noticing
28 such motions on the court's regularly scheduled law and motion calendar. **The parties shall file**

1 **with the court and serve opposition OR a statement of non-opposition to every properly**
2 **noticed motion not later than fourteen (14) days preceding the hearing date. Any reply by**
3 **the moving party shall be filed with the court and served not later than seven (7) days**
4 **preceding the hearing date.** This paragraph does not preclude motions for continuances,
5 temporary restraining orders or other emergency applications, and is subject to any special
6 scheduling set forth in the “MISCELLANEOUS PROVISIONS” paragraph below.

7 The parties should keep in mind that the purpose of law and motion is to narrow and
8 refine the legal issues raised by the case, and to dispose of by pretrial motion those issues that are
9 susceptible to resolution without trial. To accomplish that purpose, the parties need to identify
10 and fully research the issues presented by the case, and then examine those issues in light of the
11 evidence gleaned through discovery. If it appears after examining the legal issues and facts that
12 an issue can be resolved by pretrial motion, the parties are to file the appropriate motion by the
13 law and motion cutoff set forth supra.

14 ALL PURELY LEGAL ISSUES ARE TO BE RESOLVED BY TIMELY PRETRIAL
15 MOTION. The parties are reminded that motions in limine are procedural devices designed to
16 address the admissibility of evidence. THE PARTIES ARE CAUTIONED THAT THE COURT
17 WILL LOOK WITH DISFAVOR UPON SUBSTANTIVE MOTIONS PRESENTED IN THE
18 GUISE OF MOTIONS IN LIMINE AT THE TIME OF TRIAL.

19 **FINAL PRETRIAL CONFERENCE**

20 The Final Pretrial Conference is set for **March 8, 2019, at 11:00 a.m.** in courtroom no. 6
21 before the Honorable John A. Mendez. Trial counsel shall appear at the Final Pretrial
22 Conference.

23 The parties are to be fully prepared for trial at the time of the Pretrial Conference, with no
24 matters remaining to be accomplished except production of witnesses for oral testimony. The
25 parties are referred to Local Rules 281 and 282 relating to the contents of and time for filing
26 Pretrial Statements. **A FAILURE TO COMPLY WITH LOCAL RULES 281 AND 282 WILL**
27 **BE GROUNDS FOR SANCTIONS.**

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1 Notwithstanding the provisions of Local Rule 281, which contemplates the filing of
2 separate Pretrial Statements by plaintiff and defendants, the parties are to prepare a JOINT
3 STATEMENT with respect to the undisputed facts and disputed factual issues of the case. The
4 undisputed facts and disputed factual issues are to be set forth in two separate sections. The
5 parties should identify those facts which are relevant to each separate cause of action. In this
6 regard, the parties are to number each individual fact or factual issue. Where the parties are
7 unable to agree as to what factual issues are properly before the court for trial, they should
8 nevertheless list in the section on “DISPUTED FACTUAL ISSUES” all issues asserted by any of
9 the parties and explain by parenthetical the controversy concerning each issue. The parties should
10 keep in mind that, in general, each fact should relate or correspond to an element of the relevant
11 cause of action. The parties should also keep in mind that the purpose of listing the disputed
12 factual issues is to apprise the court and all parties about the precise issues that will be litigated at
13 trial. The court is not interested in a listing of all evidentiary facts underlying the issues that are
14 in dispute. However, with respect to the listing of undisputed facts, the court will accept
15 agreements as to evidentiary facts. The joint statement of undisputed facts and disputed factual
16 issues is to be filed with the court concurrently with the filing of plaintiff’s Pretrial Statement. If
17 the case is tried to a jury, the undisputed facts will be read to the jury.

18 Pursuant to Local Rule 281(b)(10) and (11), the parties are required to provide in their
19 Pretrial Statements a list of witnesses and exhibits that they propose to proffer at trial, no matter
20 for what purpose. These lists shall not be contained in the Pretrial Statement itself, but shall be
21 attached as separate documents to be used as addenda to the Final Pretrial Order. Plaintiff’s
22 exhibits shall be listed numerically; defendant’s exhibits shall be listed alphabetically. The
23 Pretrial Order will contain a stringent standard for the proffering of witnesses and exhibits at trial
24 not listed in the Pretrial Order. Counsel are cautioned that the standard will be strictly applied.
25 On the other hand, the listing of exhibits or witnesses which counsel do not intend to call or use
26 will be viewed as an abuse of the court’s processes.

27 The parties are also reminded that, pursuant to Fed. R. Civ. P. 16, it will be their duty at
28 the Pretrial Conference to aid the court in (a) formulation and simplification of issues and the

1 elimination of frivolous claims or defenses; (b) settling of facts which should be properly
2 admitted; and (c) the avoidance of unnecessary proof and cumulative evidence. The parties must
3 prepare their Pretrial Statements, and participate in good faith at the Pretrial Conference, with
4 these aims in mind. A FAILURE TO DO SO MAY RESULT IN THE IMPOSITION OF
5 SANCTIONS which may include monetary sanctions, orders precluding proof, eliminations of
6 claims or defenses, or such other sanctions as the court deems appropriate.

7 **TRIAL SETTING**

8 A jury trial is set on **April 29, 2019, at 9:00 a.m.** in courtroom no. 6 before the Honorable
9 John A. Mendez and is estimated to last 5 court days.

10 **SETTLEMENT CONFERENCE**

11 The parties are advised that a Settlement Conference may be scheduled when the Final
12 Pretrial Conference is held.² The court may require that all parties proceeding pro se be present at
13 the Settlement Conference. Such a settlement conference may be set before the undersigned, if
14 both parties request that the undersigned participate in the conference and will waive any claim of
15 disqualification on that basis. The parties may also request a settlement conference before
16 another magistrate judge. See Local Rule 270(b).

17 **MISCELLANEOUS PROVISIONS**

18 There appear to be no other matters presently pending before the court that will aid the
19 just and expeditious disposition of this matter.

20 Pursuant to Fed. R. Civ. P. 16(b), THE COURT SUMMARIZES THE SCHEDULING
21 ORDER AS FOLLOWS:

- 22 1. Initial disclosures shall be made no later than 28 days from March 9, 2018.
- 23 2. Plaintiff shall disclose experts no later than **September 14, 2018**.
- 24 3. Defendant shall disclose experts no later **September 28, 2018**.

25 _____
26 ² At any time prior to the Final Pretrial Conference, an early settlement conference may be set
27 before the undersigned, or another magistrate judge who is randomly selected, if all parties agree
28 to request an early settlement conference. Either party may initiate such a request by calling Pete
Buzo, courtroom deputy to the undersigned, at (916) 930-4128. Information will be provided
regarding the procedure to follow.

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4. Rebuttal experts shall be disclosed no later than **October 12, 2018**.

5. Discovery shall be completed by **November 9, 2018**.

6. All pretrial motions, except motions to compel discovery, shall be completed by **December 28, 2018**.

7. Final pretrial conference is set for **March 8, 2019, at 11:00 a.m.** in courtroom no. 6 before the Honorable John A. Mendez.

8. A jury trial is set for **April 29, 2019, at 9:00 a.m.** in courtroom no. 6 before the Honorable John A. Mendez.

Dated: March 9, 2018


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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