



1 II. ADDITIONAL PARTIES/AMENDMENTS/PLEADINGS

2 No further joinder of parties or amendments to pleadings is permitted without  
3 leave of court, good cause having been shown. *See* Fed. R. Civ. P. 16(b); *Johnson v. Mammoth*  
4 *Recreations, Inc.*, 975 F.2d 604 (9th Cir. 1992).

5 III. JURISDICTION/VENUE

6 Jurisdiction is predicated upon 28 U.S.C. § 1332(a). Jurisdiction and venue are not  
7 disputed.

8 IV. DISCOVERY

9 Initial disclosures as required by Federal Rule of Civil Procedure 26(a) have been  
10 completed. All discovery shall be completed by **July 27, 2018**. In this context, “completed”  
11 means that all discovery shall have been conducted so that all depositions have been taken and  
12 any disputes relative to discovery shall have been resolved by appropriate order if necessary and,  
13 where discovery has been ordered, the order has been obeyed. All motions to compel discovery  
14 must be noticed on the magistrate judge’s calendar in accordance with the local rules of this court.  
15 While the assigned magistrate judge reviews proposed discovery phase protective orders, requests  
16 to seal or redact are decided by Judge Mueller as discussed in more detail below. In addition,  
17 while the assigned magistrate judge handles discovery motions, the magistrate judge cannot  
18 change the schedule set in this order, except that the magistrate judge may modify a discovery  
19 cutoff to the extent such modification does not have the effect of requiring a change to the  
20 balance of the schedule.

21 V. DISCLOSURE OF EXPERT WITNESSES

22 All counsel are to designate in writing, file with the court, and serve upon all other  
23 parties the name, address, and area of expertise of each expert that they propose to tender at trial  
24 not later than **August 10, 2018**. The designation shall be accompanied by a written report  
25 prepared and signed by the witness. The report shall comply with Fed. R. Civ. P. 26(a)(2)(B).  
26 By **August 31, 2018**, any party who previously disclosed expert witnesses may submit a  
27 supplemental list of expert witnesses who will express an opinion on a subject covered by an  
28 expert designated by an adverse party, if the party supplementing an expert witness designation

1 has not previously retained an expert to testify on that subject. The supplemental designation  
2 shall be accompanied by a written report, which shall also comply with the conditions stated  
3 above.

4 Failure of a party to comply with the disclosure schedule as set forth above in all  
5 likelihood will preclude that party from calling the expert witness at the time of trial. An expert  
6 witness not appearing on the designation will not be permitted to testify unless the party offering  
7 the witness demonstrates: (a) that the necessity for the witness could not have been reasonably  
8 anticipated at the time the list was proffered; (b) that the court and opposing counsel were  
9 promptly notified upon discovery of the witness; and (c) that the witness was promptly made  
10 available for deposition.

11 For purposes of this scheduling order, an “expert” is any person who may be used  
12 at trial to present evidence under Rules 702, 703 and 705 of the Federal Rules of Evidence, which  
13 include both “percipient experts” (persons who, because of their expertise, have rendered expert  
14 opinions in the normal course of their work duties or observations pertinent to the issues in the  
15 case) and “retained experts” (persons specifically designated by a party to be a testifying expert  
16 for the purposes of litigation). A party shall identify whether a disclosed expert is percipient,  
17 retained, or both. It will be assumed that a party designating a retained expert has acquired the  
18 express permission of the witness to be so listed. Parties designating percipient experts must state  
19 in the designation who is responsible for arranging the deposition of such persons.

20 All experts designated are to be fully prepared at the time of designation to render  
21 an informed opinion, and give the bases for their opinion, so that they will be able to give full and  
22 complete testimony at any deposition taken by the opposing party. Experts will not be permitted  
23 to testify at trial as to any information gathered or evaluated, or opinion formed, after deposition  
24 taken subsequent to designation. All expert discovery shall be completed by **September 21,**  
25 **2018.**

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1 VI. MOTION HEARING SCHEDULE

2 All dispositive motions, except motions for continuances, temporary restraining  
3 orders or other emergency applications, shall be heard no later than October 19, 2018.<sup>1</sup> The  
4 parties may obtain available hearing dates by checking Judge Mueller's page on the court's  
5 website.

6 All purely legal issues are to be resolved by timely pretrial motions. Local Rule  
7 230 governs the calendaring and procedures of civil motions; the following provisions also apply:

8 (a) The opposition and reply must be filed by 4:00 p.m. on the day due; and

9 (b) When the last day for filing an opposition brief falls on a legal holiday, the  
10 opposition brief shall be filed on the last court day immediately preceding the legal holiday.

11 Failure to comply with Local Rule 230(c), as modified by this order, may be deemed consent to  
12 the motion and the court may dispose of the motion summarily. *Brydges v. Lewis*, 18 F.3d 651,  
13 652-53 (9th Cir. 1994).

14 The court values the importance of training young attorneys. The parties are  
15 encouraged to consider assigning oral argument to a young attorney. If a written request for oral  
16 argument is filed before a hearing, stating an attorney of four or fewer years out of law school  
17 will argue the oral argument, then the court will ordinarily hold the hearing, although the court's  
18 schedule and calendar may require the hearing to be reset. Otherwise, the court may find it  
19 appropriate in some actions to submit a motion without oral argument.

20 The court places a page limit of twenty (20) pages on all moving papers, twenty  
21 (20) pages on oppositions, and ten (10) pages for replies. All requests for page limit increases  
22 must be made in writing at least fourteen (14) days prior to the filing of the motion.

23 Prior to filing a motion in a case in which the parties are represented by counsel,  
24 counsel shall engage in a pre-filing meet and confer to discuss thoroughly the substance of the  
25 contemplated motion and any potential resolution. Plaintiff's counsel should carefully evaluate  
26 the defendant's contentions as to deficiencies in the complaint and in many instances the party  
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28 <sup>1</sup> Note that this date may not correspond to a law and motion calendar date.

1 considering a motion should agree to any amendment that would cure a curable defect. Counsel  
2 should discuss the issues sufficiently so that if a motion of any kind is filed, including for  
3 summary judgment, the briefing is directed only to those substantive issues requiring resolution  
4 by the court. Counsel should resolve minor procedural or other non-substantive matters during  
5 the meet and confer. **A notice of motion shall contain a certification by counsel filing the**  
6 **motion that meet and confer efforts have been exhausted, with a brief summary of meet and**  
7 **confer efforts.**

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

#### 11 VII. SEALING

12 No document will be sealed, nor shall a redacted document be filed, without the  
13 prior approval of the court. If a document for which sealing or redaction is sought relates to the  
14 record on a motion to be decided by Judge Mueller, the request to seal or redact should be  
15 directed to her and not the assigned Magistrate Judge. All requests to seal or redact shall be  
16 governed by Local Rules 141 (sealing) and 140 (redaction); protective orders covering the  
17 discovery phase of litigation shall not govern the filing of sealed or redacted documents on the  
18 public docket. The court will only consider requests to seal or redact filed by the proponent of  
19 sealing or redaction. If a party plans to make a filing that includes material an opposing party has  
20 identified as confidential and potentially subject to sealing, the filing party shall provide the  
21 opposing party with sufficient notice in advance of filing to allow for the seeking of an order of  
22 sealing or redaction from the court.

#### 23 VIII. SETTLEMENT CONFERENCE

24 The parties will participate in private mediation after they have had time to  
25 conduct discovery. Private mediation shall be completed by **September 3, 2018**, by which date  
26 the parties will file with the court a notice reporting on the results of the mediation.

27 A court convened settlement conference may be set at the time of the Final Pretrial  
28 Conference or at an earlier time at the parties' request. In the event that a court settlement

1 conference date or referral to the Voluntary Dispute Resolution Program (VDRP) is requested,  
2 the parties shall file said request jointly, in writing. Because the case will be tried to a jury, all  
3 parties should be prepared to advise the court whether they will stipulate to the trial judge acting  
4 as settlement judge and waive disqualification by virtue thereof.

5 Counsel are instructed to have a principal with full settlement authority present at  
6 any Settlement Conference or to be fully authorized to settle the matter on any terms. Each judge  
7 has different requirements for the submission of settlement conference statements; the appropriate  
8 instructions will be sent to you after the settlement judge is assigned.

9 IX. FURTHER SCHEDULING

10 The court will set a Final Pretrial Conference date after the resolution of any  
11 dispositive motions, or passage of the dispositive motion cutoff, with a trial date being  
12 determined at the pretrial conference. The parties should be prepared to confirm a trial date  
13 within 60 to 120 days from the date of the final pretrial conference, and should be available for  
14 trial accordingly.

15 X. MODIFICATION OF STATUS (PRETRIAL SCHEDULING) ORDER

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

21 As noted, the assigned magistrate judge is authorized to modify only the discovery  
22 dates shown above to the extent any such modification does not impact the balance of the  
23 schedule of the case.

24 XI. OBJECTIONS TO STATUS (PRETRIAL SCHEDULING) ORDER

25 This Status Order will become final without further order of the court unless  
26 objections are filed within fourteen (14) *calendar* days of service of this Order.

27 IT IS SO ORDERED.

28 DATED: September 19, 2017.