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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER SHEPARD,

Plaintiff,

v.

EQUIFAX INFORMATON SERVICES,
LLC, et al.,

Defendants.

No. 2:17-cv-1118 KJM CKD

STATUS (PRETRIAL SCHEDULING)

ORDER

An initial scheduling conference was held in this case on August 31, 2017. Wayne Sinnett appeared for plaintiff; Thomas Quinn, Jr. appeared for defendant Equifax Information Services, LLC and James Schultz appeared for defendant Diversified Consultants, Inc.

Having reviewed the parties' Joint Status Report filed on August 18, 2017, and discussed a schedule for the case with counsel at the hearing, the court makes the following orders:

I. SERVICE OF PROCESS

All named defendants have been served and no further service is permitted without leave of court, good cause having been shown.

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1 II. ADDITIONAL PARTIES/AMENDMENTS/PLEADINGS

2 Plaintiff anticipates filing an amended complaint to allege additional facts. Any
3 stipulation or motion for leave to amend or to add additional parties shall be filed not later than
4 **October 27, 2017**. Joinder of parties or amendments to pleadings otherwise is not permitted
5 without leave of court, good cause having been shown. *See* Fed. R. Civ. P. 16(b); *Johnson v.*
6 *Mammoth Recreations, Inc.*, 975 F.2d 604 (9th Cir. 1992).

7 III. JURISDICTION/VENUE

8 Jurisdiction is predicated upon 15 U.S.C. § 1681. Jurisdiction and venue are not
9 disputed.

10 IV. DISCOVERY

11 Initial disclosures as required by Federal Rule of Civil Procedure 26(a) has been
12 completed. All discovery shall be completed by **February 1, 2018**. In this context, “completed”
13 means that all discovery shall have been conducted so that all depositions have been taken and
14 any disputes relative to discovery shall have been resolved by appropriate order if necessary and,
15 where discovery has been ordered, the order has been obeyed. All motions to compel discovery
16 must be noticed on the magistrate judge’s calendar in accordance with the local rules of this court.
17 While the assigned magistrate judge reviews proposed discovery phase protective orders, requests
18 to seal or redact are decided by Judge Mueller as discussed in more detail below. In addition,
19 while the assigned magistrate judge handles discovery motions, the magistrate judge cannot
20 change the schedule set in this order, except that the magistrate judge may modify a discovery
21 cutoff to the extent such modification does not have the effect of requiring a change to the
22 balance of the schedule.

23 The parties consent to electronic service, with courtesy copies by mail, for serving
24 any document in this case.

25 V. DISCLOSURE OF EXPERT WITNESSES

26 All counsel are to designate in writing, file with the court, and serve upon all other
27 parties the name, address, and area of expertise of each expert that they propose to tender at trial
28 not later than **December 1, 2017**. The designation shall be accompanied by a written report

1 prepared and signed by the witness. The report shall comply with Fed. R. Civ. P. 26(a)(2)(B).
2 By **January 3, 2018**, any party who previously disclosed expert witnesses may submit a
3 supplemental list of expert witnesses who will express an opinion on a subject covered by an
4 expert designated by an adverse party, if the party supplementing an expert witness designation
5 has not previously retained an expert to testify on that subject. The supplemental designation
6 shall be accompanied by a written report, which shall also comply with the conditions stated
7 above.

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

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

24 All experts designated are to be fully prepared at the time of designation to render
25 an informed opinion, and give the bases for their opinion, so that they will be able to give full and
26 complete testimony at any deposition taken by the opposing party. Experts will not be permitted
27 to testify at trial as to any information gathered or evaluated, or opinion formed, after deposition
28 taken subsequent to designation. All expert discovery shall be completed by **February 1, 2018**.

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 March 23, 2018.¹ 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
27

28 ¹ 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 As discussed with counsel at the scheduling conference, the court hereby requests
25 the assistance of ADR Coordinator Sujean Park in determining whether a settlement conference
26 can be scheduled within 60 to 90 days of the scheduling conference in a sister court to
27 accommodate the location of all counsel. Specifically, the court requests that Ms. Park determine
28 whether a court-convened settlement opportunity is available in either the Southern or Central

1 District of California, with the understanding that there may be the possibility of a magistrate
2 judge's convening settlement in the Southern District of California, or voluntary dispute
3 resolution available in the Central District of California. Ms. Park is requested to coordinate
4 directly with Messrs. Sinnett, Quinn and Schultz regarding her efforts, and to report to the court
5 within forty-five days on the status of her efforts.

6 IX. FURTHER SCHEDULING

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

12 X. MODIFICATION OF STATUS (PRETRIAL SCHEDULING) ORDER

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

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

21 XI. OBJECTIONS TO STATUS (PRETRIAL SCHEDULING) ORDER

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

24 IT IS SO ORDERED.

25 DATED: September 19, 2017.

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27 _____
28 UNITED STATES DISTRICT JUDGE