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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

INTERSTATE FIRE & CASUALTY  
COMPANY,

Plaintiff,

v.

FIRST SPECIALTY INSURANCE  
COMPANY,

Defendant.

No. 2: 17-cv-1795 KJM AC

INITIAL PHASE DISCOVERY  
SCHEDULING ORDER

An initial scheduling conference was held in this case on November 30, 2017.  
Ron Nelson appeared for plaintiff; Matthew Harvey appeared for defendant.

Having reviewed the parties' Joint Status Report filed on November 22, 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               The parties shall file a joint stipulated amended complaint within 90 days, or  
3 plaintiff shall file a request to amend within 90 days of the scheduling conference. No further  
4 joinder of parties or amendments to pleadings is permitted without leave of court, good cause  
5 having been shown. *See* Fed. R. Civ. P. 16(b); *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d  
6 604 (9th Cir. 1992).

7       III.       JURISDICTION/VENUE

8               Jurisdiction is predicated upon 28 U.S.C. § 1332. Jurisdiction and venue are not  
9 disputed.

10       IV.       FACT DISCOVERY

11               Initial disclosures as required by Federal Rule of Civil Procedure 26(a) shall be  
12 completed by **December 15, 2017**. All initial written and document discovery shall be completed  
13 by **May 1, 2018**. In this context, “completed” means that all initial fact discovery shall have been  
14 conducted so that any disputes relative to discovery shall have been resolved by appropriate order  
15 if necessary and, where discovery has been ordered, the order has been obeyed. All motions to  
16 compel discovery must be noticed on the magistrate judge’s calendar in accordance with the local  
17 rules of this court. While the assigned magistrate judge reviews proposed discovery phase  
18 protective orders, requests to seal or redact are decided by Judge Mueller as discussed in more  
19 detail below. In addition, while the assigned magistrate judge handles discovery motions, the  
20 magistrate judge cannot change the schedule set in this order, except that the magistrate judge  
21 may modify a discovery cutoff to the extent such modification does not have the effect of  
22 requiring a change to the balance of the schedule.

23               The parties shall abstain from taking any depositions until **May 1, 2018**, so they  
24 may complete the initial phase of discovery scheduled above, and meet and confer about the most  
25 efficient way to resolve the remaining legal and factual issues relevant to the underlying  
26 construction defect lawsuits.

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1 V. MOTION HEARING SCHEDULE

2 A status conference is set for **April 20, 2018, at 2:30 p.m.**, to discuss the results of  
3 the initial phase of discovery and the next phase of the case. The parties shall submit, at least  
4 seven (7) days prior to the Status Conference, a Joint Status Report.

5 VI. SEALING

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

17 VII. SETTLEMENT CONFERENCE

18 No settlement conference is currently scheduled. A settlement conference may be  
19 set at the time of the Final Pretrial Conference or at an earlier time at the parties' request. In the  
20 event that an earlier court settlement conference date or referral to the Voluntary Dispute  
21 Resolution Program (VDRP) is requested, the parties shall file said request jointly, in writing.  
22 Because the case will be tried to a jury, all parties should be prepared to advise the court whether  
23 they will stipulate to the trial judge acting as settlement judge and waive disqualification by virtue  
24 thereof.

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

1 VIII. MODIFICATION OF STATUS (PRETRIAL SCHEDULING) ORDER

2 The parties are reminded that pursuant to Rule 16(b) of the Federal Rules of Civil  
3 Scheduling Order shall not be modified except by leave of court upon a showing of good cause.  
4 Agreement of the parties by stipulation alone does not constitute good cause. Except in  
5 extraordinary circumstances, unavailability of witnesses or counsel does not constitute good  
6 cause.

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

10 IX. OBJECTIONS TO STATUS (PRETRIAL SCHEDULING) ORDER

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

13 IT IS SO ORDERED.

14 DATED: December 6, 2017.

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17 UNITED STATES DISTRICT JUDGE

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