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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

AMERICAN AUTOMOBILE  
INSURANCE COMPANY, et al.,  
  
Plaintiffs,  
  
v.  
  
UNITED SPECIALTY INSURANCE  
COMPANY, et al.,  
  
Defendants.

No. 2:18-cv-00461-KJM-EFB

STATUS (PRETRIAL SCHEDULING)

ORDER

An initial scheduling conference was held in this case on June 7, 2018. Kristian Moriarty appeared for plaintiffs; Robert Closson appeared for defendant.

Having reviewed the parties' Joint Status Report filed on May 16, 2018, 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 Any amendments to the pleadings shall be filed no later than **August 20, 2018**.

3 Further joinder of parties or amendments to pleadings is not permitted without leave of court,  
4 good cause having been shown. *See* Fed. R. Civ. P. 16(b); *Johnson v. Mammoth Recreations,*  
5 *Inc.*, 975 F.2d 604 (9th Cir. 1992).

6 III. JURISDICTION/VENUE

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

9 IV. DISCOVERY

10 Initial disclosures as required by Federal Rule of Civil Procedure 26(a) shall be  
11 completed by **June 22, 2018**. All discovery shall be completed by **July 31, 2019**. In this context,  
12 “completed” means that all discovery shall have been conducted so that all depositions have been  
13 taken and any disputes relative to discovery shall have been resolved by appropriate order if  
14 necessary and, where discovery has been ordered, the order has been obeyed. All motions to  
15 compel discovery must be noticed on the magistrate judge’s calendar in accordance with the local  
16 rules of this court. While the assigned magistrate judge reviews proposed discovery phase  
17 protective orders, requests to seal or redact are decided by Judge Mueller as discussed in more  
18 detail below. In addition, while the assigned magistrate judge handles discovery motions, the  
19 magistrate judge cannot change the schedule set in this order, except that the magistrate judge  
20 may modify a discovery cutoff to the extent such modification does not have the effect of  
21 requiring a change to the balance of the schedule.

22 The court approves the parties’ stipulation that the limit on the number of  
23 interrogatories that may be served by a party under Federal Rule of Civil Procedure Rule 33(a)(1)  
24 is increased to permit each party to serve a total of 100 specially prepared interrogatories.

25 V. DISCLOSURE OF EXPERT WITNESSES

26 All counsel are to designate in writing and serve upon all other parties the name,  
27 address, and area of expertise of each expert that they propose to tender at trial not later than  
28 **April 30, 2019**. The designation shall be accompanied by a written report prepared and signed by

1 the witness. The report shall comply with Fed. R. Civ. P. 26(a)(2)(B). By **May 31, 2019**, any  
2 party who previously disclosed expert witnesses may submit a rebuttal list of expert witnesses  
3 who will express an opinion on a subject covered by an expert designated by an adverse party, if  
4 the party rebutting an expert witness designation has not previously retained an expert to testify  
5 on that subject. The rebuttal designation shall be accompanied by a written report, which shall  
6 also comply with the conditions stated above.

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

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

23 All experts designated are to be fully prepared at the time of designation to render  
24 an informed opinion, and give the bases for their opinion, so that they will be able to give full and  
25 complete testimony at any deposition taken by the opposing party. Experts will not be permitted  
26 to testify at trial as to any information gathered or evaluated, or opinion formed, after deposition  
27 taken subsequent to designation. All expert discovery shall be completed by **July 31, 2019**.

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1 VI. MID-LITIGATION CONFERENCE

2 A mid-litigation conference is set for **September 12, 2019, at 2:30 p.m.** before the  
3 undersigned, to review the parties' proposals for summary judgment proceedings. No summary  
4 judgment motion shall be filed before this conference. The court will set a dispositive motion  
5 hearing cutoff at the mid-litigation conference.

6 VII. SEALING

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

18 VIII. FURTHER SCHEDULING

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

24 IX. SETTLEMENT CONFERENCE

25 No settlement conference is currently scheduled. A settlement conference may be  
26 set at the time of the Final Pretrial Conference or at an earlier time at the parties' request. In the  
27 event that an earlier court settlement conference date or referral to the Voluntary Dispute  
28 Resolution Program (VDRP) is requested, the parties shall file said request jointly, in writing.

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

5 X. MODIFICATION OF STATUS (PRETRIAL SCHEDULING) ORDER

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

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

14 XI. OBJECTIONS TO STATUS (PRETRIAL SCHEDULING) ORDER

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

17 IT IS SO ORDERED.

18 DATED: June 20, 2018.

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22 UNITED STATES DISTRICT JUDGE  
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