

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

NANCY H. FINLEY,  
Plaintiff,  
  
v.  
  
DYNAMIC RECOVERY SOLUTIONS  
LLC, et al.,  
  
Defendants.

Case No. 14-cv-04028-TEH  
  
**ORDER FOR PRETRIAL  
PREPARATION**

Good cause appearing, IT IS HEREBY ORDERED that:

**1. TRIAL DATE**

Trial before the Jury will begin in Courtroom No. 2 on **Tuesday, June 7, 2016, at 9:00 AM.** If the Court advises counsel that they must be prepared to go to trial on a trailing basis, then the trial will begin as soon after the scheduled date as possible. The trial shall last for an estimated **3** trial days. The trial of liability and damages issues SHALL/SHALL NOT be separate.

**2. PRETRIAL CONFERENCE**

The Court will hold a pretrial conference on **Monday, May 23, 2016, at 3:00 PM.** Counsel who intend to try the case must attend the pretrial conference.

**3. DISCOVERY.**

**(a) Discovery Cutoff.** All discovery, except for depositions of expert witnesses, shall be completed on or before **February 22, 2016.** All depositions of expert witnesses shall be completed no later than 7 calendar days before the pretrial conference.

**(b) Disclosures Regarding Expert Witnesses.** Plaintiffs shall comply with Federal Rule of Civil Procedure 26(a)(2)(A) (i.e., disclose the identity of any person who may be

1 used at trial to present expert testimony) no later than **45** calendar days before the pretrial  
2 conference. Defendants shall disclose the identity of their expert witnesses no later than **30**  
3 calendar days before the pretrial conference. The parties shall comply with the written  
4 report requirements of Federal Rule of Civil Procedure 26(a)(2)(B) within 14 calendar days  
5 of disclosing the identity of their experts. Failure to comply with these deadlines will  
6 prevent a witness from testifying as an expert.

7  
8 (c) **Discovery Disputes.** Unless otherwise ordered by the Court, all discovery  
9 matters are hereby referred for assignment to a magistrate judge. Please call the Courtroom  
10 Deputy at (415) 522-2047 to obtain a random assignment to a specific Magistrate Judge  
11 before filing any papers relating to discovery.

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13 **4. PRETRIAL MOTIONS (EXCEPT MOTIONS IN LIMINE).**

14 The parties should file pretrial motions to resolve any purely legal substantive  
15 issues. Such issues may **not** be resolved by motions in limine (see page 6, paragraph 6(a)).

16 **Any party that attempts to resolve a purely legal substantive issue by a motion in**  
17 **limine, or by any motion filed after the deadline below, may expect the imposition of**  
18 **substantial sanctions for failure to comply with this order.**

19 All pretrial motions, except motions in limine, shall be heard no later than 45  
20 calendar days before the scheduled trial date. Accordingly, all such motions must be  
21 noticed for hearing no later than **Monday, April 18, 2016**. They must be filed at least 35  
22 days in advance of the hearing date, or no later than **Monday, March 14, 2016**. Civ.  
23 L.R. 7-2(a).

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25 **5. PRETRIAL CONFERENCE STATEMENT.**

26 (a) **Required Meeting and Disclosure Prior to Pretrial Conference.** Lead  
27 counsel who will try the case shall meet and confer on or before **April 22, 2016** (at least 30  
28 calendar days before the pretrial conference). At that time, they shall discuss:

- 1                   (1) Prospects for settling the action;
- 2                   (2) The preparation and content of the joint pretrial conference statement;
- 3                   (3) The preparation and exchange of pretrial materials to be served and
- 4 lodged with the Court; and
- 5                   (4) Resolution of any differences between the parties regarding items (2)
- 6 and (3) above. To the extent such differences are not resolved, the parties must present the
- 7 issues in the joint pretrial conference statement so that the Judge may rule on the disputes
- 8 at the pretrial conference.

9                   Within one week after meeting and conferring, the parties shall file a joint

10 statement, signed by all counsel, stating that they have met and conferred on the above

11 issues.

12

13                   **(b) Joint Pretrial Conference Statement.** The parties shall file a joint pretrial

14 conference statement no later than 10 calendar days before the pretrial conference. If the

15 parties disagree over the wording of the statement, each party may state its position in its

16 own words. All parties or their counsel must sign the statement. The statement shall

17 contain the following information:

18                   **(1) The Action.**

19                   **(A) Substance of the Action.** A brief description of the substance of

20 claims and defenses that remain to be decided.

21                   **(B) Relief Prayed.** A detailed statement of the relief claimed,

22 including an itemization of all claimed damages, along with a list of witnesses, documents,

23 or other evidentiary material to be presented on the amount of damages.

24                   **(2) The Factual Basis of the Action.**

25                   **(A) Undisputed Facts.** A plain and concise statement of all relevant

26 facts not reasonably disputable. This should include a statement of facts which the parties

27 stipulate may be incorporated into the trial record without supporting testimony or

28 exhibits.

1                   **(B) Disputed Factual Issues.** A plain and concise statement of all  
2 disputed factual issues that remain to be decided.

3                   **(C) Agreed Statement.** A statement assessing whether all or part of  
4 the action may be presented upon an agreed statement of facts.

5                   **(D) Stipulations.** A statement of stipulations requested or proposed  
6 for pretrial or trial purposes.

7

8                   **(3) Trial Preparation.**

9                   **(A) Estimate of Trial Time.** An estimate of the number of court  
10 days needed for the presentation of each party’s case, indicating possible reductions in  
11 time through proposed stipulations, agreed statements of facts, or expedited means of  
12 presenting testimony and exhibits.

13                   **(B) Witnesses to be Called.** A list of all witnesses likely to be called  
14 at trial, other than solely for impeachment or rebuttal, together with a brief statement  
15 following each name describing the substance of the testimony to be given. Parties must  
16 indicate any objections to the use of the listed witnesses and shall certify that counsel have  
17 met and conferred regarding such objections. No party shall be permitted to call any  
18 witness in their case in chief that is not disclosed in the pretrial conference statement  
19 unless the Court grants leave for good cause shown.

20                   **(C) Use of Discovery Responses.** A list of evidence that may be  
21 presented at trial, other than solely for impeachment or rebuttal, through use of excerpts  
22 from depositions, interrogatory answers, or responses to requests for admission. Parties  
23 must indicate any objections to use of these materials and shall certify that counsel have  
24 met and conferred regarding such objections.

25                   **(D) Exhibits, Schedules, and Summaries.** A list of all documents  
26 and other items to be offered as exhibits at the trial, other than solely for impeachment or  
27 rebuttal, with a brief statement following each item describing its substance or purpose and  
28 the identity of its sponsoring witness. The statement shall include a list of all exhibits that

1 the parties agree may be admitted into evidence. Parties must indicate any objections to  
2 the receipt in evidence of the listed exhibits and shall certify that counsel have met and  
3 conferred regarding such objections. No party shall be permitted to introduce any exhibit  
4 in their case in chief that is not disclosed in the pretrial conference statement unless the  
5 Court grants leave for good cause shown.

6 (E) **Further Discovery or Motions.** A statement of all outstanding  
7 discovery or motions, including motions in limine.

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9 (4) **Trial Alternatives and Options.**

10 (A) **Settlement Discussion.** A statement summarizing the status of  
11 settlement negotiations and indicating whether further negotiations are likely to be  
12 productive.

13 (B) **Consent to Trial Before a Magistrate Judge.** A statement  
14 explaining whether reference of all or part of the action to a special master or magistrate  
15 judge is feasible, including whether the parties consent to a court or jury trial before a  
16 magistrate judge with appeal directly to the Ninth Circuit.

17 (C) **Amendments or Dismissals.** A statement of requested or  
18 proposed amendments to pleadings or dismissals of parties, claims, or defenses.

19 (D) **Bifurcation of Issues.** A statement of whether bifurcation (i.e.,  
20 separate trials) of specific issues is feasible and desired.

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22 (5) **Miscellaneous.** Any other subjects relevant to the just, speedy, and  
23 inexpensive resolution of this action.

24 (c) **Pretrial Order.** The Court may, as appropriate, make pretrial orders at or  
25 following the pretrial conference. Such orders shall control the subsequent course of the  
26 action as provided in Federal Rule of Civil Procedure 16.

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28 **6. TRIAL PREPARATION DEADLINES.**

1           (a) **Motions in Limine.** The only appropriate purpose for a motion in limine is to  
2 obtain, in advance of trial, an evidentiary ruling on the admissibility of a specific piece of  
3 evidence. Unless otherwise allowed by the Court, all motions in limine shall be filed no  
4 later than 21 calendar days before the scheduled trial date, and written opposition to such  
5 motions shall be filed no later than 14 calendar days before the trial date. **All motions in  
6 limine must be accompanied by a declaration stating that counsel have met and  
7 conferred in good faith regarding the motions prior to their filing, and that the  
8 parties are unable to resolve informally any remaining disputes.**

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10           (b) **Exhibits.** Two sets of all exhibits to be offered at trial, together with a list of  
11 exhibits, shall be lodged with the Court no later than 7 calendar days before the scheduled  
12 trial date. Exhibits must be placed in three-ring binders of no more than three inches each  
13 and must be pre-marked in accordance with the attached forms.

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15           (c) **Objections to Evidence.** Counsel shall meet and confer with respect to any  
16 evidentiary objections in advance of the pretrial conference. They shall advise the Court at  
17 the pretrial conference if any objections contained in their joint pretrial conference  
18 statement have been subsequently resolved.

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20           (d) **Jury Instructions.** If a jury trial has been demanded, the parties shall meet and  
21 confer to discuss proposed jury instructions. The Court uses its own set of standard  
22 instructions regarding the role of jurors, organization of the jury, communication with the  
23 Court, etc., and the parties need not discuss such instructions during their meeting and  
24 conferring. No later than 10 calendar days before the pretrial conference, the parties shall  
25 file (a) proposed jury instructions upon which all parties have agreed and (b) jury  
26 instructions upon which any other party does not agree. The proposed jury instructions  
27 must be accompanied by a declaration stating that the parties have met and conferred in  
28 good faith in an attempt to agree upon as many jury instructions as possible. The

1 chambers copies of all proposed jury instructions shall be accompanied by an electronic  
2 copy of the instructions in Word or Word Perfect format.

3 For each disputed instruction, the offering party shall indicate the corresponding  
4 instruction(s), if any, being proposed by other parties. The parties shall file written  
5 objections to all disputed instructions no later than 7 calendar days before the scheduled  
6 trial date.

7 All proposed jury instructions shall be concise and free from argument; cover only  
8 one subject to be indicated in the caption; show the identity of the offering party; be  
9 typewritten out in full on a separate page or pages; be consecutively numbered; and set  
10 forth specific citations to supporting authority. Case citations must include pinpoint  
11 citations to the exact page or pages that support the proposed instruction.

12

13 (e) **Voir Dire.** If a jury trial has been demanded, the parties may, at their option,  
14 submit proposed questions for voir dire. Any such questions must be filed no later than 10  
15 calendar days before the pretrial conference.

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17 (f) **Special Verdict Forms.** If a jury trial has been demanded, the parties shall  
18 meet and confer to discuss any desired special verdict forms. The parties shall follow the  
19 procedure outlined in paragraph 6(d) in filing their proposed verdict forms.

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21 7. **TRANSCRIPTS.** Arrangements must be made with the Courtroom Deputy at least  
22 14 calendar days before the scheduled trial date if the parties desire daily transcripts and/or  
23 realtime reporting.

24

25 8. **SETTLEMENT CONFERENCE.** The parties SHALL/SHALL NOT arrange for  
26 a mandatory settlement conference before Magistrate Judge **Nandor J. Vadas** of this  
27 Court. This conference shall be scheduled to take place no later than 5 calendar days  
28 before the pretrial conference.


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**9. FURTHER CASE MANAGEMENT CONFERENCE.** A further case management conference will be held on N/A, at **1:30 PM**.

**10. PROCEDURE FOR AMENDING THIS ORDER.** No provision of this order may be changed except by written order of this Court. The Court may enter such an order upon its own motion or upon motion of one or more of the parties. The parties must make any such motion in accordance with the Civil Local Rules and with a demonstration of very good cause. The mere fact that the parties have stipulated to a change does not constitute good cause, nor does a conflict with a court date set after the date of this order.

**IT IS SO ORDERED.**

Dated: 9/15/2015

  
\_\_\_\_\_  
THELTON E. HENDERSON  
United States District Judge



1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3  
4 CASE NO. CR - TEH DATE:  
5 \_\_\_\_\_ v. \_\_\_\_\_

6 EXHIBIT LIST

7 ( ) Plaintiff

( ) Defendant

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9 EXHIBIT NUMBER	MARKED	ADMITTED	DESCRIPTION OF EXHIBIT
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Case No. _____ <b>PLTF</b> Exhibit No. <u>1</u> Date Admitted _____ Signature _____	Case No. _____ <b>DEFT</b> Exhibit No. <u>A</u> Date Admitted _____ Signature _____
Case No. _____ <b>PLTF</b> Exhibit No. <u>2</u> Date Admitted _____ Signature _____	Case No. _____ <b>DEFT</b> Exhibit No. <u>B</u> Date Admitted _____ Signature _____
Case No. _____ <b>PLTF</b> Exhibit No. <u>3</u> Date Admitted _____ Signature _____	Case No. _____ <b>DEFT</b> Exhibit No. <u>C</u> Date Admitted _____ Signature _____
Case No. _____ <b>PLTF</b> Exhibit No. <u>4</u> Date Admitted _____ Signature _____	Case No. _____ <b>DEFT</b> Exhibit No. <u>D</u> Date Admitted _____ Signature _____
Case No. _____ <b>PLTF</b> Exhibit No. <u>5</u> Date Admitted _____ Signature _____	Case No. _____ <b>DEFT</b> Exhibit No. <u>E</u> Date Admitted _____ Signature _____
Case No. _____ <b>PLTF</b> Exhibit No. <u>6</u> Date Admitted _____ Signature _____	Case No. _____ <b>DEFT</b> Exhibit No. <u>F</u> Date Admitted _____ Signature _____