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 10 ROBERT C. DYNES and MARK G. YUDOF

11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA  
 13 OAKLAND DIVISION

14 DAVID A. KESSLER,

15 Plaintiff,

16 v.

17 J. MICHAEL BISHOP, ROBERT DYNES,  
 18 MARK YUDOF,

19 Defendants.

Case No. 4:08-cv-05554-PJH

**STIPULATION AND [PROPOSED]  
 ORDER SETTING PRETRIAL  
 SCHEDULE AS MODIFIED BY THE COURT**

20 Plaintiff David A. Kessler ("Plaintiff" or "Kessler") and Defendants J. Michael Bishop,  
 21 Robert C. Dynes and Mark G. Yudof (collectively "Defendants") hereby stipulate to the  
 22 following pretrial schedule:

Date	Event
January 6, 2012	Fact discovery cut-off <sup>1</sup>
January 20, 2012	Expert disclosures due

23  
 24  
 25 <sup>1</sup> Pending before the Court is Defendants' motion for summary judgment on *res*  
 26 *judicata*/collateral estoppel grounds. The Court has indicated that the commencement of  
 27 discovery is stayed pending a ruling on said motion. (See, Dkt. Doc. # 70 Minute Entry: Motion  
 28 Hearing held on 7/27/2011 before Phyllis J. Hamilton (Date Filed: 7/27/2011) re [51] Motion for  
 Summary Judgment filed by Defendants.)

1	February 20, 2012	Rebuttal expert disclosures due
2	March 9, 2012	Expert discovery cut-off
3	March 21, 2012	Last day to file dispositive motions <sup>2</sup>
4	April 25, 2012, 9:00 a.m.	Last day for hearing on dispositive motions
5	June 28, 2012	Last day to meet and confer regarding preparation of joint pretrial statement
6	July 5, 2012	Last day to file and serve joint pretrial statement; joint voir dire questions; joint jury instructions; witness lists; exhibit lists; deposition designations; trial briefs; proposed verdict forms; motions in limine and requests regarding treatment of confidential or sealed documents
7		
8		
9		
10	July 5, 2012	Last day to exchange premarked exhibits and submit exhibits to Clerk's Office
11		
12	July 19, 2012	Last day to file and serve oppositions to motions in limine and counter-deposition designations
13		
14	August 2, 2012, 2:00 p.m.	Pretrial Conference
15	August 27, 2012, 8:30 a.m.	Trial

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22 <sup>2</sup> Pursuant to the Court's Standing Order, "Only **one** summary judgment motion may be filed by  
23 each side, absent leave of court." On May 26, 2011, defendants filed a Motion for Summary  
24 Judgment on the issues of (i) *res judicata* and (ii) qualified immunity. [Docket No. 51] At a  
25 Status Conference June 16, 2011, the Court granted leave to proceed with the motion as to *res*  
26 *judicata* only. The Court indicated that it would not adjudicate the motion on qualified immunity  
27 unless defendants agreed to bring no further motion for summary judgment on the merits, which  
28 defendants were unwilling to do. The Court heard defendants' motion as to *res judicata* only on  
July 27, 2011. Thus, Defendant's position is that each side remains entitled to bring one  
additional summary judgment motion. The Plaintiff disagrees and takes the position that the  
pending *res judicata* motion is the only summary judgment motion Defendants may file without  
further leave of the Court.

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Dated: August 2, 2011

CROWELL & MORING LLP

/s/  
J. Daniel Sharp  
Attorneys for Defendants BISHOP, DYNES and  
YUDOF

Dated: August 2, 2011

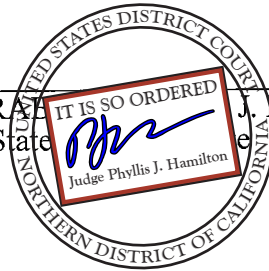
T.M. Guyer and Ayers & Friends, P.C.

/s/  
Thad Guyer  
Attorneys for Plaintiff DAVID A. KESSLER

IT IS SO ORDERED.

Dated: August 4, 2011

HONORABLE J. HAMILTON  
United States



DEFENDANT IS CORRECT. EACH SIDE MAY  
BRING A DISPOSITIVE MOTION AT  
CONCLUSION OF DISCOVERY.  
DEFENDANT WAS PERMITTED AN EARLY  
MOTION SOLELY ON LEGAL QUESTION OF  
RES JUDICATA

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**CERTIFICATION BY J. DANIEL SHARP PURSUANT TO GENERAL ORDER NO. 45.**

**SECTION X. RE E-FILING ON BEHALF OF MULTIPLE SIGNATORIES**

1. I am an attorney licensed to practice law in the state of California, and am a partner in the law firm of Crowell & Moring LLP, counsel for Defendants J. Michael Bishop, Robert C. Dynes ad Mark G. Yudof. The statements herein are made on my personal knowledge, and if called as a witness I could and would testify thereto.

2. The above e-filed document contains multiple signatures. I declare that the concurrence has been obtained from each of the other signatories to file this jointly prepared document with the Court. Pursuant to General Rule No. 45, I shall maintain records to support this concurrence for subsequent production for the Court if so ordered, or for inspection upon request by a party until one year after final resolution of the action (including appeal, if any).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct on August 2, 2011

CROWELL & MORING LLP

/s/

J. Daniel Sharp  
Attorneys for Defendants  
J. MICHAEL BISHOP, ROBERT C. DYNES and  
MARK G. YUDOF

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**PROOF OF SERVICE**

I, Kim Harris, state:

My business address is Embarcadero Center West, 275 Battery Street, 23rd Floor, San Francisco, California 94111. I am over the age of eighteen years and not a party to this action.

On the date set forth below, I served the foregoing document(s) described as:

**STIPULATION AND [PROPOSED] ORDER SETTING  
PRETRIAL SCHEDULE**

on the following person(s) in this action:

**Thad Guyer  
Stephani L. Ayers  
T.M. Guyer and Ayers & Friends, P.C.  
116 Mistletoe Street  
Medford, OR 97501-3006**

BY FIRST CLASS MAIL: I am employed in the City and County of San Francisco where the mailing occurred. I enclosed the document(s) identified above in a sealed envelope or package addressed to the person(s) listed above, with postage fully paid. I placed the envelope or package for collection and mailing, following our ordinary business practice. I am readily familiar with this firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed on August 2, 2011, at San Francisco, California.

  
\_\_\_\_\_  
Kim Harris