

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 IN THE MATTER OF A COMPLAINT
12 OF SHANE SMITHSON,
13 REGISTERED OWNER OF THE
14 WIZARK OF ODDZ, etc.,

Case No.: 15cv2465 MMA (JMA)

**ORDER GRANTING JOINT MOTION
TO CONTINUE [ECF No. 37];**

**AMENDED SCHEDULING ORDER
REGULATING DISCOVERY
AND OTHER PRE-TRIAL
PROCEEDINGS**

15
16
17
18 On August 15, 2017, the parties filed a joint motion to continue discovery
19 and other pre-trial proceedings and trial. Upon good cause appearing, the Court
20 hereby issues the following amended schedule for the remainder of the dates in
21 this case:

22 1. The telephonic Case Management Conference scheduled for August
23 17, 2017 is vacated and rescheduled for **September 29, 2017** at **9:30 a.m.**
24 Counsel for each party shall participate in the conference, and shall use the
25 following call-in information: Dial-In Number 866-590-5055, Access Code
26 2275709.

27 2. By **October 5, 2017**, each party must comply with the disclosure
28 provisions in Rule 26(a)(2)(A) and (B) of the Federal Rules of Civil Procedure.

1 This disclosure requirement applies to all persons retained or specially employed
2 to provide expert testimony, or whose duties as an employee of the party
3 regularly involve the giving of expert testimony. **Except as provided in the**
4 **paragraph below, any party that fails to make these disclosures will not,**
5 **absent substantial justification, be permitted to use evidence or testimony**
6 **not disclosed at any hearing or at the time of trial. In addition, the Court**
7 **may impose sanctions as permitted by Fed. R. Civ. P. 37(c).**

8 3. Any party must supplement its disclosure regarding contradictory or
9 rebuttal evidence under Fed. R. Civ. P. 26(a)(2)(D) by **November 2, 2017**.

10 4. All discovery must be completed by all parties by **November 30,**
11 **2017**. "Completed" means that all discovery under Rules 30-36 of the Federal
12 Rules of Civil Procedure, and discovery subpoenas under Rule 45, must be
13 initiated a sufficient period of time in advance of the cut-off date, **so that it may**
14 **be completed** by the cut-off date, taking into account the times for service,
15 notice and response as set forth in the Federal Rules of Civil Procedure.
16 **Counsel must promptly and in good faith meet and confer with regard to all**
17 **discovery disputes in compliance with Local Rule 26.1(a).** The Court
18 expects counsel to make every effort to resolve all disputes without court
19 intervention through the meet and confer process. If the parties reach an
20 impasse on any discovery issue, counsel must file an appropriate motion within
21 the time limit and procedures outlined in the undersigned magistrate judge's
22 chambers rules. **A failure to comply in this regard will result in a waiver of a**
23 **party's discovery issue. Absent an order of the court, no stipulation**
24 **continuing or altering this requirement will be recognized by the court.**

25 5. Failure to comply with this section or any other discovery order of the
26 court may result in the sanctions provided for in Fed. R. Civ. P. 37, including a
27 prohibition on the introduction of experts or other designated matters in evidence.

28 6. Motions in limine are due **April 9, 2018**, and will be heard at the

1 Pretrial Conference. Oppositions to motions in limine are due **April 23, 2018**.
2 No Reply briefs will be accepted.¹ All other dispositive pretrial motions, including
3 motions for summary judgment and motions addressing *Daubert* issues, must be
4 filed by **January 8, 2018**. Counsel for the moving party must obtain a motion
5 hearing date from Judge Anello's law clerk. The period of time between the date
6 you request a motion date and the hearing date may vary from one district judge
7 to another. Please plan accordingly. Failure to make a timely request for a
8 motion date may result in the motion not being heard.

9 7. A Mandatory Settlement Conference will be conducted on **April 3,**
10 **2018** at **10:00 a.m.** in the chambers of Magistrate Judge Jan M. Adler. Counsel
11 or any party representing himself or herself must submit confidential settlement
12 briefs directly to chambers by **March 27, 2018**. All parties are ordered to read
13 and to fully comply with the Chamber Rules of the assigned magistrate judge.

14 8. The parties must file their Memoranda of Contentions of Fact and
15 Law and take any other action required by Local Rule 16.1(f)(2) by **April 16,**
16 **2018**.

17 9. Counsel must comply with the pre-trial disclosure requirements of
18 Fed. R. Civ. P. 26(a)(3) by **April 23, 2018**. Failure to comply with these
19 disclosure requirements could result in evidence preclusion or other sanctions
20 under Fed. R. Civ. P. 37.

21 10. Counsel must meet and take the action required by Local Rule
22 16.1(f)(4) by **April 30, 2018**. At this meeting, counsel will discuss and attempt to
23 enter into stipulations and agreements resulting in simplification of the triable
24 issues. Counsel will exchange copies and/or display all exhibits other than those
25 to be used for impeachment. The exhibits must be prepared in accordance with
26

27
28 ¹ For further information regarding motions in limine, please refer to Judge Anello's Civil Chambers
Rules.

1 Local Rule 16.1(f)(4)(c). Counsel must note any objections they have to any
2 other parties' Pretrial Disclosures under Fed. R. Civ. P. 26(a)(3). Counsel must
3 cooperate in the preparation of the proposed pretrial conference order.

4 11. The final Pretrial Conference is scheduled on the calendar of the
5 **Honorable Michael M. Anello** on **May 14, 2018** at **2:30 p.m.**

6 12. Counsel for plaintiff will be responsible for preparing the pretrial order
7 and arranging the meetings of counsel pursuant to Civil Local Rule 16.1(f). By
8 **May 18, 2018**, plaintiff's counsel must provide opposing counsel with the
9 proposed pretrial order for review and approval. Opposing counsel must
10 communicate promptly with plaintiff's counsel concerning any objections to form
11 or content of the pretrial order, and both parties must attempt promptly to resolve
12 their differences, if any, concerning the order.

13 13. The Proposed Final Pretrial Conference Order, including objections to
14 any other parties' Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures must be prepared,
15 served and lodged with Judge Anello by **May 25, 2018**,² and must be in the form
16 prescribed in and comply with Local Rule 16.1(f)(6).

17 14. The trial is scheduled to start on **June 12, 2018** at **9:00 a.m.** The
18 parties must file proposed jury instructions and verdict forms no later than 5 p.m.
19 on **June 7, 2018**, unless otherwise directed by the Court. The parties should
20 simultaneously email an electronic copy (Microsoft Word or Word Perfect format)
21 to Judge Anello's e-file email address, efile_anello@casd.uscourts.gov.

22 15. The parties must review and be familiar with Judge Anello's Civil
23 Chambers Rules.

24
25
26 ² As noted in Judge Anello's Civil Chambers Rules: "This rule modifies and supersedes the deadlines set
27 forth in Civil Local Rule 16.1.f.6.b, as well as any inconsistent terms of a scheduling/case management
28 order issued in a case by the assigned magistrate judge. Judge Anello **does not** require the parties to
submit a joint proposed pretrial order *prior* to the final pretrial conference, and thus the requirement of
Local Rule 16.1.f.6.b is **waived**. This policy allows for the parties to take into account the Court's
rulings on motions in limine when preparing the joint proposed pretrial order."

1 16. A post trial settlement conference before a magistrate judge may be
2 held within 30 days of verdict in the case.

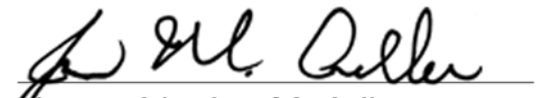
3 17. The dates and times set forth herein will not be modified except for
4 good cause shown.

5 18. Briefs or memoranda in support of or in opposition to any pending
6 motion must not exceed twenty-five (25) pages in length without leave of a
7 district court judge. No reply memorandum will exceed ten (10) pages without
8 leave of a district court judge. Briefs and memoranda exceeding ten (10) pages
9 in length must have a table of contents and a table of authorities cited.

10 19. Plaintiff's counsel must serve a copy of this order on all parties that
11 enter this case hereafter.

12 **IT IS SO ORDERED.**

13 Dated: August 16, 2017

14 
15 Honorable Jan M. Adler
16 United States Magistrate Judge
17
18
19
20
21
22
23
24
25
26
27
28