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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 NAWAL DEWIDAR,
12 Plaintiff,
13 v.
14 NATIONAL RAILROAD PASSENGER
15 CORPORATION (AMTRAK), et al.,
16 Defendants.

Case No.: 17cv62 CAB(RBB)

**ORDER GRANTING JOINT
MOTION TO AMEND
SCHEDULING ORDER**

[ECF No. 22]

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18 The Court has reviewed the parties' "Joint Motion to Amend Scheduling Order"
19 [ECF No. 22]. Good cause shown, the Court **GRANTS** the joint motion and amends the
20 Scheduling Order as follows:

21 1. Plaintiff(s) (or the party(ies) having the burden of proof on any claim) shall
22 serve on all parties a list of experts whom that party expects to call at trial on or before
23 **February 12, 2018**. Defendant(s) (or the party(ies) defending any claim, counterclaim,
24 crossclaim, or third party claim) shall serve on all parties a list of experts whom that party
25 expects to call at trial on or before **February 12, 2018**. On or before **February 26, 2018**,
26 any party may supplement its designation in response to any other party's designation, so
27 long as that party has not previously retained an expert to testify on that subject. Expert
28 designations shall include the name, address, and telephone number of each expert, and a

1 reasonable summary of the testimony the expert is expected to provide. The list shall also
2 include the normal rates the expert charges for deposition and trial testimony.

3 The parties must identify any person who may be used at trial to present evidence
4 pursuant to Rules 702, 703 or 705 of the Federal Rules of Evidence. This requirement is
5 not limited to retained experts.

6 **Please be advised that failure to comply with this section or any other discovery**
7 **order of the Court may result in the sanctions provided for in Fed. R. Civ. P. 37,**
8 **including a prohibition on the introduction of experts or other designated matters in**
9 **evidence.**

10 2. All expert disclosures required by Fed. R. Civ. P. 26(a)(2) shall be served on
11 all parties on or before **March 26, 2018**. Any contradictory or rebuttal information shall
12 be disclosed on or before **April 9, 2018**. In addition, Fed. R. Civ. P. 26(e)(1) imposes a
13 duty on the parties to supplement the expert disclosures made pursuant to Fed. R. Civ. P.
14 26(a)(2)(B) by the time that pretrial disclosures are due under Fed. R. Civ. P. 26(a)(3)
15 (discussed below). This disclosure requirement applies to all persons retained or specially
16 employed to provide expert testimony, or whose duties as an employee of the party
17 regularly involve the giving of expert testimony.

18 **Please be advised that failure to comply with this section or any other discovery**
19 **order of the Court may result in the sanctions provided for in Fed. R. Civ. P. 37,**
20 **including a prohibition on the introduction of experts or other designated matters in**
21 **evidence.**

22 3. All fact discovery shall be completed by all parties by **January 15, 2018**.
23 “Completed” means that all discovery under Rules 30-36 of the Federal Rules of Civil
24 Procedure, and discovery subpoenas under Rule 45, must be initiated a sufficient period of
25 time in advance of the cut-off date, **so that it may be completed** by the cut-off date, taking
26 into account the times for service, notice and response as set forth in the Federal Rules of
27 Civil Procedure. **Counsel shall promptly and in good faith meet and confer with**
28 **regard to all discovery disputes in compliance with Local Rule 26.1(a).** The Court

1 expects counsel to make every effort to resolve all disputes without court intervention
2 through the meet and confer process. If the parties reach an impasse on any discovery
3 issue, counsel shall file an appropriate motion within the time limit and procedures outlined
4 in the undersigned magistrate judge's chambers rules. **A failure to comply in this regard**
5 **will result in a waiver of a party's discovery issue. Absent an order of the court, no**
6 **stipulation continuing or altering this requirement will be recognized by the court.**

7 4. All motions for discovery shall be filed no later than thirty (30) days following
8 the date upon which the event giving rise to the discovery dispute occurred. The 30-day
9 deadline will not be extended without a prior Court order; counsel cannot unilaterally
10 extend the deadline. For example, ongoing meet-and-confer efforts, rolling document
11 productions, or supplemental discovery responses do not extend the deadline. A failure to
12 comply will bar the party from filing a corresponding discovery motion. For oral
13 discovery, the event giving rise to the discovery dispute is the completion of the transcript
14 of the affected portion of the deposition. For written discovery, the event giving rise to the
15 discovery dispute is the service of the response. All interrogatories, requests for admission,
16 and document production requests must be served by **November 13, 2017**.

17 5. All expert discovery shall be completed by all parties by **May 7, 2018**. The
18 parties shall comply with the same procedures set forth in the paragraph governing fact
19 discovery.

20 6. All pre-trial motions, other than *Daubert* motions, motions to amend or join
21 parties, or motions *in limine*, shall be filed on or before **June 4, 2018**. All *Daubert* motions
22 shall be filed on or before **June 4, 2018**. Counsel for the moving party shall set the motion
23 date on the date that is 35 days from the date the motion is filed. Parties intending to file
24 a motion shall *not* contact Judge Bencivengo's chambers for a hearing date. The parties
25 should review Judge Bencivengo's chambers rules for civil cases for the additional
26 requirements for noticed motions before Judge Bencivengo.

27 Pursuant to Local Rule 7.1.f.3.c, **if an opposing party fails to file opposition**
28 **papers in the time and manner required by Local Rule 7.1.e.2, that failure may**

1 **constitute a consent to the granting of a motion or other request for ruling by the**
2 **Court.** Accordingly, all parties are ordered to abide by the terms of Local Rule 7.1.e.2 or
3 otherwise face the prospect of any pretrial motion being granted as an unopposed motion
4 pursuant to Local Rule 7.1.f.3.c.

5 7. An in-person settlement conference set for October 10, 2017, at 2:00 p.m. is
6 vacated and reset for **January 9, 2018**, at **2:00 p.m.** in the chambers of **Magistrate Judge**
7 **Ruben B. Brooks**. Counsel shall lodge confidential settlement briefs directly to chambers
8 by **January 2, 2018**. All parties are ordered to read and to fully comply with the Chamber
9 Rules of the assigned magistrate judge.

10 All parties, claims adjusters for insured Defendants and non-lawyer representatives
11 with complete authority to enter into a binding settlement, as well as the principal
12 attorneys responsible for the litigation, must be present and legally and factually prepared
13 to discuss and resolve the case at the mandatory settlement conference and at all in-
14 person settlement conferences. Retained outside corporate counsel shall not appear on
15 behalf of a corporation as the party representative who has the authority to negotiate and
16 enter into a settlement. Failure to attend or obtain proper excuse will be considered
17 grounds for sanctions.

18 If Plaintiff is incarcerated in a penal institution or other facility, the Plaintiff's
19 presence is not required at conferences before Judge Brooks, and the Plaintiff may
20 participate by telephone. In that case, defense counsel is to coordinate the Plaintiff's
21 appearance by telephone.

22 Confidential written settlement statements for the mandatory settlement conference
23 shall be lodged with Judge Brooks no later than five court days before the mandatory
24 settlement conference. The statements need not be filed with the Clerk of the Court or
25 served on opposing counsel. The statements will not become part of the court file and
26 will be returned at the end of the conference upon request. Written statements may be
27 lodged with Judge Brooks either by mail, by email, or by delivery to the Clerk's Office.

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1 Any statement submitted should avoid arguing the case. Instead, the statement
2 should include a neutral factual statement of the case, identify controlling legal issues,
3 and concisely set out issues of liability and damages, including any settlement demands
4 and offers to date and address special and general damages where applicable.

5 If appropriate, the Court will consider the use of other alternative dispute
6 resolution techniques.

7 8. The parties must comply with the pretrial disclosure requirements of Fed. R.
8 Civ. P. 26(a)(3) no later than **July 9, 2018**. **Please be advised that failure to comply with**
9 **this section or any other discovery order of the Court may result in the sanctions**
10 **provided for in Fed. R. Civ. P. 37, including a prohibition on the introduction of**
11 **experts or other designated matters in evidence.**

12 9. In jury trial cases before the Honorable Cathy Ann Bencivengo, neither party
13 is required to file Memoranda of Contentions of Fact and Law pursuant to Civil Local Rule
14 16.1.f.2.

15 10. Counsel shall confer and take the action required by Local Rule 16.1.f.4.a on
16 or before **July 16, 2018**. The parties shall meet and confer and prepare a proposed pretrial
17 order containing the following:

18 1. A joint neutral statement to be read to the jury, not in excess of one
19 page, of the nature of the case and the claims and defenses.

20 2. A list of the causes of action to be tried, referenced to the Complaint
21 [and Counterclaim if applicable]. For each cause of action, the order shall
22 succinctly list the elements of the claim, damages and any defenses. A cause
23 of action in the Complaint [and/or Counterclaim] which is not listed shall be
24 dismissed with prejudice.

25 3(a). A list of each witness counsel actually expect to call at trial with a brief
26 statement, not exceeding four sentences, of the substance of the witnesses'
27 testimony.

28 3(b). A list of each expert witness counsel actually expect to call at trial with
a brief statement, not exceeding four sentences, of the substance of the
witnesses' testimony.

3(c). A list of additional witnesses, including experts, counsel do not expect
to call at this time but reserve the right to call at trial along with a brief
statement, not exceeding four sentences, of the substance of the witnesses'

1 testimony.

2 4(a). A list of all exhibits that counsel actually expect to offer at trial with a
3 one-sentence description of the exhibit. All exhibits are to be identified
4 numerically, plaintiff starting with “1” and defendant beginning with an
5 agreed upon numerical designation.

6 4(b). A list of all other exhibits that counsel do not expect to offer at this time
7 but reserve the right to offer if necessary at trial with a one-sentence
8 description of the exhibit.

9 5. A statement of all facts to which the parties stipulate. This statement
10 shall be on a separate page and will be read to and provided to the jury.

11 6. A list of all deposition transcripts by page and line, or videotape
12 depositions by section, that will be offered at trial.

13 7. Counsel will note any objections they have to any other parties’ Fed. R.
14 Civ. P. 26(a)(3) Pretrial Disclosures.

15 The Court encourages the parties to consult with the assigned magistrate judge to work out
16 any problems in preparation of the proposed pretrial order. The court will entertain any
17 questions concerning the conduct of the trial at the pretrial conference.

18 11. Counsel for the Plaintiff(s) must provide opposing counsel with the proposed
19 pretrial order for review and approval and take any other action required by Local Rule
20 16.1.f.6.a on or before **July 23, 2018**. Opposing counsel must communicate promptly with
21 plaintiff’s attorney concerning any objections to form or content of the pretrial order, and
22 both parties shall attempt promptly to resolve their differences, if any, concerning the order.

23 12. The proposed pretrial order shall be lodged with the district judge’s chambers
24 on or before **July 30, 2018**, and shall be in the form prescribed in Local Rule 16.1.f.6.

25 13. The final Pretrial Conference is scheduled on the calendar of the **Honorable**
26 **Cathy Ann Bencivengo** for **August 6, 2018**, at **2:00 p.m.**


27 14. The trial in this matter shall commence on Monday, **September 10, 2018**, at
28 **8:45 a.m.**

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1 15. Plaintiff's counsel shall serve a copy of this order on all parties that enter this
2 case hereafter.

3 **IT IS SO ORDERED.**

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5 Dated: September 5, 2017



6 Hon. Ruben B. Brooks
7 United States Magistrate Judge
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