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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ALAN EDWARDS,

Plaintiff,

v.

PACIFIC CYCLE, INC., SEARS HOLDINGS
MANAGEMENT CORPORATION, SEARS,
ROEBUCK AND CO. AND DOES 1-20,

Defendants.

Case No.: 18cv1358-L(BLM)

**ORDER DENYING JOINT MOTION,
FINDING EARLY NEUTRAL
EVALUATION CONFERENCE
INAPPROPRIATE, AND SETTING
TELEPHONIC CASE MANAGEMENT
CONFERENCE**

[ECF No. 12]

On July 9, 2018, the parties filed a Joint Motion to Continue the Early Neutral Evaluation Conference. ECF No. 12. The parties seek to continue the Early Neutral Evaluation Conference ("ENE") currently scheduled for July 25, 2018 for sixty to ninety days. Id. at 2. In support, the parties state that they have recently discovered a third party, Apollo Retail Specialists, LLC, that was the bike assembler responsible for assembling Plaintiff's bicycle that is at issue in this case. Id. Accordingly, Plaintiff needs additional time to amend his complaint to add Apollo Retail Specialists, LLC, after which, Defendants will need additional time to file a Cross-Claim. Id. The parties state that the additional time will allow Apollo Retail Specialists, LLC to be served, retain counsel, and attend the ENE. Id.

Because Civil Local Rule 16.1(c) requires that an ENE take place within forty-five (45)

1 days of the filing of an answer¹, the Court **DENIES** the parties' motion. However, given the
2 status of the case and content of the pleadings, the Court finds it inappropriate to convene an
3 ENE at this time and **VACATES** the ENE currently scheduled for July 25, 2018. See CivLR
4 16.1(c)(1) (explaining that "[t]he judicial officer will hold such conferences as he or she deems
5 appropriate"). Instead, the Court issues the following orders:

6 The Court will hold a telephonic, attorneys-only Case Management Conference ("CMC")
7 on **September 10, 2018** at **11:00 a.m.** The Court will initiate the call. In preparation for this
8 conference, the parties must

9 a. File a Joint Discovery Plan on the CM/ECF system no later than **August 31,**
10 **2018.** Agreements made in the Joint Discovery Plan will be treated as binding stipulations that
11 are effectively incorporated into the Court's Case Management Order. The Joint Discovery Plan
12 must be one document and must address each item identified in Fed. R. Civ. P. 26(f)(3). In
13 addition, the discovery plan must include:

14 i. **Service:** A statement as to whether any parties remain to be served
15 and, if so, a proposed deadline for service;

16 ii. **Amendment of Pleadings:** The extent to which parties, claims, or
17 defenses are expected to be added or dismissed and a proposed deadline for amending the
18 pleadings;

19 iii. **Protective Order:** Whether a protective order is contemplated to
20 cover the exchange of confidential information and, if so, the date by which the proposed order
21 will be submitted to the Court;

22 iv. **Privilege:** The procedure the parties plan to use regarding claims
23 of privilege and whether an order pursuant to Fed. R. Evid. 502 will be sought;

24 v. **Evidence Preservation:** Whether the parties have discussed issues
25 related to the preservation of relevant evidence and if there are areas of disagreement, how the
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28 ¹ An answer was filed in this matter on June 20, 2018. ECF No. 4. Forty-five days from June
20, 2018 is August 4, 2018.

1 parties are resolving them;

2 vi. **Electronic Discovery:** In addition to the requirements set forth in
3 Fed. R. Civ. P. 26(f)(3)(C), the parties must describe their agreements regarding methodologies
4 for locating and producing electronically stored information and the production of metadata, and
5 must identify any issues or agreements regarding electronically stored information that may not
6 be reasonably accessible (see Fed. R. Civ. P. 26(b)(2)(B));

7 vii. **Discovery:** In addition to the requirements of Fed. R. Civ. P.
8 26(f)(3)(B), the parties must describe the discovery taken to date (if any), any proposed
9 limitations or modifications of the discovery rules, and any identified discovery disputes;

10 viii. **Related Cases:** Any related cases or proceedings pending before
11 another judge of this court, or before another court or administrative body;

12 ix. **Scheduling:** Proposed dates for fact discovery cutoff, expert
13 designations and disclosures, expert discovery cutoff, filing of dispositive motions, filing class
14 certification motion (if class is alleged), pretrial conference and trial;

15 x. **Professional Conduct:** Whether all attorneys of record for the
16 parties have reviewed Civil Local Rule 83.4 on Professionalism; and

17 xi. **Miscellaneous:** Such other matters as may facilitate the just,
18 speedy and inexpensive disposition of this matter.

19 b. Exchange initial disclosures pursuant to Rule 26(a)(1)(A-D) no later than
20 **September 4, 2018.**

21 **IT IS SO ORDERED.**

22 Dated: 7/10/2018

23 
24 Hon. Barbara L. Major
25 United States Magistrate Judge
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