

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

10 STEVEN RUPP , et al.

11
12 Plaintiff(s),

13 v.

14 XAVIER BECERRA, et al.

15
16 Defendant(s).
17

Case No.: 8:17-cv-00746-JLS-JDE

**ORDER SETTING SCHEDULING
CONFERENCE FOR DECEMBER
1, 2017 AT 01:30 PM,
COURTROOM 10-A**

18 Judge Staton's Procedures web page is incorporated in this Order.

19 The parties and counsel are ORDERED to review and comply with those
20 procedures and notices, which may be accessed at:

21 <http://www.cacd.uscourts.gov/honorable-josephine-l-staton>
22

23 This case has been assigned to Judge Josephine L. Staton. If plaintiff has
24 not already served the complaint (or any amendment thereto) on all defendants,
25 plaintiff shall promptly do so and shall file proofs of service within three (3) days
26 thereafter. Defendants also shall timely serve and file their responsive pleadings
27 and file proofs of service within three days thereafter.
28

1 This case is set for a scheduling conference under Federal Rule of Civil
2 Procedure 16(b) on the date and time stated in the caption of this Order, in
3 Courtroom 10A of the Ronald Reagan Federal Building and United States
4 Courthouse, 411 West Fourth Street, Santa Ana, California. Unless excused for
5 good cause shown in advance of scheduling conference, lead counsel shall appear
6 at the scheduling conference at all pretrial hearings fully informed concerning
7 the facts of the case. If the Court determines that a Scheduling Order can be issued
8 based on the Joint Rule 26(f) Report, the scheduling conference will be vacated.

9
10 *Attached to this Order, as Exhibit A, are the Court's presumptive dates.*
11 *Parties wishing to deviate from this schedule shall provide the Court with reasons*
12 *for each suggested change.*

13
14 *A Joint Rule 26(f) Report that is filed without a fully completed Exhibit A*
15 *will be rejected by the Court and may subject the parties to sanctions.*

16
17 **1. Joint Rule 26(f) Report**

18 As provided in Fed. R. Civ. P. 26(f), the parties shall meet at least 21 days
19 before the scheduling conference and file a Joint 26(f) Report ("Report") no later
20 than 14 days before the date set for the scheduling conference. The Report shall
21 be drafted by plaintiff (unless the parties agree otherwise), but shall be submitted
22 and signed jointly. "Jointly" contemplates a single report, regardless of how many
23 separately represented parties there are.

24 The Report shall discuss the issues described below. Counsel are to ensure
25 that their discussions of these issues fully address the topics identified by Federal
26 Rule of Civil Procedure 26(f)(A)-(F) and Local Rule 26-1(a)-(f).

27 **a. Statement of the case:** a short synopsis (not to exceed two
28 pages) of the main claims, counterclaims, and affirmative defenses.

1 **b. Legal issues:** a brief description of the key legal issues,
2 including any unusual substantive, procedural, or evidentiary issues.

3 **c. Damages:** the realistic range of provable damages.

4 **d. Insurance:** whether there is insurance coverage, the extent of
5 coverage, and whether there is a reservation of rights.

6 **e. Motions:** statement of the likelihood of motions seeking to add
7 other parties or claims (*see* Local Rule 26-1(e)), file amended pleadings, to dismiss
8 for lack of jurisdiction, or to transfer venue.

9 **f. Complexity:** a discussion regarding the complexity of the case,
10 and whether all or part of the procedures of the Manual for Complex Litigation
11 should be utilized. *See* Local Rule 26-1(a).

12 **g. Status of Discovery:** a report regarding the current status of
13 discovery, including whether initial disclosures have been made and a summary
14 of any completed discovery.

15 **h. Discovery Plan:** The parties must set forth a detailed discovery
16 plan that discusses all the Federal Rule of Civil Procedure 26(f)(3)(A)-(F) topics,
17 including topics related to initial disclosures, the anticipated subjects of discovery,
18 the time needed for discovery, issues related to electronically stored information
19 (“ESI”), issues related to privileged materials, whether changes to limitations on
20 discovery should be made, issues related to protective orders, and any other Rule
21 16(b) or 16(c) issues. The parties must propose a discovery cutoff date for the
22 completion of fact discovery.

23 **i. Expert Discovery:** The parties shall discuss the timing of expert
24 disclosures and discovery. *See* Fed. R. Civ. P. 26(a)(2); Local Rule 26-1(f).

25 **j. Dispositive motions:** The parties shall set forth a description
26 of the issues or claims that any party believes may be determined by motion for
27 summary judgment or partial summary judgment. *See* Local Rule 26-1(b).

28 \\\

k. Alternative Dispute Resolution (“ADR”) Procedure Selection:

The parties must select *either* ADR Procedure No. 2 (Court Mediation Panel) *or* ADR Procedure No. 3 (private mediation); ADR Procedure No. 1 (conference with the magistrate judge) *may not* be selected by the parties. *See generally* General Order 11-10, § 5.1; Local Rule 26-1(c). For more information about the Court’s ADR Program, please visit the “ADR” section of the Court website, <http://www.cacd.uscourts.gov>.

l. Settlement Efforts: Without disclosing the substance of the communications, the parties shall advise the Court regarding whether they have discussed settlement or had written communications regarding settlement. The parties are advised that no case will proceed to trial unless all parties, including the principals of all corporate parties, have appeared personally at a mediation.

m. Trial estimate: The parties must provide a realistic estimate of the time required for trial. *See* Local Rule 26-1(d). The parties’ estimate is for planning purposes only; the Court may allot fewer days for trial. The parties shall specify whether trial will be by jury or to the Court, and each side must specify the number of witnesses it expects to call.

n. Trial counsel: the name(s) of the attorney(s) who will try the case.

o. Independent Expert or Master: the parties must advise the Court whether this is a case in which a master pursuant to Federal Rule of Civil Procedure 53 or an independent scientific expert should be appointed. The appointment of a master may be appropriate if there are likely to be substantial discovery disputes, numerous claims to be construed in connection with a summary judgment motion, a lengthy *Daubert* hearing, or resolution of a difficult computation of damages.

p. Other issues: a statement of any other issues affecting the status or management of the case (*e.g.*, unusually complicated technical or technological

1 issues, disputes over protective orders, extraordinarily voluminous document
2 production, non-English speaking witnesses, discovery in foreign jurisdictions, etc.)
3 and any proposals concerning severance, bifurcation, or other ordering of proof.

4 **2. Notice to be Provided by Counsel**

5 Plaintiff's counsel shall provide this Order to any parties who first appear
6 after the date of this Order and to parties who are known to exist but have not yet
7 entered appearances. If plaintiff is appearing pro se, but defendant is represented
8 by counsel, defendant's counsel shall provide this notice.

10 **3. Disclosures to Clients**

11 Counsel are ordered to deliver to their respective clients a copy of this Order,
12 the Court's trial order, and the Scheduling order.

14 **4. Class Actions**

15 The parties are directed to the portion of Judge Staton's Procedures web page
16 (<http://www.cacd.uscourts.gov/honorable-josephine-l-staton>) regarding class action
17 scheduling issues. As explained in further detail on the web page, the parties are
18 directed to discuss class action scheduling issues in their Joint Rule 26(f) Report.

20 **5. Utility Patent Cases**

21 **a. Presumptive Schedule and Exhibit B:** In patent cases, the Court
22 intends generally to follow the Northern District of California Patent Local Rules.
23 However, the Court's presumptive schedule differs from that set forth in the
24 Northern District Rules and, where it does, the Court's presumptive schedule
25 controls. In patent cases, counsel should review, prepare, and attach the Court's
26 Joint Rule 26(f) Report utility patent-specific Exhibit B (in lieu of the Exhibit A).
27 Exhibit B is available on Judge Staton's Procedures web page.

28 \\\

1 **b. Technology Tutorial:** Because the Court may be unfamiliar with
2 the technology underlying many litigated patents, the parties should consider the
3 most efficient and effective manner in which to educate the Court regarding that
4 technology. Counsel must file a joint status report setting forth their proposal(s) no
5 later than 60 days in advance of the claim construction hearing. If the Court deems
6 it appropriate, the Court will schedule an in-Court technology tutorial or make other
7 appropriate orders. Counsel are strongly encouraged to present any educational
8 materials in a manner that is free of advocacy and unencumbered by each side's
9 respective litigation position(s).

10 The Court thanks the parties and their counsel for their anticipated cooperation
11 in complying with the requirements set forth in this Order.

12 IT IS SO ORDERED.

13
14 Dated: October 10, 2017

JOSEPHINE L. STATON
United States District Judge

15
16 Revised: August 31, 2017
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT APROPOSED SCHEDULE OF PRETRIAL AND TRIAL DATES

CASE NAME:

CASE NO:

Matter	Deadline	Plaintiff(s) Request	Defendant(s) Request
Last Day to File Motions to Add Parties and Amend Pleadings	Scheduling Conference Date plus 60 Days		
Fact Discovery Cut-Off	21 weeks before trial		
Last Day to Serve Initial Expert Reports	19 weeks before trial		
Last Day to File Motions (except <i>Daubert</i> and all other Motions in Limine)	19 weeks before trial ¹		
Last Day to Serve Rebuttal Expert Reports	15 weeks before trial		
Last Day to Conduct Settlement Proceedings	12 weeks before trial		
Expert Discovery Cut-Off	11 weeks before trial		
Last Day to File <i>Daubert</i> Motions	Expert Discovery Cut-Off Date plus 7 days		
Last Day to File Motions in Limine (other than <i>Daubert</i> Motions)	Final Pre-Trial Conference Date less 28 days		
Final Pre-Trial Conference (Friday at 1:30 p.m.)	3 weeks before trial		
Exhibit Conference (Friday at 3:30 p.m.)	Friday before trial		
Trial: Jury or Court (Tuesday at 9:00 a.m.)			

¹ Trials are set on Tuesdays. Motions are heard on Fridays. Therefore, the Court sets motions filing deadlines on the Friday before the date specified in this column.