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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

VIRGINIA DUNCAN, et al.,
Plaintiffs,
v.
XAVIER BECERRA, in his official
capacity as Attorney General of the State
of California,
Defendant.

Case No.: 17-cv-01017-BEN-JLB

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

Pursuant to Rule 16.1(d) of the Local Rules, a Case Management Conference was held on **August 2, 2017**. After consulting with the attorneys of record for the parties and being advised of the status of the case, and good cause appearing, **IT IS HEREBY ORDERED:**

1. Any motion to join other parties, to amend the pleadings, or to file additional pleadings shall be filed by **September 1, 2017**.
2. All discovery, including expert discovery, shall be completed by all parties by **February 2, 2018**. "Completed" means that all discovery under Rules 30-36 of the Federal Rules of Civil Procedure, and discovery subpoenas under Rule 45, must be initiated a sufficient period of time in advance of the cut-off date, **so that it may be completed by**

1 the cut-off date, taking into account the times for service, notice and response as set forth
2 in the Federal Rules of Civil Procedure. **Counsel shall promptly and in good faith meet**
3 **and confer with regard to all discovery disputes in compliance with Civil Local Rule**
4 **26.1(a).** The Court expects counsel to make every effort to resolve all disputes without
5 court intervention through the meet and confer process. If the parties reach an impasse on
6 any discovery issue, counsel shall file an appropriate motion within the time limit and
7 procedures outlined in the undersigned magistrate judge's chambers rules. **A failure to**
8 **comply in this regard will result in a waiver of a party's discovery issue. Absent an**
9 **order of the court, no stipulation continuing or altering this requirement will be**
10 **recognized by the court.**

11 Discovery motions must be filed in the time and manner directed by Magistrate
12 Judge Burkhardt (*see* Judge Burkhardt's Civil Chambers Rules on Discovery Disputes
13 available on the Court's website). All discovery motions must be filed within 30 days of
14 the service of an objection, answer, or response which becomes the subject of dispute, or
15 the passage of a discovery due date without response or production, and only after counsel
16 (and any unrepresented parties) have met and conferred to resolve the dispute **and**
17 complied with Section IV.B. of Judge Burkhardt's Civil Chambers Rules.

18 3. The parties shall designate their respective experts in writing by **October 6,**
19 **2017.** Pursuant to Federal Rule of Civil Procedure 26(a)(2)(A), the parties must identify
20 any person who may be used at trial to present evidence pursuant to Rules 702, 703 or 705
21 of the Federal Rules of Evidence. This requirement is not limited to retained experts. The
22 date for exchange of rebuttal experts shall be by **November 3, 2017.** The written
23 designations shall include the name, address and telephone number of the expert and a
24 reasonable summary of the testimony the expert is expected to provide. The list shall also
25 include the normal rates the expert charges for deposition and trial testimony.

26 4. By **October 6, 2017,** each party shall comply with the disclosure provisions
27 in Rule 26(a)(2)(A) and (B) of the Federal Rules of Civil Procedure. This disclosure
28 requirement applies to all persons retained or specially employed to provide expert

1 testimony, or whose duties as an employee of the party regularly involve the giving of
2 expert testimony. **Except as provided in the paragraph below, any party that fails to**
3 **make these disclosures shall not, absent substantial justification, be permitted to use**
4 **evidence or testimony not disclosed at any hearing or at the time of trial. In addition,**
5 **the Court may impose sanctions as permitted by Federal Rule of Civil Procedure**
6 **37(c).**

7 5. Any party shall supplement its disclosure regarding contradictory or rebuttal
8 evidence under Federal Rules of Civil Procedure 26(a)(2)(D) and 26(e) by **November 3,**
9 **2017.**

10 6. Failure to comply with this section or any other discovery order of the court
11 may result in the sanctions provided for in Federal Rule of Civil Procedure 37, including a
12 prohibition on the introduction of experts or other designated matters in evidence.

13 7. All other pretrial motions must be filed by **February 2, 2018.** Counsel for
14 the moving party must obtain a motion hearing date from the law clerk of the judge who
15 will hear the motion. The period of time between the date you request a motion date and
16 the hearing date may vary from one district judge to another. Please plan accordingly.
17 Failure to make a timely request for a motion date may result in the motion not being heard.
18 Deadlines for filing motions in limine will be set by the district judge at the final Pretrial
19 Conference.

20 8. When filing a Motion for Summary Judgment and/or Adjudication, the parties
21 need not file a separate statement of material facts absent prior leave of court.

22 9. Unless jointly requested by all parties, this case is excused from having a
23 Mandatory Settlement Conference pursuant to Civil Local Rule 16.1(d)(4).

24 10. For bench trials before the Honorable Roger T. Benitez, counsel shall file their
25 Memoranda of Contentions of Fact and Law and take any other action required by Civil
26 Local Rule 16.1(f)(2) by **May 4, 2018.**

27 11. Counsel shall comply with the pre-trial disclosure requirements of Federal
28 Rule of Civil Procedure 26(a)(3) by **May 4, 2018.** Failure to comply with these disclosure

1 requirements could result in evidence preclusion or other sanctions under Federal Rule of
2 Civil Procedure 37.

3 12. Counsel shall meet and take the action required by Civil Local Rule 16.1(f)(4)
4 by **May 11, 2018**. At this meeting, counsel shall discuss and attempt to enter into
5 stipulations and agreements resulting in simplification of the triable issues. Counsel shall
6 exchange copies and/or display all exhibits other than those to be used for impeachment.
7 The exhibits shall be prepared in accordance with Civil Local Rule 16.1(f)(4)(c). Counsel
8 shall note any objections they have to any other parties' Pretrial Disclosures under Federal
9 Rule of Civil Procedure 26(a)(3). Counsel shall cooperate in the preparation of the
10 proposed pretrial conference order.

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

17 14. The Proposed Final Pretrial Conference Order, including objections to any
18 other parties' Federal Rule of Civil Procedure 26(a)(3) Pretrial Disclosures shall be
19 prepared, served and lodged with the assigned district judge by **May 25, 2018**, and shall
20 be in the form prescribed in and comply with Civil Local Rule 16.1(f)(6).

21 15. The final Pretrial Conference is scheduled on the calendar of the **Honorable**
22 **Roger T. Benitez** on **June 4, 2018** at **10:30 AM**.

23 16. The parties must review the chambers' rules for the assigned district judge
24 and magistrate judge.

25 17. A post trial settlement conference before a magistrate judge may be held
26 within 30 days of verdict in the case.

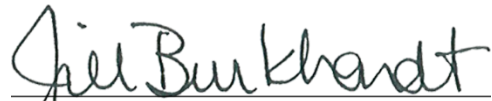
27 18. The dates and times set forth herein will not be modified except for good cause
28 shown.

1 19. Briefs or memoranda in support of or in opposition to any pending motion
2 shall not exceed twenty-five (25) pages in length without leave of a district court judge.
3 No reply memorandum shall exceed ten (10) pages without leave of a district court judge.
4 Briefs and memoranda exceeding ten (10) pages in length shall have a table of contents
5 and a table of authorities cited.

6 20. Plaintiff's counsel shall serve a copy of this order on all parties that enter this
7 case hereafter.

8 **IT IS SO ORDERED.**

9 Dated: August 4, 2017

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12 Hon. Jill L. Burkhardt
13 United States Magistrate Judge
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