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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

IN RE MEDICAL CAPITAL SEC.
LITIG.

LEAD CASE NO. SA-10-ML-02145
DOC (RNBx)

This document relates to:

SCHEDULING ORDER

Case No: SA-CV-09-01048 DOC
(RNBx)

1. SETTING FACT DISCOVERY
CUT-OFF DATE:

Case No: SA-CV 10-0548 DOC
(RNBx)

9/1/12

Case No. 10-cv-06561 DOC (RNBx)

2. SETTING EXPERT
DISCOVERY CUT-OFF
DATE:

11/7/12

3. MOTION CUT-OFF DATE:

3/4/13
(at 8:30 a.m.)

4. SETTING FINAL PRETRIAL
CONFERENCE:

3/25/13
(at 8:30 a.m.)

5. SETTING JURY TRIAL
DATE:

4/16/13
(at 8:30 a.m.)

CTRM: 9D
JUDGE: Hon. David O. Carter

1 This Pretrial Scheduling Order governs the course of all pretrial proceedings
2 in *Masonek, et al. v. Wells Fargo Bank, N.A., et al.*, Case No. SA-CV-09-01048
3 DOC (RNBx) (“*Masonek*”), *Bain, et al. v. Wells Fargo Bank, N.A., et al.*, Case No.
4 SACV 10-0548 DOC (RNBx) (“*Bain*”), and *Abbate, et al. v. Wells Fargo Bank,*
5 *N.A., et al.*, Case No. 10-cv-06561 DOC (RNBx) (“*Abbate*”). For further
6 guidance, consult the Federal Rules of Civil Procedure and the Local Rules.

7 DISCOVERY CUT-OFF

8 The Court has established cut-off dates for fact and expert discovery in this
9 action. All discovery is to be completed on, or prior to, the cut-off dates. Plan
10 now to complete discovery on the schedules set; a continuance is *unlikely*.

11 Accordingly, the following discovery schedule shall apply in this Court:

- 12 (1) Depositions: All depositions shall be scheduled to commence at least
13 five (5) working days prior to the discovery cut-off dates. A
14 deposition which commences five (5) days prior to the discovery cut-
15 off dates may continue beyond the cut-off dates, as necessary.
- 16 (2) Written Discovery: All interrogatories, requests for production of
17 documents, and requests for admissions shall be served at least forty-
18 five (45) days before the discovery cut-off date. The Court will not
19 approve stipulations between counsel that permit responses to be
20 served after the cut-off date except in unusual circumstances and upon
21 a showing of good cause.
- 22 (3) Discovery Motion: Any motion regarding the inadequacy of responses
23 to discovery must be filed and served no later than five (5) days after
24 the discovery cut-off date. Parties shall comply with the Procedure
25 for Filing Discovery Motions as set forth in the Order Setting
26 Procedure for Consideration of Discovery Motions. ECF No. 56. All
27 discovery regarding electronic sources and media shall be filed in
28 front of Discovery Master James L. Smith. All other discovery

1 motions shall be filed in front of Discovery Master William F.
2 McDonald. Parties shall follow the schedule set forth in Local Rules
3 6-1, 7-9 and 7-10 in submitting discovery motions. In addition to
4 filing all discovery motions with the special masters for discovery,
5 Counsel also shall file all discovery motions electronically on the
6 Court's docket.

7 Parties shall follow the disclosure and timing rules of the Federal Rules of
8 Civil Procedure and the Local Rules.

9 MOTION MATTERS

10 In motion matters, counsel should note the timing and service requirements
11 of Local Rules 6 and 7 and its subparts including:

- 12 (1) Rule 6-1 (twenty-eight (28) days notice for all motions unless served by
13 mail, in which case thirty-one (31) days is required) (notice of motion
14 and moving papers to be filed twenty-eight (28) days before the hearing
15 date);
16 (2) Rule 7-9 (responses to all motions twenty-one (21) calendar days before
17 the hearing date); and
18 (3) Rule 7-10 (reply, if any, to all responses fourteen (14) days before the
19 hearing date).

20 Counsel must comply with the timing requirements of the Local Rules so that
21 chambers can properly prepare for motion matters.

22 **The motion cut-off date is the last day on which the Court will hear**
23 **motions.** Counsel should note that motions will need to be filed several weeks in
24 advance of this date as required by Local Rule 6.

25 PRETRIAL CONFERENCE AND TRIAL SETTING

26 This case has been placed on calendar for a Pretrial Conference ("PTC")
27 pursuant to Federal Rule of Civil Procedure 16 and the Local Rules. Unless
28 excused for good cause, each party appearing in this action shall be represented at

1 the PTC and all pretrial meetings of counsel by the attorney who is to have charge
2 of the conduct of the trial on behalf of such party.

3 A continuance of the Pretrial Conference at counsel's request or stipulation
4 is *highly unlikely*. Counsel should plan to do the necessary pretrial work on a
5 schedule which will ensure its completion with time to spare before the Pretrial
6 Conference. Failure to complete discovery work is not grounds for a continuance.
7 The Court has a crowded docket and to displace another case already set for trial in
8 favor of a case in which counsel have not been diligent in preparing their case
9 would not be just.

10 Compliance with the requirements of Local Rule 16 is required by the Court.
11 Carefully prepared Memorandum of Contentions of Fact and Law (which may also
12 serve as the trial brief) and a proposed Pretrial Conference Order ("PTCO") shall
13 be submitted in accordance with the provisions of Local Rules 16-6 through 16-7
14 and the form of the proposed Pretrial Conference Order shall be in conformity with
15 the format set forth in Appendix A to Local Rules.

16 The Memorandum of Contentions of Fact and Law are due twenty-one (21)
17 days before the PTC and the proposed PTCO is to be lodged eleven (11) days
18 before the PTC. Adherence to the time requirements is necessary to provide the
19 Court and its staff time to prepare the matter.

20 At the PTC, counsel should be prepared to discuss means of streamlining the
21 trial, including, but not limited to: bifurcation, presentation of non-critical
22 testimony by deposition excerpts, stipulations as to the content of testimony,
23 presentation of testimony on direct examination by declaration subject to cross-
24 examination, and qualification of experts by admitted resumes. In rare cases in
25 which the Court waives the PTC, counsel must follow Local Rules 16-10 through
26 16-10.1.

27 In drafting the PTCO, the Court expects that counsel will attempt to agree on
28 and set forth as many uncontested facts as possible. The Court will normally read

1 the uncontested facts to the jury at the start of the trial. A carefully drafted and
2 comprehensively stated stipulation of facts will reduce the length of trial and
3 increase jury understanding of the case.

4 All motions (except motions *in limine* dealing with admissibility of
5 evidence) must be disposed of before the Pretrial Conference. A motion *in limine*
6 may not be used as a substitute for a summary judgment motion. All motions *in*
7 *limine* must be filed no later than the date on which the PTCO is lodged with the
8 Court; oppositions to motions *in limine* must be filed no later than 7 days prior to
9 the PTC.

10 JURY INSTRUCTIONS/FINDINGS OF FACT AND CONCLUSIONS OF LAW

11 Proposed jury instructions must be timely filed. The parties should
12 exchange proposed jury instructions and agree as much as possible on the
13 necessary instruction before filing them with the Court. In matters tried to the
14 Court, the parties should prepare, serve, and lodge proposed findings of fact and
15 conclusions of law as promptly as possible and in compliance with the Local
16 Rules. Both parties should also submit their proposed jury instructions and
17 findings of fact and conclusion of law on disk, preferably in Word Perfect format.

18 COURT APPEARANCES

19 Parties shall be represented at *all* court appearances by the counsel expected
20 to be in charge of conducting trial on behalf of the parties.

21 Under no circumstances should counsel or a party if the party is appearing
22 *pro se*, fail to appear at a court appearance unless their appearance has been waived
23 by prior order of the Court. Even if a settlement has been reached, counsel for all
24 parties, or the party if appearing *pro se*, must appear at court appearances until a
25 stipulation of dismissal signed by all parties has been lodged with the Court.

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SETTLEMENT PROCEDURES

A settlement procedure appropriate to the particular case will be used in every civil action. *See* L. R. 16-15. Parties selected option 3, and will use a private mediator to be mutually agreed upon. *See id.* L.R. 16-15.4.

OTHER

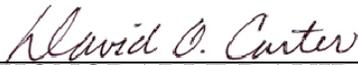
Counsels are required to electronically file all papers in accordance with General Order 10-07.

All appropriate inquiries should be directed to Julie Barrera, Deputy Clerk, at (714) 338-4543. Counsel should not attempt to contact chambers directly. Counsel should list their email addresses and facsimile transmission numbers on their papers in order to facilitate communication by the Deputy Court Clerk.

The Deputy Court Clerk is ordered to serve a copy of this Order on all parties to this action, if not personally handed to counsel at the Scheduling Conference.

IT IS SO ORDERED.

DATED: February 16, 2012



HONORABLE DAVID O. CARTER
UNITED STATES DISTRICT COURT
JUDGE

