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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GLORIA VALERIO,)	Case No. 2:14-cv-00741 JAM-KJN
)	
Plaintiff,)	<u>AMENDED PRETRIAL</u>
)	<u>CONFERENCE ORDER</u>
v.)	
)	
COMPASS BANK, and DOES 1-50,)	
inclusive,)	
)	
Defendants.)	
)	

Pursuant to court order, a Pretrial Conference was held on March 17, 2017, before Judge John Mendez. Ognian Gavrilov and J. Edward Brooks appeared as counsel for plaintiff; James T. Jones, Carolyn G. Burnette and Douglas M. Egbert appeared as counsel for defendant. After hearing and submission of additional papers by the parties, the Court makes the following amended findings and orders:

I. JURISDICTION/VENUE

Jurisdiction is predicated upon 28 U.S.C. § 1332, and has previously been found to be proper by order of this court, as has venue. Those orders are confirmed.

///

1 II. JURY/NON-JURY

2 Plaintiff has demanded a jury trial.

3 III. STATEMENT TO BE READ TO JURY

4 Seven (7) days prior to trial the parties shall E-file a joint
5 statement of the case that may be read to the jury at the beginning
6 of jury selection.

7 IV. UNDISPUTED FACTS

8 1. Gloria Valerio was hired by Compass Bank on or about
9 September 12, 2011 to work as a Financial Sales Advisor II at the
10 bank's Elk Grove branch.

11 2. Brenda Duclos was the Branch Manager at the Elk Grove
12 branch and supervised Gloria Valerio until March 6, 2013.

13 3. On or about March 16, 2013, Diana Smith, a Compass Bank
14 employee, transferred to the Elk Grove branch to work as the Branch
15 Manager.

16 4. During the relevant time period, Diane Demidzic was the
17 District Manager over the Elk Grove branch.

18 5. On or about April 2, 2013, Gloria Valerio received a
19 performance evaluation that rated her "below expectations."

20 6. On or about April 3, 2013, Gloria Valerio was placed on a
21 90-day performance improvement plan. The plan provided that
22 follow-up with Plaintiff would occur every 30 days, and that it was
23 imperative that Gloria Valerio's performance improve during the
24 first 30 days.

25 7. On April 19, 2013, Gloria Valerio contacted Melanie
26 Sparks to complain that she "noticed that [she] was docked time off
27 on 4/17/13 for having been 'sent home to change' a total of .75
28 hours."

1 for motions *in limine* be discussed and set at the pretrial
2 conference.

3 1. Defendant seeks to preclude Plaintiff's treating
4 physicians and nurses from testifying that Plaintiff's mental
5 health issues were caused by Defendant. Plaintiff's treating
6 physicians and nurses simply took what Plaintiff said at face value
7 - they did not make any independent medical conclusion about the
8 cause of Plaintiff's mental health issues, and any such testimony
9 is speculative at best and would be improper opinion.

10 2. Defendant seeks to preclude Plaintiff from testifying
11 that Defendant caused the purported psychiatric breakdown that led
12 to her involuntary confinement by hospital staff (commonly referred
13 to as a "5150" or involuntary psychiatric hold). Such evidence is
14 medical opinion, and Plaintiff is not competent to testify about
15 the cause of her involuntary confinement given her mental state at
16 that time.

17 3. Defendant seeks to preclude Plaintiff from testifying or
18 otherwise introducing any evidence or argument that Defendant
19 caused Child Protective Services to take her child into its
20 custody. Plaintiff is not competent to testify about the cause of
21 the purported psychiatric breakdown or to extrapolate therefrom as
22 to why Child Protective Services took custody of her child.

23 4. Defendant seeks to preclude Plaintiff from testifying or
24 otherwise introducing any evidence that she suffers distress and
25 has suicidal ideation as a result of the litigation.

26 5. Defendant seeks to preclude Plaintiff from testifying or
27 otherwise introducing any evidence relating to purported emotional
28 distress that is part of her pending workers' compensation claims.

VIII. POINTS OF LAW

Trial briefs shall be E-filed with the court no later than seven (7) days prior to the date of trial, i.e., April 17, 2017. Any points of law not previously argued to the Court should be briefed in the trial briefs.

IX. ABANDONED ISSUES

Plaintiff is abandoning the Private Attorney General's Act Claim (Labor Code Section 2698 et seq.) that is contained within her Sixth Cause of Action, but not abandoning the Sixth Cause of Action for violation of Labor Code Sections 6310, 6403 and 6404.

Defendant is abandoning its First, Third, Fifth, Seventh, Twelfth, Fourteenth, and Sixteenth Affirmative Defenses.

Defendant hereby notifies the Court that Plaintiff has represented to Defendant that she will dismiss the PAGA claims found in her sixth cause of action.

X. WITNESSES

Plaintiff anticipates calling the following witnesses:

1. Gloria Valerio
2. Diana Smith
3. Diane Dmezdic
4. Sue Veach
5. Martin Torres
6. Angela Querezma
7. Matt Farmer
8. Elio Guteirrez
9. Alondra Vazquez
10. Craig Enos
11. Dr. Syed Munir

1 12. Dr. Maria Torres

2 13. Dr. Jose Sanchez

3 14. Consuelo Armas

4 15. Heather Noriega

5 16. Aaron Rice

6 Defendant anticipates calling the following witnesses:

7 1. Gloria Valerio

8 2. Diana Smith

9 3. Matt Farmer

10 4. Melanie Sparks

11 5. Diane Demidzic

12 6. Sue Veach

13 7. Brenda Duclos

14 8. Michael Ibe

15 9. Officer Kelli Ledbetter

16 10. Amanda Serratos

17 11. Aurelio Hurtado

18 12. Shelly Darms

19 13. Bindu Jaduram

20 14. Maggie Montero

21 15. Rigobuerto Lopez

22 16. Iluminada Lewis

23 17. Charles Scott, M.D.

24 18. Suzanne Stuckwisch

25 19. Florentino Martinez, R.N.

26 20. Carole Chan-You, M.D.

27 21. Syed Munir, M.D.

28 22. Jose Sanchez, M.D.

1 23. Andres F. Sciolla, M.D.

2 24. Catherine Wergin, Physician's Assistant.

3 25. Janik Mehtani, M.D., QME.

4 26. James D. Wallace, D.C./PA-C, QME.

5 27. Alan Tempkin, M.D., QME.

6 28. Benjamin Carey, M.D.

7 Each party may call a witness designated by the other.

8 A. No other witnesses will be permitted to testify unless:

9 (1) The party offering the witness demonstrates that the
10 witness is for the purpose of rebutting evidence which could not be
11 reasonably anticipated at the Pretrial Conference, or

12 (2) The witness was discovered after the Pretrial
13 Conference and the proffering party makes the showing required in
14 "B" below.

15 B. Upon the post-Pretrial discovery of witnesses, the
16 attorney shall promptly inform the court and opposing parties of
17 the existence of the unlisted witnesses so that the court may
18 consider at trial whether the witnesses shall be permitted to
19 testify. The evidence will not be permitted unless:

20 (1) The witnesses could not reasonably have been
21 discovered prior to Pretrial;

22 (2) The court and opposing counsel were promptly
23 notified upon discovery of the witnesses;

24 (3) If time permitted, counsel proffered the witnesses
25 for deposition;

26 (4) If time did not permit, a reasonable summary of the
27 witnesses' testimony was provided opposing counsel.

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XI. EXHIBITS, SCHEDULES AND SUMMARIES

Plaintiff intends to introduce the following exhibits:

1. Email dated June 07, 2012 from Brenda Duclos' to Mr. Farmer and copied to Diane Demidzic.

2. Document dated June 15, 2012 related to a complaint of Gloria Valerio by a customer.

3. Email dated November 1, 2012 related to verbal warning and performance improvement plan from Brenda Duclos to Gloria Valerio.

4. Document dated November 02, 2012 from Gloria Valerio.

5. Document dated December 18, 2012 related to verbal warning.

6. Email dated December 20, 2012 from Brenda Duclos' to Matt Farmer and copied to Ryan Zebot and Diane Demidzic.

7. Document dated January 24, 2013 from Brenda Duclos to Gloria Valerio.

8. Email dated January 28, 2013 from Gloria Valerio to Matt Farmer.

9. Email dated January 31, 2013 from Gloria Valerio to Matt Farmer.

10. Document dated February 15, 2013 from Brenda Duclos to Gloria Valerio.

11. Email dated March 04, 2013 from Brenda Duclos to Matt Farmer and copied to Diane Demidzic.

12. Email copied Matt Farmer and Diane Demidzic.

13. Email dated March 09, 2013 from Brenda Duclos to Gloria Valerio.

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1 14. Email dated March 25, 2013 from Diana Smith to Diane
2 Demidzic.

3 15. Document from Brenda Duclos to Gloria Valerio.

4 16. Document dated April 2, 2013 from Diane Demidzic and
5 Diana Smith to Gloria Valerio.

6 17. Edit Ticket #46194 for Gloria Valerio.

7 18. Email dated April 22, 2013 from Diana Smith to Diane
8 Demidzic.

9 19. Document dated April 24, 2013 from Carole Chan-You M.D.
10 in re: Gloria Valerio.

11 20. Email dated April 30, 2013 between Melanie Sparks to
12 Gloria Valerio.

13 21. Email dated June 28, 2013 from Gloria Valerio to Office
14 of the Chairman, Melanie Sparks, and Matt Farmer.

15 22. Document dated May 03, 2013 from Carole Chan-You M.D. in
16 re: Gloria Valerio.

17 23. Document dated May 06, 2013 from Julie Theriault P.A. for
18 Carole Chan-You M.D. in re: Gloria Valerio.

19 24. Document dated May 25, 2013 from Zairi Hernandez C.A. for
20 Dr. Atkins M.D. in re: Gloria Valerio.

21 25. Document dated May 26, 2013 from Lori Severance in re:
22 Gloria Valerio.

23 26. Document dated May 27, 2013 from Aaron Hougham M.D. in
24 re: Gloria Valerio.

25 27. Document dated June 10, 2013 from Wanda Pratt in re:
26 Gloria Valerio.

27 28. Document dated June 26, 2013 from Tasha Hardy to Diana
28 Smith.

1 29. Document dated June 28, 2013 from Gloria Valerio to BBVA
2 Department of Human Resources.

3 30. Email dated July 02, 2013 from Melanie Sparks to Gloria
4 Crystal Berryhill and Matt Farmer.

5 31. Questionnaire in re: Gloria Valerio.

6 32. Email dated June 24, 2013 from Diana Smith to Diane
7 Demidzic.

8 33. Email dated June 24, 2013 from Tash Hardy to Diana Smith
9 and copied to Matt Farmer and Melanie Sparks.

10 34. Email dated April 02, 2013 from Diana Smith to Diane
11 Demidzic.

12 35. Email dated April 19, 2013 from Diana Smith to Myra
13 Roberts.

14 36. Document dated May 27, 2013 from Laurie Lenzi to Diane
15 Smith.

16 37. Email dated February 17, 2012 from Brenda Duclos to Diane
17 Demidzic and copied to Gloria Valerio.

18 38. Email dated January 14, 2013 from Jill Dobberpuhl to
19 Gloria Valerio and copied to Brenda Duclos.

20 39. Email dated January 14, 2013 from Jill Dobberpuhl to BBVA
21 Employees.

22 40. Email dated January 15, 2013 from Jill Dobberpuhl to
23 Gloria Valerio and copied to Brenda Duclos.

24 41. Email dated January 16, 2013 from Jill Dobberpuhl to
25 Gloria Valerio and copied to Brenda Duclos and Diane Demidzic.

26 42. Email dated January 17, 2013 from Gloria Valerio to Jill
27 Dobberpuhl to Brenda Duclos and Diane Demidzic.

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1 43. Email dated January 23, 2013 from Diane Demidzic to
2 Gloria Valerio and copied to Brenda Duclos and Jill Dobberpuhl.

3 44. Email dated January 28, 2013 from Gloria Valerio to Diane
4 Demidzic and copied to Jill Dobberpul and Brenda Duclos.

5 45. Email dated January 28, 2013 from Gloria Valerio to Jill
6 Dubberpuhl and copied to Brenda Duclos and Diane Demidzic.

7 46. Email dated January 29, 2013 from Diane Demidzic to
8 Gloria Valerio and Jill Dobberpuhl and Brenda Duclos.

9 47. Email dated February 28, 2013 from Between Gloria Valerio
10 and BBVA Employees.

11 48. Email dated April 17, 2013 from Zack Harless to Diana
12 Smith and copied to Diane Demidzic and Gloria Valerio.

13 49. Plaintiff's Complaint filed with the California
14 Department of Fair Housing & Employment.

15 50. Plaintiff's Complaint filed with the Labor Workforce
16 Development Agency.

17 51. Craig Enos Report.

18 52. Gloria Valerio's Resume.

19 Defendants intend to introduce the following exhibits:

20 A. Plaintiff's 2011 W-2.

21 B. Medical note from Dr. Chan-You dated April 24, 2013.

22 C. Medical note from Dr. Chan-You dated May 3, 2013.

23 D. Medical note from Dr. Chan-You dated May 6, 2013.

24 E. Notes from various doctors extending Plaintiff's medical
25 leave from work at Compass Bank.

26 F. Physician's Progress Record Transfer Statement to Acute
27 Care Hospital dated May 27, 2013.

28 G. Plaintiff's hand drawn map of home and railroad track

1 intersection dated February 3, 2015.

2 H. Plaintiff's DFEH Complaint.

3 I. Defendant's Response to Plaintiff's DFEH Complaint.

4 J. Plaintiff's Verified Complaint for Damages against
5 Compass Bank filed on January 31, 2014.

6 K. Plaintiff's hand drawn map of Compass Bank's Elk Grove
7 branch's breakroom dated February 4, 2015.

8 L. Photographs of Compass Bank's Elk Grove branch, including
9 photographs of the breakroom, main banking area, Diana Smith's
10 office, the restroom, and the entry vestibule.

11 M. Floorplan of Compass Bank's Elk Grove branch.

12 N. Plaintiff's signed offer of employment dated September 1,
13 2011.

14 O. Compass Bank job description for Financial Sales
15 Advisor/Sr. Financial Sales Advisor.

16 P. Plaintiff's acknowledgment of accepting Compass Bank
17 employment policies dated September 14, 2011 at 2:23 PM.

18 Q. Plaintiff's acknowledgment of accepting Compass Bank
19 employment policies dated September 14, 2011 at 1:23 PM.

20 R. Compass Bank's Practices & Programs: What you need to
21 know about our policy regarding workplace harassment.

22 S. Compass Bank's Guide for Employees. CARE:
23 Communication, Answers and Resolution for Employees.

24 T. Excerpts from Compass Bank's Employee Handbook.

25 U. Excerpts from Compass Bank's Code of Conduct.

26 V. Plaintiff's Employment Application with Compass Bank
27 dated 8/29/11 at 11:34 PM.

28 W. Résumé submitted by Plaintiff to Compass Bank in 2011.

1 X. Résumé submitted by Plaintiff to Compass Bank in 2010.

2 Y. Résumé submitted by Plaintiff to Compass Bank in 2010

3 (electronic version).

4 Z. Résumé submitted by Plaintiff to Wells Fargo Bank.

5 AA. Wells Fargo Final Notice Workplace Conduct dated August
6 21, 2008.

7 BB. Wells Fargo's termination letter to Plaintiff dated
8 February 19, 2010.

9 CC. Résumé submitted by Plaintiff to Bank of America.

10 DD. Bank of America Written Counseling-Inappropriate Behavior
11 dated May 13, 2005.

12 EE. Bank of America Termination Notification dated October
13 19, 2005.

14 FF. Excerpts from Worker's Compensation Deposition Transcript
15 of Plaintiff, taken January 15, 2014 in the matter of *Gloria*
16 *Valerio v. Compass Brancshares, Inc., et al.*, pages 26-33 and 47.

17 GG. Plaintiff's signed offer of employment from Tri Counties
18 Bank dated March 16, 2015.

19 HH. Tri Counties Bank's letter to Plaintiff dated August 6,
20 2015.

21 II. Email chain from July 23, 2015 to July 31, 2015 (Jaduram
22 Bindu and Shelly Darms of Tri Counties Bank).

23 JJ. Emails dated August 18, 2015 (Jaduram Bindu and Shelly
24 Darms of Tri Counties Bank).

25 KK. Tri Counties Bank Application for Employment dated March
26 12, 2015.

27 LL. December 18, 2012 email from Brenda Dulcos to Diane
28 Demidzic with attached photo.

1 MM. Compass Bank Documented Written Warning for failure to
2 follow proper Opening Procedures dated December 6, 2011.

3 NN. Compass Bank Verbal Warning - Performance Improvement
4 Plan dated November 1, 2012.

5 OO. Compass Bank Verbal Warning dated December 18, 2012.

6 PP. Email from Diane Demidzic to Matt Farmer dated January 2,
7 2013, and accompanying calendar entry.

8 QQ. Email chain ending on January 18, 2013 with attached
9 credit card application (Brenda Duclos; Matt Farmer; Plaintiff).

10 RR. Email from Brenda Duclos regarding Plaintiff's fishnet
11 stockings.

12 SS. Compass Bank Written Warning dated January 24, 2013.

13 TT. Compass Bank Verbal Warning- Performance Improvement Plan
14 dated February 15, 2013.

15 UU. Email chain dated February 27, 2013 (Brenda Duclos; Matt
16 Farmer; Diane Demidzic).

17 VV. Email from Sue Veach to Diane Demidzic dated February 27,
18 2013.

19 WW. Compass Bank Verbal Warning for Performance dated March
20 9, 2013.

21 XX. Compass Bank Verbal Warning for Performance dated April
22 2, 2013.

23 YY. Performance Appraisal for Plaintiff dated April 3, 2013.

24 ZZ. Email from Melanie Sparks to Plaintiff with attached
25 survey dated April 30, 2013.

26 AAA. Melanie Sparks' investigation file pertaining to
27 Plaintiff's complaint.

28 BBB. Letter from Plaintiff to Department of Human Resources at

1 Compass Bank dated June 28, 2013.

2 CCC. Email from Matt Farmer to Plaintiff dated July 11, 2012.

3 DDD. Email from Plaintiff to Diane Demidzic dated September 5,
4 2012.

5 EEE. Sierra Vista Hospital Discharge Summary dated June 6,
6 2013.

7 FFF. Sierra Vista Hospital Treatment Documents for Plaintiff
8 dated May 27-30, 2013.

9 GGG. Sierra Vista Hospital Physician Progress Note. Date of
10 evaluation May 29, 2013.

11 HHH. Sierra Vista Hospital Initial Assessment and Referral
12 Screen dated May 27, 2013.

13 III. UC Davis Health System's progress notes on Plaintiff
14 covering dates May 26, 2013 to June 11, 2013.

15 JJJ. Sutter Health's medical records for Plaintiff.

16 KKK. Sierra Vista Hospital Interdisciplinary Progress Notes
17 dated May 29, 2013.

18 LLL. Federal Insurance Company Employer's Report of
19 Occupational Injury or Illness dated August 23, 2013.

20 MMM. Trinidad Medical/Jose Sanchez "Historia Medica."

21 NNN. Letter from Fair Oaks Psychiatric Associates dated
22 December 23, 2000.

23 OOO. Letter from James D. Wallace dated April 3, 2001.

24 PPP. Plaintiff's WCAB Illness and Injury Report.

25 QQQ. Plaintiff's WCAB Complaint.

26 RRR. WCAB Minutes of Hearing and Summary of Evidence dated
27 August 23, 2002.

28 SSS. Letter from C. Jess Groesbeck, M.D. dated April 30, 2003.

1 TTT. WCAB Minutes of Hearing and Summary of Evidence dated
2 September 2, 2014.

3 UUU. Plaintiff's dress relating to the incident where
4 Plaintiff was sent home to change.

5 VVV. Photographs of Plaintiff's dress relating to the incident
6 where Plaintiff was sent home to change.

7 WWW. Edit Ticket No. 46194 for Valerio, Gloria.

8 XXX. Letter from Woodland Joint Unified School District to
9 Plaintiff.

10 YYY. Curriculum Vitae of Dr. Charles Scott.

11 ZZZ. Expert Report of Dr. Charles Scott, including exhibits
12 related thereto.

13 AAAA. Curriculum Vitae of Suzanne M. Stuckwisch.

14 BBBB. Expert Report of Suzanne M. Stuckwisch, including
15 exhibits related thereto.

16 CCCC. Aerial Photographs of Union Pacific Railroad
17 Crossing at Calvine Road in Elk Grove, California.

18 DDDD. Elk Grove Police Department Report and Investigation
19 File for Case No. 13-004417.

20 EEEE. Audio Recording: Police Interview of Andrea Garcia.

21 FFFF. Audio Recording: Police Interview of Ramiro Meza.

22 GGGG. Audio Recording: Police Interview of Connie Estay.

23 HHHH. Audio Recording: Police Interview of Sue Veach.

24 IIII. Audio Recording: Police Interview of Amanda
25 Serrates.

26 JJJJ. Audio Recording: Police Interview of Diana Smith.

27 KKKK. Audio Recording: Two calls - Valerio with Police
28 Department.

1 LLLL. Audio Recording: Gloria Valerio calling Detective.

2 MMMM. Audio/Video Recording: July 17, 2013 Video/Audio of
3 Gloria Valerio Police Interview.

4 Each party may use an exhibit designated by the other.

5 A. No other exhibits will be permitted to be introduced
6 unless:

7 (1) The party proffering the exhibit demonstrates that
8 the exhibit is for the purpose of rebutting evidence which could
9 not be reasonably anticipated at the Pretrial Conference, or

10 (2) The exhibit was discovered after the Pretrial
11 Conference and the proffering party makes the showing required in
12 paragraph "B," below.

13 B. Upon the post-Pretrial discovery of exhibits, the
14 attorneys shall promptly inform the court and opposing counsel of
15 the existence of such exhibits so that the court may consider at
16 trial their admissibility. The exhibits will not be received
17 unless the proffering party demonstrates:

18 (1) The exhibits could not reasonably have been
19 discovered prior to Pretrial;

20 (2) The court and counsel were promptly informed of
21 their existence;

22 (3) Counsel forwarded a copy of the exhibit(s) (if
23 physically possible) to opposing counsel. If the exhibit(s) may
24 not be copied, the proffering counsel must show that he has made
25 the exhibit(s) reasonably available for inspection by opposing
26 counsel.

27 As to each exhibit, each party is ordered to exchange copies
28 of the exhibit not later than fourteen (14) days before trial.

1 Each party is then granted five (5) days to file and serve
2 objections to any of the exhibits. In making the objection, the
3 party is to set forth the grounds for the objection. The parties
4 shall pre-mark their respective exhibits in accord with the Court's
5 Pretrial Order. Exhibit stickers may be obtained through the
6 Clerk's Office. An original and one (1) copy of the exhibits shall
7 be presented to Harry Vine, Deputy Courtroom Clerk, at 8:30 a.m. on
8 the date set for trial or at such earlier time as may be agreed
9 upon. Mr. Vine can be contacted at (916) 930-4091 or via e-mail
10 at: hvine@caed.uscourts.gov. As to each exhibit which is not
11 objected to, it shall be marked and may be received into evidence
12 on motion and will require no further foundation. Each exhibit
13 which is objected to will be marked for identification only.

14 XII. DISCOVERY DOCUMENTS

15 Plaintiff intends to offer the following discovery as evidence
16 at trial:

- 17 1. Defendant's response to Request for Admission No. 1.
- 18 2. Defendant's response to Request for Admission No. 5.
- 19 3. Deposition transcript of Matt Farmer.
- 20 4. Plaintiff reserves the right to use deposition
21 transcripts of Diana Smith, Diane Demidzic, and Sue Veach for
22 rebuttal purposes.

23 Defendant intends to offer the following discovery as evidence
24 at trial:

- 25 1. Plaintiff's supplemental response to Defendant's
26 Interrogatory No. 6.
- 27 2. Plaintiff's response to Defendant's Interrogatory No. 19.
- 28 3. Plaintiff's response to Defendant's Interrogatory No. 21.

1 4. Plaintiff's January 15, 2014 deposition testimony from
2 the WCAB matter of *Gloria Valerio v. Compass Brancshares, Inc.*,
3 including pages 26-33 and 47.

4 5. Plaintiff's deposition testimony from this matter,
5 including pages 13-14, 87-91, 109-110, 441, 444, 548-550, 558-560,
6 562-564, and 846-848.

7 6. Deposition testimony of Maria Teresa Rivas-Torres at 6:1-
8 10, 12:6-23, 14:22-15:2, 15:17-16:19, 17:18-24, 18:4-18, 19:14-18,
9 21:5-22:1, and 82:9-83:4.

10 XIII. FURTHER DISCOVERY OR MOTIONS

11 Pursuant to the court's Status Conference Order, all discovery
12 and law and motion was to have been conducted so as to be completed
13 as of the date of the Pretrial Conference. That order is
14 confirmed. The parties are free to do anything they desire
15 pursuant to informal agreement. However, any such agreement will
16 not be enforceable in this court.

17 XIV. STIPULATIONS

18 1. The parties have a private agreement that any of
19 Plaintiff's medical records submitted as an exhibit shall be
20 returned to the parties at the conclusion of trial (and the parties
21 agree they will maintain the exhibits throughout the time for
22 appeal after trial so that each party shall have access to them if
23 needed for any appeal or post-trial motions).

24 2. The parties stipulate to the authenticity of records
25 subpoenaed in this action, and that a custodian of records witness
26 is not necessary to authenticate any subpoenaed records (this
27 stipulation does not waive the right to object to the admissibility
28 of records). Based on this agreement, defendant will remove its

1 custodian of records witnesses from its witness list.

2 XV. AMENDMENTS/DISMISSALS

3 None.

4 XVI. FURTHER TRIAL PREPARATION

5 A. Counsel are directed to Local Rule 285 regarding the
6 contents of trial briefs. Such briefs should be E-filed seven (7)
7 days prior to trial, i.e., April 17, 2017.

8 B. Counsel are further directed to confer and to attempt to
9 agree upon a joint set of jury instructions. The joint set of
10 instructions shall be lodged via ECF with the court clerk seven (7)
11 calendar days prior to the date of the trial, i.e., April 17, 2017,
12 and shall be identified as the "Jury Instructions Without
13 Objection." As to instructions as to which there is dispute the
14 parties shall submit the instruction(s) via ECF as its package of
15 proposed jury instructions three days before trial, i.e., April 21,
16 2017. This package of proposed instructions should not include the
17 "Jury Instructions Without Objection" and should be clearly
18 identified as "Disputed Jury Instructions" on the proposed
19 instructions.

20 The parties shall e-mail a set of all proposed jury
21 instructions in word format to the Court's Judicial Assistant, Jane
22 Klingelhoets, at: jklingelhoets@caed.uscourts.gov.

23 C. It is the duty of counsel to ensure that any deposition
24 which is to be used at trial has been lodged with the Clerk of the
25 Court pursuant to Local Rule 133(j). The depositions shall be
26 lodged with the court clerk seven (7) calendar days prior to the
27 date of the trial. Counsel are cautioned that a failure to
28 discharge this duty may result in the court precluding use of the

1 deposition or imposition of such other sanctions as the court deems
2 appropriate.

3 D. The parties are ordered to E-file with the court and
4 exchange between themselves not later than one (1) week before the
5 trial a statement designating portions of depositions intended to
6 be offered or read into evidence (except for portions to be used
7 only for impeachment or rebuttal).

8 E. The parties are ordered to E-file with the court and
9 exchange between themselves not later than one (1) week before
10 trial the portions of Answers to Interrogatories and/or Requests
11 for Admission which the respective parties intend to offer or read
12 into evidence at the trial (except portions to be used only for
13 impeachment or rebuttal).

14 F. Each party may submit proposed voir dire questions the
15 party would like the court to put to prospective jurors during jury
16 selection. Proposed voir dire should be submitted via ECF one (1)
17 week prior to trial.

18 G. Each party may submit a proposed verdict form that the
19 party would like the Court to use in this case. Proposed verdict
20 forms should be submitted via ECF one (1) week prior to trial.

21 H. In limine motions shall be E-filed separately at least
22 ten (10) days prior to trial, i.e., April 14, 2017. Opposition
23 briefs shall be E-filed five (5) days prior to trial, i.e., April
24 19, 2017. No reply briefs may be filed.

25 XVII. SETTLEMENT NEGOTIATIONS

26 No further formal Settlement Conference will be set in this
27 case at this time.

28 ///

1 XVIII. AGREED STATEMENTS

2 See paragraph III, *supra*.

3 XIX. SEPARATE TRIAL OF ISSUES

4 Defendant's request that the issues of liability and punitive
5 damages be bifurcated for trial is denied.

6 XX. IMPARTIAL EXPERTS/LIMITATION OF EXPERTS

7 The parties agree that appointment by the Court of impartial
8 expert witnesses is neither requested nor advisable.

9 XXI. ATTORNEYS' FEES

10 The matter of the award of attorneys' fees to prevailing
11 parties pursuant to statute will be handled by motion in accordance
12 with Local Rule 293.

13 XXII. MISCELLANEOUS

14 1. The parties agree that all non-party fact witnesses shall
15 be excluded from the courtroom during the testimony of other
16 witnesses.

17 2. The parties' request that the Court use special verdict
18 forms for the jury is denied.

19 3. The parties will meet and confer regarding retaining
20 interpreters for Plaintiff during trial.

21 4. Defendant may use a trial support vendor to assist with
22 technical issues and presentation at trial.

23 5. At the March 17, 2017 pretrial conference, the parties
24 agreed and the Court ordered that evidence of Defendant's net
25 worth, profits, and/or financial status shall not be presented to
26 the jury and/or introduced into evidence unless and until Plaintiff
27 has first made a *prima facie* showing of liability for punitive
28 damages and has alerted the Court that she intends to begin

1 introducing evidence on that subject.


2 XXIII. ESTIMATE OF TRIAL TIME/TRIAL DATE

3 The parties estimate six (6) to ten (10) court days for trial.
4 Trial will commence on or about April 24, 2017, at 9:00 a.m.

5 Counsel are to call Harry Vine, Courtroom Deputy, at
6 (916) 930-4091, one week prior to trial to ascertain the status of
7 the trial date.

8 IT IS SO ORDERED.

9 DATED: March 27, 2017.

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11 JOHN A. MENDEZ,
12 UNITED STATES DISTRICT JUDGE
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