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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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MARCUS SHOALS, SR., an individual,

Plaintiff,

v.

OWENS & MINOR DISTRIBUTION, INC., a corporation;
STAFFMARK HOLDINGS, INC., a corporation; STAFFMARK INVESTMENT, LLC, a limited liability company; JOHN CLINE, an individual; and DOES 1 through 50, inclusive,

Defendants.

NO. 2:18-cv-02355 WBS JDP

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STATUS (PRETRIAL SCHEDULING) ORDER

After reviewing the parties' Joint Status Report and conferring with the parties at a Status (Pretrial Scheduling) Conference held on January 31, 2022, the court makes the following findings and orders.

I. SERVICE OF PROCESS

1 All defendants have been served, and no further service
2 is permitted without leave of court, good cause having been shown
3 under Federal Rule of Civil Procedure 16(b).

4 II. JOINDER OF PARTIES/AMENDMENTS

5 No further joinder of parties or amendments to
6 pleadings will be permitted except with leave of court, good
7 cause having been shown under Federal Rule of Civil Procedure
8 16(b). See Johnson v. Mammoth Recreations, Inc., 975 F.2d 604
9 (9th Cir. 1992).

10 III. JURISDICTION/VENUE

11 Jurisdiction is predicated upon 28 U.S.C. § 1332,
12 because the parties are of diverse citizenship. Venue is
13 undisputed and hereby found to be proper.

14 IV. DISCOVERY & MOTION HEARING SCHEDULE

15 The parties served the initial disclosures required by
16 Federal Rule of Civil Procedure 26(a)(1) on February 1, 2021.

17 The parties state that they wish to take all non-expert
18 discovery before defendants file an anticipated motion for
19 summary judgment. They also state that they wish to wait until
20 after that motion has been resolved to take any expert discovery.

21 Accordingly, per agreement of the parties, all
22 discovery, including depositions for preservation of testimony,
23 but excluding the disclosure of experts and production of expert
24 reports, is left open, save and except that it shall be so
25 conducted as to be completed by December 30, 2022. The word
26 "completed" means that all discovery shall have been conducted so
27 that all depositions have been taken and any disputes relevant to
28 discovery shall have been resolved by appropriate order if

1 necessary and, where discovery has been ordered, the order has
2 been obeyed. All motions to compel discovery must be noticed on
3 the magistrate judge's calendar in accordance with the local
4 rules of this court and so that such motions may be heard (and
5 any resulting orders obeyed) not later than December 30, 2022.

6 All motions, except motions for continuances, temporary
7 restraining orders, or other emergency applications, but
8 including the parties' proposed motion for summary judgment,
9 shall be filed on or before February 10, 2023. All motions shall
10 be noticed for the next available hearing date. Counsel are
11 cautioned to refer to the local rules regarding the requirements
12 for noticing and opposing such motions on the court's regularly
13 scheduled law and motion calendar.

14 The parties shall disclose experts and produce reports
15 in accordance with Federal Rule of Civil Procedure 26(a)(2) by no
16 later than April 10, 2023. With regard to expert testimony
17 intended solely for rebuttal, those experts shall be disclosed
18 and reports produced in accordance with Federal Rule of Civil
19 Procedure 26(a)(2) on or before May 8, 2023.

20 V. FINAL PRETRIAL CONFERENCE

21 The Final Pretrial Conference is set for July 17, 2023,
22 at 1:30 p.m. in Courtroom No. 5. The conference shall be
23 attended by at least one of the attorneys who will conduct the
24 trial for each of the parties and by any unrepresented parties.

25 Counsel for all parties are to be fully prepared for
26 trial at the time of the Pretrial Conference, with no matters
27 remaining to be accomplished except production of witnesses for
28 oral testimony. Counsel shall file separate pretrial statements,

1 and are referred to Local Rules 281 and 282 relating to the
2 contents of and time for filing those statements. In addition to
3 those subjects listed in Local Rule 281(b), the parties are to
4 provide the court with: (1) a plain, concise statement which
5 identifies every non-discovery motion which has been made to the
6 court, and its resolution; (2) a list of the remaining claims as
7 against each defendant; and (3) the estimated number of trial
8 days.

9 In providing the plain, concise statements of
10 undisputed facts and disputed factual issues contemplated by
11 Local Rule 281(b) (3)-(4), the parties shall emphasize the claims
12 that remain at issue, and any remaining affirmatively pled
13 defenses thereto. If the case is to be tried to a jury, the
14 parties shall also prepare a succinct statement of the case,
15 which is appropriate for the court to read to the jury.

16 VI. TRIAL SETTING

17 The jury trial is set for September 12, 2023 at 9:00
18 a.m. The parties estimate that the trial will last five days.¹

19 VII. SETTLEMENT CONFERENCE

20 At the status conference, the parties indicated that
21 they may undertake to settle the case before non-expert discovery
22 is complete. If the parties wish to do so, they may contact the
23 clerk to arrange an early settlement conference. Otherwise, a
24 Settlement Conference will be set at the time of the Pretrial
25 Conference. All parties should be prepared to advise the court

26 ¹ The court declines to take up the parties' request to
27 bifurcate the trial at this time. The parties may raise the
28 issue at the pretrial conference if they still wish to seek
bifurcation at that time. See L.R. 281(b) (18).

1 whether they will stipulate to the trial judge acting as
2 settlement judge and waive disqualification by virtue thereof.

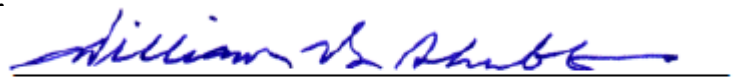
3 Counsel are instructed to have a principal with full
4 settlement authority present at the Settlement Conference or to
5 be fully authorized to settle the matter on any terms. At least
6 seven calendar days before the Settlement Conference counsel for
7 each party shall submit a confidential Settlement Conference
8 Statement for review by the settlement judge. If the settlement
9 judge is not the trial judge, the Settlement Conference
10 Statements shall not be filed and will not otherwise be disclosed
11 to the trial judge.

12 VIII. MODIFICATIONS TO SCHEDULING ORDER

13 Any requests to modify the dates or terms of this
14 Scheduling Order, except requests to change the date of the
15 trial, may be heard and decided by the assigned Magistrate Judge.
16 All requests to change the trial date shall be heard and decided
17 only by the undersigned judge.

18 IT IS SO ORDERED.

19 Dated: February 1, 2022



20 **WILLIAM B. SHUBB**
21 **UNITED STATES DISTRICT JUDGE**
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