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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

HELEN GRACE JAMES ,

Plaintiff(s),

v.

HEATHER WILSON,

Defendant(s).

No. 1:18-CV-00011-DAD-EPG

**ORDER SETTING MANDATORY
SCHEDULING CONFERENCE**

DATE: April 3, 2018

TIME: 09:30 AM

CTRM: #10 (6th Floor)

ERICA P. GROSJEAN

U.S. MAGISTRATE JUDGE

Rule 16(b)(2) of the Federal Rules of Civil Procedure ("Fed. R. Civ. P.") requires the Court to enter a Scheduling Conference Order within 90 days after any defendant has been served, or 60 days after any defendant has appeared.¹ Therefore, it is ordered that all parties attend a formal Scheduling Conference before United States Magistrate Judge Erica P. Grosjean, in Courtroom 10 at the United States Courthouse, 2500 Tulare Street, Fresno, CA 93721.

Service of Summons and Complaint

The Court is unable to conduct a Scheduling Conference until the defendant has been served with the summons and complaint. Accordingly, the plaintiff shall diligently pursue service of the summons and complaint and dismiss any defendant the plaintiff no longer intends to name in this action. The plaintiff shall promptly file proofs of service of the summons and complaint so the Court has a record of service. Counsel are referred to Fed. R. Civ. P. 4(m), which requires that the complaint

¹This order will refer to the parties in the singular regardless of the number of parties listed in the complaint.

1 be served within 90 days after the complaint is filed. Failure to timely serve the summons and complaint
2 may result in the imposition of sanctions, including dismissal of unserved defendants.

3 Plaintiff's counsel shall also serve a copy of this Order on the defendant, or, if identified, on
4 their counsel, **promptly** upon receipt of this Order. Thereafter, Plaintiff shall file an appropriate proof
5 of such service with the Court, in compliance with Rule 135(a) of the Local Rules for the Eastern
6 District of California.

7 **Appearance at Scheduling Conference**

8 Attendance at the Scheduling Conference is *mandatory* for all parties. Parties may appear by
9 their counsel, if represented. If a party is not represented by counsel, they must appear personally at
10 the Scheduling Conference. ***Telephonic appearances are not available for pro se parties.***

11 ***i.e., those not represented by counsel.*** Trial counsel should participate in the Scheduling Conference
12 whenever possible. Additionally, although not required, local counsel are encouraged to personally
13 appear at the scheduling conference.

14 If one or more parties are represented by counsel and wish to appear telephonically, counsel
15 shall contact Michelle Rooney, Courtroom Deputy Clerk, at (559) 499-5962 sufficiently in advance
16 of the conference so that a notation can be placed on the Court's calendar. Additionally, counsel are
17 directed to indicate on the face page of their Joint Scheduling Report that the conference will be
18 telephonic. If the parties are appearing telephonically, each party shall dial 1-(888) 251-2909
19 and enter access code 1024453.

20 **Joint Scheduling Report**

21 A Joint Scheduling Report, carefully prepared and executed by all counsel, shall be electronically
22 filed in CM/ECF, one (1) full week prior to the Scheduling Conference and shall be emailed in Word
23 format to epgorders@caed.uscourts.gov. The Joint Scheduling Report shall indicate the date, time, and
24 courtroom of the Scheduling Conference. This information is to be placed opposite the caption on the
25 first page of the Report.

26 At least twenty (20) days prior to the Mandatory Scheduling Conference, trial counsel for all
27 parties shall conduct a conference at a mutually agreed upon time and place. This should preferably be
28 a personal conference between all parties but a telephonic conference call involving all counsel/*pro se*

1 parties is permissible. The Joint Scheduling Report shall contain the following items by corresponding
2 numbered paragraphs:

3 1. Summary of the factual and legal contentions set forth in the pleadings of each party,
4 including the relief sought by any party presently before the Court.

5 2. Summary of major disputed facts and contentions of law.

6 3. A proposed deadline for amendments to pleadings. Any proposed amendment to the
7 pleadings shall be referenced in the Scheduling Conference Report. If the matter cannot be resolved
8 at the Scheduling Conference, the moving party shall file a motion to amend in accordance with the
9 Local Rules of the Eastern District of California.

10 4. The status of all matters which are presently set before the Court, *e.g.*, hearings of
11 motions, *etc.*

12 5. A complete and detailed discovery plan addressing the following issues and proposed dates:

13 a. A date for the exchange of initial disclosures required by Fed. R. Civ. P. 26(a)(1)
14 or a statement that disclosures have already been exchanged;

15 b. A firm cut-off date for non-expert discovery. When setting this date, the parties
16 are advised that motions to compel must be filed and heard sufficiently in advance of
17 the deadlines so that the Court may grant effective relief within the allotted discovery
18 time. The Court recommends this date be scheduled approximately nine (9) months
19 from the scheduling conference;

20 c. A date for a mid-status discovery conference that should be scheduled approximately
21 six (6) months after the scheduling conference, or two (2) months before the non-
22 expert discovery deadline, whichever is earliest;

23 d. A firm date for disclosure of expert witnesses, required by Fed. R. Civ. P. 26(a)(2),
24 rebuttal experts, as well as cut-off for the completion of all expert discovery. The
25 parties shall allow thirty (30) days between each of the expert discovery deadlines;

26 e. Any proposed changes in the limits on discovery imposed by Fed. R. Civ. P. 26(b);
27 30(a)(2)(A), (B); 30(d); or 33(a);

28 ////

- 1 f. Whether the parties anticipate the need for a protective order relating to the discovery of
2 information relating to a trade secret or other confidential research, development, or
3 commercial information;
- 4 g. Any issues or proposals relating to the timing, sequencing, phasing or scheduling of
5 discovery; and
- 6 h. Whether the parties anticipate the need to take discovery outside the United States and,
7 if so, a description of the proposed discovery.

8 **Additional Disclosures Related to Electronic Discovery**

9 1. Discovery Relating to Electronic, Digital and/or Magnetic Data. Prior to a Fed. R.
10 Civ. P. 26(f) conference, counsel should carefully investigate their respective client's information
11 management system so that they are knowledgeable as to its operation, including how information
12 is stored and how it can be retrieved. Counsel shall also conduct a reasonable review of their
13 respective client's computer files to ascertain the contents thereof, including archival and legacy
14 data (outdated formats or media), and disclose in initial discovery (self-executing routine
15 discovery) the computer-based evidence which may be used to support claims or defenses.

16 2. The parties shall meet and confer regarding the following matters during the
17 Fed. R. Civ. P. 26(f) conference, and address the status of Electronic Discovery and any
18 disagreements in their Statement, including:

19 a. Preservation: The parties shall attempt to agree on steps the parties
20 will take to segregate and preserve computer-based information in order
21 to avoid accusations of spoliation.

22 b. Scope of E-mail Discovery: The parties shall attempt to agree as to
23 the scope of e-mail discovery and attempt to agree upon an e-mail search
24 protocol. The parties should seek to agree on search terms, custodians, and
25 date ranges in advance of the Conference so that any disputes can be
26 addressed at the Conference.

27 ////

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1 c. Inadvertent Production of Privileged Information: The parties should
2 confer regarding procedures for inadvertent production of privileged electronic
3 material, including any obligations to notify the other party, and procedures for
4 bringing any disputes promptly to the Court.

5 d. Data Restoration: The parties shall confer regarding whether or not
6 restoration of deleted information may be necessary, the extent to which
7 restoration of deleted information is needed, and who will bear the costs of
8 restoration; and the parties shall attempt to agree whether or not back-up
9 data may be necessary, the extent to which back-up data is needed, and who
10 will bear the cost of obtaining back-up data.

11 6. Dates agreed to by all counsel for:

12 a. The filing of dispositive motions (except motions in limine or other trial motions).

13 The Court suggests this date be forty-five (45) days after the expert discovery
14 deadline.

15 b. A pre-trial conference date which shall be approximately one hundred twenty (120)
16 days after the dispositive motion filing deadline.

17 c. A trial date which shall be approximately sixty (60) days after the proposed
18 pre-trial conference date.

19 7. The parties are encouraged to discuss settlement, and must include a statement in the
20 Joint Scheduling Report as to the possibility of settlement. The parties shall indicate when they desire a
21 settlement conference, *e.g.*, before further discovery, after discovery, after pre-trial motions, *etc.*

22 Among other things, counsel will be expected to discuss the possibility of settlement at the Scheduling
23 Conference. Note that, even if settlement negotiations are progressing, counsel are expected to comply
24 with the requirements of this Order unless otherwise excused by the Court. If the entire case is settled,
25 counsel shall **promptly** inform the Court. In the event of settlement, counsel's presence at the
26 conference, as well as the Joint Scheduling Report, will not be required.

27 8. A statement as to whether the case is a jury or non-jury case. The parties shall briefly
28 outline their respective positions if there is a disagreement as to whether a jury trial has been timely

1 demanded, or as to whether a jury trial is available on some or all of the claims.

2 9. An estimate of the number of trial days required. If the parties cannot agree, each party
3 shall give his or her best estimate.

4 10. The parties' position regarding consent to proceed before a United States magistrate
5 judge. Note that the parties need not make a final decision on the issue of consent until after the
6 Scheduling Conference, but should state their current position in this Statement and expect to make a
7 final decision soon after the Scheduling Conference.

8 The parties may wish to consider that, when a civil trial is set before the district judges in the
9 Fresno Division, any criminal trial or an older civil trial, that conflicts with the civil trial will take priority,
10 even if the civil trial was set first. Continuances of civil trials under these circumstances may no longer
11 be entertained, absent good cause, but the civil trial may instead *trail* from day to day or week to week
12 until the completion of either the criminal case or the older civil case.

13 Parties are free to withhold consent or decline magistrate jurisdiction without adverse substantive
14 consequences.

15 11. Whether either party requests bifurcation or phasing of trial or has any other suggestion for
16 shortening or expediting discovery, pre-trial motions or trial.

17 12. Whether this matter is related to any matter pending in this court or any other court,
18 including bankruptcy court.

19 **Scheduling Order**

20 Following the Scheduling Conference, the Court will issue a Scheduling Order with the benefit
21 of the input of the parties. Once issued, the dates in the Scheduling Order shall be firm and no
22 extension shall be given without permission from the Court.

23 **Lack of Participation in the Joint Scheduling Report**

24 If any party fails to participate in the preparation of the Joint Scheduling Report, the non-offending
25 party shall detail the party's effort to get the offending party to participate in the Joint Scheduling Report.
26 The non-offending party shall still file the report one (1) full week prior to the Mandatory Scheduling
27 Conference and shall list the non-offending party's position on the listed issues and proposed dates for a
28 schedule. Absent good cause, the dates proposed by the non-offending party will be presumed to be

1 the dates offered by the parties. The offending party may be subject to sanctions, including monetary
2 sanctions to compensate the non-offending party's time and effort incurred in seeking compliance with
3 this Scheduling Order.

4 **Important Chambers' Information**

5 The parties are directed to the Court's website at www.caed.uscourts.gov under **Judges;**
6 **Grosjean (EPG); Standard Information (in the area entitled "Case Management Procedures")**
7 for specific information regarding Chamber's procedures. Information about law and motion, scheduling
8 conferences, telephonic appearances, and discovery disputes is provided at this link.

9 **Sanctions for failure to Comply**

10 Should counsel or a party appearing *pro se* fail to appear at the Mandatory Scheduling
11 Conference, or fail to comply with the directions as set forth above, an *ex parte* hearing may be held
12 and contempt sanctions, including monetary sanctions, dismissal, default, or other appropriate
13 judgment, may be imposed and/or ordered.

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15 /s/ ERICA P. GROSJEAN
16 UNITED STATES MAGISTRATE JUDGE
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

HELEN GRACE JAMES ,

NO. 1:18-CV-00011-DAD-EPG

Plaintiff(s),

STANDING ORDER

v.

HEATHER WILSON ,

Defendant(s).

1. LAW AND MOTION

A. Calendar

The civil law and motion calendar for Judge Drozd is held on the first and third Tuesday of every month commencing at 9:30 a.m. in Courtroom 5, located on the seventh floor. It is not necessary to clear a date prior to scheduling a civil law and motion matter for hearing. All motions shall be noticed for hearing. The parties may indicate in their papers if they wish to submit any motion for decision without oral argument. The court may elect to submit any motion for decision without oral argument and will so advise the parties by minute order in advance of any noticed hearing date. The parties are required to comply with Local Rule 230, or other applicable rules and notice requirements with respect to motions. Finally, telephonic appearances before Judge Drozd are encouraged and parties may do so by dialing 877-402-9757 (access code 6966236) at the time of the hearing. Because the court may be hearing other matters using the

1 same conference line, please wait to state your appearance until your case has been called and
2 appearances are requested. Keep all background noise to a minimum. At least 48 hours prior to
3 the hearing you must email Courtroom Deputy Renee Gaumnitz, at Rgaumnitz@caed.uscourts.gov,
4 to advise the court you will be appearing telephonically.

5 **B. Briefing**

6 Unless prior leave of Court is obtained, all moving and opposition briefs or legal
7 memorandum in civil cases shall not exceed 25 pages. Reply briefs filed by moving parties shall not
8 exceed 15 pages. Only for good cause shown will the court grant an application to extend these page
9 limitations. Briefs that exceed the page limitations or are sought to be filed without leave of court may
10 not be considered. Finally, no supplemental briefs shall be filed without prior leave of court¹

11 **C. Meet and Confer Requirement**

12 Prior to filing a motion in a case in which the parties are represented by counsel, counsel
13 shall engage in a pre-filing meet and confer to discuss thoroughly the substance of the
14 contemplated motion and any potential resolution. Counsel should resolve minor procedural or
15 other non-substantive matters during the meet and confer process so that briefing on motions that
16 proceed to hearing is directed only to those substantive issues requiring resolution by the court. **A**
17 **notice of motion shall contain a certification by counsel filing the motion that meet and**
18 **confer efforts have been exhausted, with a very brief summary of meet and confer efforts.**

19 **2. ELECTRONIC FILING**

20 The United States District Court for the Eastern District of California requires electronic
21 filing of documents in all new and pending civil cases in which parties are represented by
22 counsel. A party proceeding without counsel may request authorization to file electronically.
23 Information about the court's Electronic Case Filing system ("ECF") is available on the court's
24 website at www.caed.uscourts.gov/cmecf. See also Local Rule 133.

25 All manually filed documents (those documents excused from the electronic filing
26 requirements by the Local Rules) shall be served as otherwise required by the Federal Rules of
27 Civil Procedure or Local Rule 133.

28 ² Font must be in Times New Roman and no less than 12. Footnotes shall be in typeface no more than one size smaller than text size.

Counsel are ordered to deliver to the Clerk's Office clearly marked courtesy copies of all electronically filed documents that exceed twenty-five (25) pages, and conformed courtesy copies of all manually filed documents, by either personally delivering them or sending them by guaranteed overnight delivery. *See* Local Rule 133(f). The parties need not provide courtesy copies of answers or shorter pleadings. If a courtesy copy is sent by guaranteed overnight delivery, the sender shall notify the delivery service that the signature of the recipient is not required.

4. PROPOSED ORDERS

Judge Drozd does not require the parties to submit proposed orders with motions to dismiss or motions for summary judgment, but does require the parties to provide proposed consent decrees and proposed findings of fact. If the court does direct the filing of a proposed order, the party should submit it as required by Local Rule 137(b) and email it in Microsoft Word to dadorders@caed.uscourts.gov.

5. EX PARTE APPLICATIONS

Ex parte applications typically are not heard, but are submitted by the court unless otherwise notified. The filer is required to contact the courtroom deputy and the opposing party prior to the filing of the ex parte application in order to advise that such request is being made. In addition, the document(s) must indicate whether or not an opposition will be filed. The filer shall include an affidavit indicating a satisfactory explanation for the following: (1) the need for the issuance of such an order, (2) the inability of the filer to obtain a stipulation for the issuance of such an order from other counsel or parties in the action, and (3) why such request cannot be noticed on the court's motion calendar as provided by Local Rule 230.

6. TROs AND INJUNCTIONS

Parties seeking emergency or provisional relief shall comply with Federal Rule of Civil Procedure 65 and Local Rule 230. The court typically will not rule on any application for such relief for at least twenty-four (24) hours after the party subject to the requested order has been served; such party may file opposing or responding papers in the interim. The parties shall lodge a courtesy copy with chambers of all papers relating to proposed TROs and injunctions, conformed to reflect that they have been filed.

No document will be sealed, nor shall a redacted document be filed, without the prior approval of the court. If a document for which sealing or redaction is sought relates to the record on a motion to be decided by Judge Drozd, the request to seal or redact should be directed to him and not the assigned Magistrate Judge. All requests to seal or redact shall be governed by Local Rules 141 (sealing) and 140 (redaction); protective orders covering the discovery phase shall not govern the filing of sealed or redacted documents on the public docket. The court will only consider requests to seal or redact filed by the proponent of sealing or redaction. If a party plans to make a filing that includes material an opposing party has identified as confidential and potentially subject to sealing, the filing party shall provide the opposing party with sufficient notice in advance of filing to allow for the seeking of an order of sealing or redaction from the court.

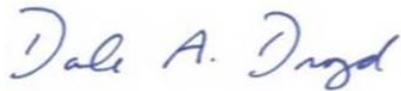
8. FINAL PRETRIAL CONFERENCES

In those cases in which Judge Drozd is conducting the Final Pretrial Conference, the parties are required to submit a Joint Pretrial statement. That Joint Pretrial statement must be filed seven days before the Final Pretrial Conference hearing date and be e-mailed as a Word document to: dadorders@caed.uscourts.gov.

9. NOTICE OF THIS ORDER

Counsel for plaintiff shall immediately serve this order on all parties, including any new parties added to the action in the future, unless this case came to the court by noticed removal, in which case defendant shall serve this order on all other parties.

DATED: January 3, 2018



DALE A. DROZD
U.S. DISTRICT COURT JUDGE

**NOTICE OF AVAILABILITY OF A MAGISTRATE JUDGE
TO EXERCISE JURISDICTION AND APPEAL INSTRUCTIONS**

You are hereby notified in accordance with 28 U.S.C §636(c), F.R.Civ.P.73 and Local Rule 305, the United States Magistrate Judges sitting in Sacramento and Fresno are available to exercise the court's case dispositive jurisdiction and to conduct any or all case despositive proceedings in this action, including motions to dismiss, motions for summary judgment, a jury or non jury trial, and entry of a final judgment. Exercise of this jurisdiction by a Magistrate Judge is however, permitted only if all parties voluntarily consent. You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's case dispositive jurisdiction from being exercised by a Magistrate Judge.

Any appeal from a judgment entered by a Magistrate Judge is taken directly to the United States Court of Appeals for the Ninth Circuit or, where appropriate, for the Federal Circuit in the same manner as an appeal from any other judgment of a District Court.

Whether or not the parties consent pursuant to 28 U.S.C. § 636(c), the assigned Magistrate Judge will hear all motions except those case dispositive motions set forth in 28 U.S.C. § 636(b)(1)(A).

A copy of the Form for "Consent to / Decline of Jurisdiction of United States Magistrate Judge" is attached hereto for pro per use and attorney information. This form is available in fillable .pdf format on the court's web site at www.caed.uscourts.gov for all attorney ECF filers. This form may be filed through CM/ECF or by pro se litigants at the appropriate Clerk's Office location.

Office of the Clerk
501 I Street, Room 4–200
Sacramento, CA 95814

Office of the Clerk
2500 Tulare Street, Suite 1501
Fresno, CA 93721

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HELEN GRACE JAMES ,
Plaintiff(s)/Petitioner(s),

vs.

CASE NO. 1:18-CV-00011-DAD-EPG

HEATHER WILSON ,
Defendant(s)/Respondent(s).

IMPORTANT

**IF YOU CHOOSE TO CONSENT OR DECLINE TO CONSENT TO JURISDICTION OF
A UNITED STATES MAGISTRATE JUDGE, CHECK AND SIGN THE APPROPRIATE
SECTION OF THIS FORM AND RETURN IT TO THE CLERK'S OFFICE.**

CONSENT TO JURISDICTION OF UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of Title 28, U.S.C Sec. 636(c)(1), the undersigned hereby voluntarily consents to have a United States Magistrate Judge conduct all further proceedings in this case, including trial and entry of final judgment, with direct review by the Ninth Circuit Court of Appeals, in the event an appeal is filed.

Date: _____

Signature: _____

Print Name: _____

() Plaintiff/Petitioner () Defendant/Respondent

Counsel for _____ *

DECLINE OF JURISDICTION OF UNITED STATES MAGISTRATE JUDGE

Pursuant to Title 28, U.S.C. Sec 636(c)(2), the undersigned acknowledges the availability of a United States Magistrate Judge but hereby declines to consent.

Date: _____

Signature: _____

Print Name: _____

() Plaintiff/Petitioner () Defendant/Respondent

Counsel for _____ *

**If representing more than one party, counsel must indicate the name of each party responding.*

NOTICE OF AVAILABILITY

VOLUNTARY DISPUTE RESOLUTION

Pursuant to the findings and directives of Congress in 28 U.S.C. §§ 651 *et seq.*, and in recognition of the economic burdens and delay in the resolution of disputes that can be imposed by full formal litigation, Local Rule 271 governs the referral of certain actions to the Voluntary Dispute Resolution Program ("VDRP") at the election of parties. Plaintiff or removing party is to provide all other parties with copies of the notice at the time service is effected or, for parties already served, no more than fourteen (14) days after receiving notice from the Court. After filing of the original complaint or removal action, any party who causes a new party to be joined in the action shall promptly serve a copy of the notice on the new party.

It is the Court's intention that the VDRP shall allow the participants to take advantage of a wide variety of alternative dispute resolution methods. These methods may include, but are not limited to, mediation, negotiation, early neutral evaluation and settlement facilitation. The specific method or methods employed will be determined by the Neutral and the parties.

PLEASE TAKE NOTICE that pursuant to Local Rule 271, *this Local Rule applies to* all civil actions pending before any District Judge or Magistrate Judge in the District except that actions in the following categories are exempt from presumptive inclusion: (i) prisoner petitions and actions, including habeas corpus petitions, (ii) actions in which one of the parties is appearing *pro se*, (iii) voting rights actions, (iv) social security actions, (v) deportation actions, (vi) Freedom of Information Act actions, and (vii) actions involving the constitutionality of federal, state or local statutes or ordinances. The fact that a case falls in a category that is exempt from the presumptive applicability of this Local Rule neither (1) precludes the parties to such a case from agreeing to participate in an Alternative Dispute Resolution ("ADR") process, nor (2) deprives the Court of authority to compel participation in an appropriate ADR proceeding.

Parties may elect Voluntary Dispute Resolution with the Court indicating that all parties to the action agree to submit the action to VDRP pursuant to Local Rule 271. Actions may not be assigned to VDRP over the objection of a party. (Copy of sample stipulation attached hereto.) **At the time of filing, a copy of the stipulation shall be provided to the VDRP Administrator designated below:**

Sacramento Cases

Voluntary Dispute Resolution
Program Administrator
United States District Court
501 "I" Street, Suite 4-200
Sacramento, CA 95814
(916) 930-4278

Fresno Cases

Voluntary Dispute Resolution
Program Administrator
United States District Court
2500 Tulare Street, Suite 1501
Fresno, CA 93721
(559) 499-5600

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

HELEN GRACE JAMES,

NO: 1:18-CV-00011-DAD-EPG

Plaintiff(s)

v.

STIPULATION TO ELECT REFERRAL
OF ACTION TO VOLUNTARY DISPUTE
RESOLUTION PROGRAM (VDRP)
PURSUANT TO LOCAL RULE 271

HEATHER WILSON,

Defendant(s)

Pursuant to Local Rule 271, the parties hereby agree to submit the above-entitled action to
the Voluntary Dispute Resolution Program.

DATED: **JANUARY 3, 2018**

Name:
Attorney for Plaintiff(s)

Name:
Attorney for Defendant(s)