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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

BOARD OF TRUSTEES OF THE
KERN COUNTY ELECTRICAL
PENSION FUND, et al.,

Plaintiffs,

vs.

CHRISTOPHER BURGONI, et al.,
Defendants.

Case No. 1:08-cv-00498-OWW -TAG

REPORT AND RECOMMENDATIONS
FOLLOWING SETTLEMENT
STATUS CONFERENCE

(Doc. 22)

PROCEDURAL HISTORY

On April 10, 2008, the Board of Trustees of the Kern County Electrical Pension Fund, the Board of Trustees of the Kern County Electrical Workers Health & Welfare Trust, and the Board of Trustees of the Kern County Electrical Journeyman And Apprentice Training Trust (“Plaintiffs”) filed this action for an accounting and for breach of contract regarding alleged failures to make contributions pursuant to a collective bargaining agreement, against Christopher Burgoni, Tadoc Enterprises, Inc., and Fulce Enterprises, Inc. (“Defendants”) (Doc. 1). On May 27, 2008, Defendants filed an answer. (Doc. 9).

On July 7, 2008, the parties stipulated to an order transferring the action to the Court’s Voluntary Dispute Resolution Program (“VDRP”), and on July 9, 2008, the action was referred to the VDRP. (Docs. 11, 12). On August 19, 2008, the parties stipulated to withdraw from the VDRP in order to proceed with a private mediation, and on August 21, 2008, the action was removed from the VDRP. (Docs. 19, 20). On September 2, 2008, the parties stipulated to an order staying the case pending an audit and further settlement discussions. (Doc. 21). On September 5, 2008, the action

1 was stayed and a settlement status conference was set before the Magistrate Judge on January 14,
2 2009. (Doc. 23).

3 Based on discussions with counsel at the settlement status conference, the Court makes the
4 following report and recommendations.

5 **REPORT**

- 6 1. The parties selected Attorney Christopher Hine to conduct a private mediation.
- 7 2. The mediation was conducted on August 26, 2008.
- 8 3. Substantial progress towards settlement was made at the mediation, however, the case did
9 not settle.
- 10 4. A financial audit was conducted after the mediation.
- 11 5. The audit was only recently completed, and the results of the audit were provided to
12 counsel for Plaintiffs and Defendants this week.
- 13 6. Both counsel request an opportunity to review the results of the audit and confer with their
14 respective clients, and wish to participate in a post-audit private mediation with Attorney Hine, to try
15 to fully resolve the dispute underlying this action.
- 16 7. The parties anticipate that discovery will take approximately six months to complete, and
17 that they will be prepared for trial by December 2009.

18 **RECOMMENDATIONS**

19 The Court recommends that:

- 20 1. The parties be directed to conclude any further private mediation no later than April 10,
21 2009;
- 22 2. A further settlement status conference before Magistrate Judge Goldner be set for April
23 24, 2009 at 9:00 a.m.; and
- 24 3. The stay remain in effect until April 24, 2009; and if the case is not reported as completely
25 settled by that date, the stay should be lifted and scheduling conference should be set.

26 IT IS SO ORDERED.

27 Dated: January 14, 2009

28 _____

/s/ Theresa A. Goldner
UNITED STATES MAGISTRATE JUDGE