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20 TOMMY THOMPSON AND FRANK HARVEY

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22 UNITED STATES DISTRICT COURT
23 EASTERN DISTRICT OF CALIFORNIA
24 (Fresno Division)

25 ERIC LACY, et al.,) CASE NO. 1:08-CV-F-0686-LJO-SMS
26 Plaintiffs,)
27 vs.) STIPULATION TO AMEND
THOMPSON & HARVEY TRANSPORTATION,) PRELIMINARY SCHEDULING
INC. et al.,) ORDER;
Defendants.) ORDER

)

28 It is hereby stipulated by and between the parties, through
their respective attorneys, as follows:

29 1. On August 21, 2008, this Court issued its Preliminary
30 Scheduling Order (Doc. 14).
31
32 2. On December 8, 2008, this Court amended the Scheduling

1 Order to extend the deadlines pertaining to plaintiff's pending
2 class certification motion (Doc. 20).

3 3. Plaintiff has now completed his discovery regarding the
4 class certification issues and has determined that this matter is
5 not suitable for class or collective treatment. Plaintiff and
6 defendants will be joining in a stipulation to dismiss the class
7 and collective action allegations from the complaint herein.

8 4. The parties are currently in settlement discussions
9 regarding plaintiff's individual claims contained in the complaint.

10 5. Accordingly, the parties request that the Court vacate
11 the pending date for the class certification motion and set a
12 Scheduling Conference in this matter for a date convenient with the
13 Court in approximately thirty (30) days.

14 6. In the meantime, the parties will continue their good
15 faith settlement discussions and, if a settlement is reached, will
16 promptly notify the Court.

17 Dated: January 30, 2009 LAW OFFICE OF JERRY BUDIN

/s/ Jerry Budin

JERRY BUDIN
Attorney for Plaintiff
ERIC LACY, et al.

Dated: January 30, 2009 SAGASER, JONES & HELSLEY

/s/ Tracie L. Goodwin

TRACIE L. GOODWIN
Attorney for Defendants,
THOMPSON & HARVEY TRANSPORTATION,
et al.

1 ORDER

2 GOOD CAUSE APPEARING from the above stipulation, IT IS
3 HEREBY ORDERED as follows:

4 1. The hearing on plaintiff's class certification motion
5 scheduled for March 9, 2009 at 8:15 a.m. is hereby vacated.

6 2. A Scheduling Conference is set in this matter for March
7 23, 2009 at 10:00 a.m. in Courtroom #7 before Judge Snyder.

8 NOTE: A JOINT Scheduling Conference Report carefully prepared and
9 executed by all counsel, shall be electronically filed in CM/ECF,
10 in full compliance with the requirements set forth in, **ORDER**

11 **SETTING MANDATORY SCHEDULING CONFERENCE** Exhibit "A", one (1) full
12 week prior to the Scheduling Conference, and shall be e-mailed,
13 in WordPerfect or Word format, to smsorders@caed.uscourts.gov.

15 IT IS SO ORDERED.

16 DATED: February 3, 2009

17 /s/ Sandra M. Snyder
18 **SANDRA M. SNYDER**
19 **U.S. MAGISTRATE JUDGE**