

1 Jerry N. Budin
State Bar #88539
2 Law Office of Jerry Budin
2401 E. Orangeburg Ave., Ste. 675-309
3 Modesto, California 95355
Telephone: (209) 544-3030
4 Facsimile: (209) 544-3144

5 Attorney for Plaintiff,
ERIC LACY, et al.

6 Tracie L. Goodwin
7 Michael S. Helsley
Sagaser, Jones & Helsley
8 2445 Capitol Street, 2nd Floor
P.O. Box 1632
9 Fresno, California 93717-1632
Telephone: (559) 233-4800
10 Facsimile: (559) 233-9330

11 Attorneys for Defendants,
THOMPSON & HARVEY TRANSPORTATION, INC.,
12 TOMMY THOMPSON AND FRANK HARVEY

13
14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA
16 (Fresno Division)
17

18 ERIC LACY, et al.,) CASE NO. 1:08-CV-F-0686-LJO-SMS
)
19 Plaintiffs,) STIPULATION TO AMEND
) PRELIMINARY SCHEDULING
20 vs.) ORDER;
) ORDER
21 THOMPSON & HARVEY TRANSPORTATION,)
INC. et al.,)
)
22 Defendants.)
23)

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

26 1. On August 21, 2008, this Court issued its Preliminary
27 Scheduling Order (Doc. 14).

28 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

18 /s/ Jerry Budin

19 _____
20 JERRY BUDIN
Attorney for Plaintiff,
ERIC LACY, et al.

21 Dated: January 30, 2009

SAGASER, JONES & HELSLEY

22 /s/ Tracie L. Goodwin

23 _____
24 TRACIE L. GOODWIN
Attorney for Defendants,
25 THOMPSON & HARVEY TRANSPORTATION,
et al.

ORDER

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

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

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

NOTE: A JOINT Scheduling Conference Report carefully prepared and
executed by all counsel, shall be electronically filed in CM/ECF,
in full compliance with the requirements set forth in, **ORDER
SETTING MANDATORY SCHEDULING CONFERENCE** Exhibit "A", one (1) full
week prior to the Scheduling Conference, and shall be e-mailed,
in WordPerfect or Word format, to smsorders@caed.uscourts.gov.

IT IS SO ORDERED.

DATED: February 3, 2009

/s/ Sandra M. Snyder
SANDRA M. SNYDER
U.S. MAGISTRATE JUDGE