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11 Attorneys for Defendants CENDANT
 CORPORATION, CENDANT CAR RENTAL
 12 GROUP, LLC, formerly known as Cendant Car
 Rental Group, Inc., CENDANT CAR RENTAL
 13 OPERATIONS SUPPORT, INC., and BUDGET
 RENT A CAR SYSTEM, INC.

14
 15
 16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION

19 STANLEY KRZESNIAK,

20 Plaintiff,

21 vs.

22 CENDANT CORPORATION, CENDANT
 23 CAR RENTAL GROUP, INC.,
 CENDANT CAR RENTAL
 24 OPERATIONS SUPPORT, INC.,
 25 BUDGET RENT A CAR SYSTEM, INC.,

26 Defendants.

Case No. CV 05-5156 MEJ

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

AND ORDER THEREON

Date: March 26, 2009

Time: 10:00 a.m.

Ctrm: B

Hon. Maria Elena James

1 The parties jointly submit this Case Management Statement:

2 **JURISDICTION AND SERVICE**

3 **1. Basis for Court's Subject-Matter Jurisdiction:**

4 The Court has diversity jurisdiction and federal question jurisdiction over the action.

5 **2. Issues Regarding Personal Jurisdiction or Venue:**

6 The parties do not contest personal jurisdiction or venue.

7 **3. Parties Yet To Be Served:**

8 There are no unserved parties known at this time.

9 **FACTS**

10 **4. Overview of the Case**

11 Plaintiff Stanley Krzesniak ("Plaintiff") filed a lawsuit on behalf of all current and
12 former Station Managers and Shift Managers who have worked in California locations of Budget
13 Rent-A-Car since December 28, 2001. By Order of June 20, 2007, the Court certified this class. By
14 Order of September 18, 2008, the Court granted final approval to the class action settlement reached
15 with regard to the class claims in this action. The claims remaining to be litigated in this action are
16 Plaintiff's individual claims for alleged violations of the Family and Medical Leave Act and the
17 California Family Rights Act.

18 Defendants deny Plaintiff's allegations, deny any wrongdoing or legal liability for
19 any alleged violations of the Family and Medical Leave Act and the California Family Rights Act.

20 **5. The Factual Issues Which The Parties Dispute:**

21 The parties dispute whether Mr. Krzesniak requested family care leave and whether
22 Defendants subjected him to discipline, harassment, and/or termination because of any such request
23 for family care leave. The parties dispute the circumstances surrounding Mr. Krzesniak's request for
24 leave. The parties dispute whether Plaintiff properly requested leave and received all of the leave he
25 properly requested and/or was entitled to receive. The parties dispute whether Plaintiff missed
26 scheduled working shifts without explanation, notice, or approved leave. The parties also dispute
27 whether Mr. Krzesniak has suffered and will continue to suffer economic damages and injuries as a
28 result of his discharge and Defendants' alleged conduct towards him. The parties dispute whether

1 Plaintiff mitigated his alleged damages with reasonable diligence.

2 **6. The Legal Issues Which The Parties Dispute**

3 The parties dispute whether Defendants' alleged conduct towards Mr. Krzesniak
4 amounted to retaliation under the FMLA and CFRA and whether he is entitled to compensatory and
5 punitive damages as a result.

6 **MOTIONS**

7 **7. The following motions are contemplated:**

8 Defendants intend to file a motion for summary judgment.

9
10 **AMENDMENTS TO THE PLEADINGS**

11 **8. Anticipated Amendments:** The parties do not anticipate any further amendments to
12 the pleadings.

13 **9. Proposed Deadline for Amending the Pleadings:** ~~Plaintiff proposes that the Court~~
14 ~~set a Rule 16 deadline to amend the pleadings of April 15, 2009. Since this action has been pending~~
15 ~~for nearly three years, and Plaintiff previously asked the Court to set a Rule 16 deadline to amend~~
16 ~~the pleadings by February 28, 2009, Defendants request that no further amendments to the pleadings~~
17 ~~are~~ permitted in the absence of a showing of good cause within the meaning of Rule 16.

18 **DISCOVERY**

19 **10. Disclosures:** The parties have exchanged initial and supplemental disclosures. The
20 parties do not propose changes to be made in the timing, form, or requirement for disclosures under
21 Rule 26(a).

22 **11. Discovery To Date:** The parties have served interrogatories and document requests
23 pertaining to class certification issues, and completed four depositions. Defendants have taken
24 Plaintiff's deposition; Plaintiff took the depositions of three managers.

25 **12. Scope of Anticipated Discovery:** The parties anticipate additional discovery on
26 liability and damages issues related to Plaintiff's claims and defendants' affirmative defenses.

27 **13. Proposed Limitations or Modifications of Discovery Rules:** The Parties do not
28 anticipate a need for modifications to current discovery rules at this time.

1 the parties were able to reach an agreement regarding the class claims but were not able to reach
2 agreement regarding the individual claims. The parties have also exchanged multiple proposals
3 regarding a resolution of Plaintiff's individual claims, without success.

4 **20. ADR Plan:** The mediator has offered to continue assistance, if needed. Based on the
5 prior day-long private mediation, as well as the prior exchange of proposals, Defendants do not
6 consent to another settlement conference. Given that Defendants do not consent to a settlement
7 conference, Plaintiff does not believe that such a conference would be fruitful at this time. The
8 parties may resume a dialogue on this subject at any time as events in the case unfold.

9 **MISCELLANEOUS MATTERS**

10 **21. Consent to Magistrate Judge:** The parties consented to this assignment for all
11 purposes, including but not limited to trial.

12 **22. Other References:** The parties do not believe that the case is suitable for reference
13 to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

14 **23. Narrowing of Issues:** The parties have not agreed to narrow any issues.

15 **24. Expedited Schedule:** This case is not of a type that can be handled on an expedited
16 basis with streamlined procedures.

17 **25. Related Cases:** The parties are not aware of any related cases.

18 **SCHEDULING**

19 **26. Pretrial Schedule:** By Order of November 10, 2008, the Court set the following
20 deadlines and briefing schedule for discovery and trial:

21 October 9, 2009: non-expert discovery cut-off;

22 September 14, 2009: service of any expert disclosures;

23 September 24, 2009: service of any rebuttal disclosures;

24 October 9, 2009: completion of all expert discovery; and

25 November 5, 2009: Last day to file dispositive motions.

26 December 10, 2009: Hearing on dispositive motions.

27 April 12, 2010: Commencement of trial. The Court has stated that the trial shall
28 last six days. Plaintiff intends to try the case to a jury.

DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS

28. Defendants identify Avis Budget Group, Inc. as an interested entity within the meaning of Civil Local Rule 3-16.

STATUS CONFERENCES

29. The parties request that the Court schedule a further status conference in 180 days to receive a progress and compliance report from the parties. GRANTED

Dated: March 19, 2009

/s/
MICHAEL HOFFMAN
ARENA HOFFMAN LLP
Attorneys for DEFENDANTS

Dated: March 19, 2009

/s/
PETER RUKIN
STEVEN TINDALL
RUKIN HYLAND DORIA & TINDALL
Attorneys for PLAINTIFF

The Court shall conduct a further status conference on September 24, 2009 at 10:00 a.m. If the parties have a dispute regarding punitive damage discovery, they shall comply with the undersigned's discovery standing order.

The March 26, 2009 status conference is hereby VACATED.

Dated: March 19, 2009

