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United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FEDERICO QUEZADA, *et al.*,
Plaintiffs,

No. C-08-0821 EMC
No. C-08-4905 EMC

v.

RESPONSIBLE ROOFING, INC., *et al.*,
Defendants.

**ORDER OVERRULING PLAINTIFFS’
OBJECTIONS TO COURT’S
PROPOSED JURY INSTRUCTIONS**

PORFIRIO ZAMORA, *et al.*,
Plaintiffs,

v.

RESPONSIBLE ROOFING, INC., *et al.*,
Defendants.

On January 6, 2011, the Court, after reviewing the parties’ submitted jury instructions (*see* Joint Jury Instructions, Docket No. 102; Defendants’ Separately Submitted Proposed Jury Instructions, Docket No. 103; and Plaintiffs’ Separately Submitted Jury Instructions, Docket No. 109), filed proposed jury instructions and asked the parties to file objections by January 31, 2011. Plaintiffs filed objections (*see* Docket No. 135) but Defendants did not. Defendants subsequently filed a response to Plaintiffs’ objections (*see* Docket No. 141). Having considered parties’ arguments, and good cause appearing therefor, the Court **OVERRULES** Plaintiffs’ objections.

1 Regarding the definition of “employer”, the Court’s proposed instructions closely tracks the
2 language of the Ninth Circuit law. *See Boucher v. Shaw*, 572 F.3d 1087, 1091 (9th Cir. 2009).

3 Regarding the statute of limitations, the jury should not be instructed on the four-year statute
4 of limitations applicable under the California Business and Professions Code because relief
5 thereunder is equitable in nature and for the court, not the jury, to decide. The jury is to resolve the
6 claims under the FLSA which is not governed by the four-year limitations period.

7 As to the affirmative defense to liquidated damages, the Court’s proposed instruction directs
8 the jury to determine whether Defendants failure to pay overtime if any, was in good faith. Once the
9 jury makes that determination, the Court, not the jury, determines whether to impose liquidated
10 damages. Neither party had ever contended otherwise. Should Plaintiffs have contrary authority
11 indicating this should be the jury’s responsibility, it shall file a letter brief listing those authorities by
12 February 8, 2011.

13 This order disposes of Docket Nos. 135 and 141.

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15 IT IS SO ORDERED.

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17 Dated: February 7, 2011

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20 EDWARD M. CHEN
21 United States Magistrate Judge
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