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 STEVENSON ENTERPRISES, a California
 9 general partnership

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

13 STEVENSON ENTERPRISES, a California
 general partnership

14 Plaintiff,

15 v.

16 ENRIQUETA MENDOZA; ESTATE OF
 17 DAVID Z. MENDOZA; HAK CHON LEE;
 JEUM SOON LEE; HYSL, Inc., a California
 18 corporation; and YONG W. LEE,

19 Defendants.

20 HYSL, INC. a California corporation and
 21 YONG W. LEE,

22 Counter-Claimants,

23 v.

24 STEVENSON ENTERPRISES, a California
 general partnership; and Does 1 through 10,
 25 inclusive,

26 Counter-Defendants.
 27
 28

No. C 08-4845 EMC

**JOINT FRCP 26(f) REPORT
 FILED IN SUPPORT OF INITIAL
 CASE MANAGEMENT CONFERENCE
 ORDER RESETTING CMC**

Date: June 3, 2009

Time: 1:30 p.m.

Courtroom: C [15th Floor]

Magistrate Judge Edward M. Chen

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<p>HYSL, INC., a California corporation and YONG W. LEE, Cross-Claimants, v. ENRIQUETA MENDOZA; ESTATE OF DAVID Z. MENDOZA; HAK CHON LEE; and Does 1 through 10, inclusive, Cross-Defendants,</p>
<p>HAK CHON LEE, Cross-Claimant, v. ENRIQUETA MENDOZA; ESTATE OF DAVID Z. MENDOZA; HYSL, INC., a California corporation; and YONG W. LEE, Cross-Defendants</p>

Plaintiff and Counter Defendant STEVENSON PROPERTIES ("*Stevenson*"), Defendants, Counter Claimants, Cross Claimants and Cross-Defendants HYSL, INC. and YONG LEE, and Defendant, Cross Defendant and Counter Claimant HAK CHON LEE, jointly submit this Joint FRCP 26(f) Report In Support of Initial Case Management Conference.

The parties are submitting this Joint Report to advise the Court of the status of this matter, including efforts to have the remaining defendants served and continuing efforts by Stevenson to obtain an approved Corrective Action Plan ("*CAP*") from the applicable regulatory agency(ies). As discussed below, upon receipt of the approved CAP, Stevenson anticipates that it will be in a position to conceptually quantify its damages claim.

Based thereon, the parties request that this Court continue the initial Case Management Conference for 120 days to allow the parties time to address these issues and, based thereon, provide the Court, at that time, with more substantive information as to the course and scope of this matter.

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I. STATUS OF SERVICE ON PARTIES:

A. THE MENDOZAS:

1. Defendants ENRIQUETA MENDOZA (“*Mrs. Mendoza*”) and ESTATE OF DAVID Z. MENDOZA have been served with the Complaint and associated pleadings in this case. The proofs of service have been filed with this Court.

2. On April 6, 2009, Andres Mendoza, Mrs. Mendoza’s son, filed a Notice To Court On Behalf of Enriqueta Mendoza (“*Notice*”) with this Court. The Notice stated that Mrs. Mendoza is incompetent and would require a Designation of a Representative under FRCP 17(c) to protect her and her interests in this proceeding. To date, Andres Mendoza has not filed pleadings in support of such a Designation or an answer to the Complaint on behalf of either Mrs. Mendoza or the Estate of David Z. Mendoza.

B. HYSL, INC., YONG W. LEE:

1. These defendants have filed answers to the Complaint.

2. HYSL, Inc. and Yong W. Lee have filed a Counter-Claim against Stevenson Enterprises which has filed an answer to the Counter-Claim.

3. HYSL, Inc. and Yong W. Lee have filed a Cross-Claim (“*HYSL Cross-Claim*”) against the Mendozas and Hak Chon Lee. Hak Chon Lee has filed an answer to the HYSL Cross-Claim. The HYSL Cross-Claim has yet to be served on either Mrs. Mendoza or the Estate of David Z. Mendoza.

C. HAK CHON LEE:

1. This defendant has filed an answer to the Complaint.

2. Hak Chon Lee has filed a Cross-Claim against HYSL, Inc., Yong W. Lee, Mrs.

1 Mendoza and the Estate of David Z. Mendoza ("*Lee Cross-Claim*").

2
3 3. HYSL, Inc. and Young W. Lee have filed an answer to the Lee Cross-Claim
4 These defendants have also filed a Cross-Claim against Hak Chon Lee who has filed an
5 answer.

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7 4. On May 19, 2009, Hak Chon Lee served the Lee Cross-Claim of Hak on Mrs.
8 Mendoza Via Certified Return Receipt Mail and U. S. Mail.

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10 **D. JEUM SOON LEE:**

11 Despite investigation, Plaintiff and Defendants HYSL, Inc and Yong Lee are not aware
12 of the location of Defendant Jeum Soon Lee who is believed to be Hak Lee's mother. Hak Lee's
13 counsel has recently informed counsel for Stevenson that he has agreed to voluntarily advise his
14 counsel or the other parties of Jeum Soon Lee's location; however, this information has yet to be
15 disclosed.

16 Upon disclosure of Ms. Lee's location, service of the Summons and Complaint will be
17 promptly attempted.

18
19 **II. INITIAL DISCLOSURES:**

20 Stevenson Enterprises, HYSL, Inc., Yong W. Lee and Hak Chon Lee, through their
21 respective counsel, have met and conferred as to the items to be disclosed as part of their
22 respective FRCP Rule 26(a) initial disclosures and have agreed to produce the following
23 information and documents:

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25 1. Identity of Individuals:

26 The parties are compiled a preliminary list of organizations and individuals that may
27 have information relevant to this matter including regulatory agencies, vendors, insurance
28 companies and individuals who may have knowledge of events.

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2. Documents:

A. Stevenson Enterprises has, or will be, producing the following initial set of documents:

- (1) Site investigation report(s) and source documentation as requested;
- (2) Leases;
- (3) City of Fremont Fire Department documents in the possession of Plaintiff;
- (4) Documents and correspondence to, from or with the Alameda County Water District ("ACWD") which is the lead regulatory agency requiring clean up of the site; and
- (5) Other regulatory agency documents in its possession.

B. HYSL, Inc. and Yong Lee will be producing the following initial set of documents:

- (1) Preliminary response, including some documents as applicable, to Stevenson's June 10, 2008 informal request for documents; and
- (2) Any other documents to be identified in these parties' FRCP 26(a) initial disclosure.

C. Hak Chon Lee will be producing the following initial set of documents:

- (1) Inspection log(s);
- (2) Permit(s);
- (3) MCL Invoice(s) (delivery);
- (4) Technichem Invoice(s) (pickup);
- (5) Maintenance log(s);
- (6) AAD Disposal Invoice(s) (pickup); and
- (7) Consumption and Waste Logs.

These disclosures will be made, at the latest, within fourteen (14) days after completion of the Initial Case Management Conference.

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2. Documents:

A. Stevenson Enterprises has, or will be, producing the following initial set of documents:

Hard copies of

- (1) Site investigation report(s) and source documentation as requested;
- (2) Leases;
- (3) City of Fremont Fire Department documents in the possession of Plaintiff;
- (4) Documents and correspondence to, from or with the Alameda County Water District ("ACWD") which is the lead regulatory agency requiring clean up of the site; and
- (5) Other regulatory agency documents in its possession.

B. HYSI, Inc. and Yong Lee will be producing the following initial set of documents:

- (1) Preliminary response, including some documents as applicable, to Stevenson's June 10, 2008 informal request for documents; and
- (2) Any other documents to be identified in these parties' FRCP 26(a) initial disclosure.

C. Hak Chon Lee will be producing the following initial set of documents:

- (1) Inspection log(s);
- (2) Permit(s);
- (3) MCL Invoice(s) (delivery);
- (4) Technichem Invoice(s) (pickup);
- (5) Maintenance log(s);
- (6) AAD Disposal Invoice(s) (pickup); and
- (7) Consumption and Waste Logs.

These disclosures will be made, at the latest, within fourteen (14) days after completion of the Initial Case Management Conference.

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III. COMPUTATION OF DAMAGES:

Stevenson Enterprises is currently working with the ACWD to formulate and obtain approval of a CAP. It is anticipated that a CAP, incorporating all recent investigative data, will be submitted to the ACWD in June 2009. Stevenson Enterprises hopes to have ACWD comments to, and/or approval of, the CAP in July or August 2009. When the CAP is approved, Stevenson Enterprises will obtain bids to complete the work required to remediate the site.

Prior to obtaining these bids, Stevenson is unable to definitively compute its damages.

IV. INSURANCE AGREEMENTS:

The parties have or are tendering this matter to their respective insurance carriers. To date, all carriers have denied coverage for the claimed damages.

V. EARLY SETTLEMENT / ADR:

The parties have met and conferred regarding early alternative dispute resolution (“ADR”) and agree that, subject to a limited amount of discovery, a form of ADR should be undertaken. The parties did not agree on the form of ADR with Plaintiff recommending JAMS and the other parties desiring the retention of a neutral that would not carry the “overhead” costs associated with JAMS. In addition, HYSL, Inc. and Yong Lee would also have the parties consider the Court’s Early Neutral Evaluation process.

The parties agree that before any mediation should occur, the Mendozas need to make an appearance in this litigation and a determination as to the identity of their insurance carrier, with the attendant tender of a claim, should be completed.

The parties have submitted a Notice of Need for ADR Phone Conference.

VI. DISCOVERY PLAN:

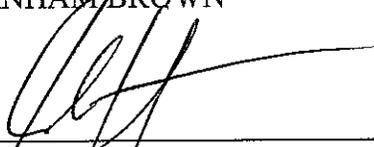
The parties have agreed to an initial discovery plan that follows the Federal Rules with the additional provision that Plaintiff may serve one set of California Form Interrogatories on each Defendant and the Defendants will collectively serve one set of California Form

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Interrogatories on the Plaintiff with the understanding that any responses thereto will, to the extent feasible, delineate sub-responses as to each Defendant. Remaining discovery to be conducted pursuant to the Federal Rules of Civil Procedure.

DATED: May 27, 2009

BURNHAM BROWN

By 

JOHN J. VERBER
ERIC R. HAAS
JACK W. SCHWARTZ JR.
Attorneys for Plaintiff and Counter-Defendant
STEVENSON ENTERPRISES

DATED: May __, 2009

R. KINGSBURY LANE, INC.

By _____

ROBERT K. LANE
Attorneys for Defendants, Cross-Complainants,
Counter-Claimants and Cross-Defendants
HYSL, INC. and YONG LEE

DATED: May __, 2009

ROBERTS & ELLIOTT, LLP

By _____

JAMES ROBERTS
SHARMI PAREKH SHAH
Attorneys for Defendant, Cross-Complainant and
Cross- Defendant HAK CHON LEE

942805

1 Interrogatories on the Plaintiff with the understanding that any responses thereto will, to the
2 extent feasible, delineate sub-responses as to each Defendant. Remaining discovery to be
3 conducted pursuant to the Federal Rules of Civil Procedure.

4 DATED: May __, 2009

BURNHAM BROWN

6 By _____

7 JOHN J. VERBER
8 ERIC R. HAAS
9 JACK W. SCHWARTZ JR.
Attorneys for Plaintiff and Counter-Defendant
10 STEVENSON ENTERPRISES

11 DATED: May 27, 2009

R-KINGSBURY LANE, INC.

12 By  _____ *as changed @ 2A1+3*

13 ROBERT K. LANE
14 Attorneys for Defendants, Cross-Complainants,
15 Counter-Claimants and Cross-Defendants HYSL,
INC. and YONG LEE

16 DATED: May __, 2009

ROBERTS & ELLIOTT, LLP

18 By _____

19 JAMES ROBERTS
20 SHARMI PAREKH SIIAH
Attorneys for Defendant, Cross-Complainant
and Cross- Defendant HAK CHON LEE

21 942805

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1 Interrogatories on the Plaintiff with the understanding that any responses thereto will, to the
2 extent feasible, delineate sub-responses as to each Defendant. Remaining discovery to be
3 conducted pursuant to the Federal Rules of Civil Procedure.

4 DATED: May ____, 2009

BURNHAM BROWN

6 By _____

7 JOHN J. VERBER
8 ERIC R. HAAS
9 JACK W. SCHWARTZ JR.
Attorneys for Plaintiff and Counter-Defendant
10 STEVENSON ENTERPRISES

11 DATED: May ____, 2009

R. KINGSBURY LANE, INC.

13 By _____

14 ROBERT K. LANE
Attorneys for Defendants, Cross-Complainants,
15 Counter-Claimants and Cross-Defendants
HYSL, INC. and YONG LEE

16 DATED: May 27, 2009

ROBERTS & EDLIOTT, LLP

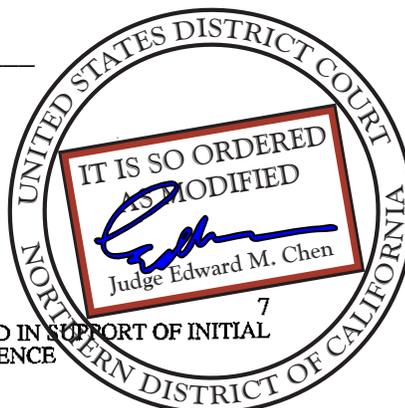
18 By _____

19 JAMES ROBERTS
20 SHARMI PAREKH SHAH
Attorneys for Defendant, Cross-Complainant and
21 Cross-Defendant HAK CHON LEE

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22 IT IS SO ORDERED that the Case Management Conference is reset from 6/3/09 at 1:30 p.m.
23 to 9/30/09 at 2:30 p.m. A Joint Case Management Statement shall be filed by 9/23/09.

24 _____
25 Edward M. Chen
26 U.S. Magistrate Judge



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