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22
 23 **UNITED STATES DISTRICT COURT**
 24
 25 **NORTHERN DISTRICT OF CALIFORNIA**

26
 27 PAUL HOA, an individual.
 28
 Plaintiff,

Case No. 3:12-cv-02078-EMC

1 vs.

2 RICHARD RILEY, an individual;
3 RONALD CHAN, an individual;
4 DAVID MOORE, an individual;
5 RAYMOND MATTEUCCI, an
individual; THOMAS ALIOTO, an
6 individual; GEORGE MOON, an
individual; TAMMY FOSS, an
7 individual; DAVID F. LOPEZ , an
individual; T. GREGORY
8 STAGNITTO, an individual; BRIDGE
TRANSPORT, an entity of unknown
9 form; STAG LEASING, INC., a
California corporation; and DOES 1 to
10 20, Inclusive.

11 Defendants.

**JOINT CASE MANAGEMENT
STATEMENT & PROPOSED
ORDER**

Date: December 11, 2014

Time: 1:30 PM

Dept: Courtroom 5, 17th Floor

Judge: Honorable Edward Chen

13
14 The parties to the above-entitled action jointly submit this JOINT CASE
15 MANAGEMENT STATEMENT & PROPOSED ORDER pursuant to the
16 Standing Order for All Judges of the Northern District of California and Civil
17 Local Rule 16-9.

18
19 1. Jurisdiction & Service

20
21 A. All parties have been served.

22 B. No dispute as to Personal Jurisdiction as to Non-State Defendants.

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24 2. Facts

25 PLAINTIFF:

26 This action is for money damages as a result of a catastrophic injuries
27 sustained by Plaintiff on July 27, 2011, while in custody at San Quentin
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1 Prison. Plaintiff was a prisoner in the custody of California Department of
2 Corrections and Rehabilitation ("CDCR"). Plaintiff was expected to be paroled in
3 April 2012. Plaintiff, as part of his prison work duties, was working between a
4 raised loading dock and commercial containers trucks, without any reasonable
5 safety precautions in this dangerous circumstance. The location was the
6 Waterfront Warehouse.
7

8
9 The commercial vehicle drivers were not permitted to turn their engines off,
10 speak to Plaintiff or get out of the vehicle for any reason. The trucks were also
11 delivering goods in a confined space and a high rate of delivery caused by a
12 prison population that has well exceeded design capacity for operations within any
13 imaginable range of safety. The requirements to supply the Prison its necessary
14 goods has surpassed the original design limits of the prison, and the loading docks
15 and loading procedures disregarded any safety protocol or safeguards. Plaintiff
16 was provided a green jump suit to maneuver between the container trucks and the
17 loading dock, and no other safety device, mechanism, procedure, training, or
18 assistance were provided. It appears before Plaintiff's accident, inmates
19 complained about safety and situations similar to how the Plaintiff was injured to
20 the requested new defendants. In fact, one inmate was fired at Waterfront
21 Warehouse for complaining about safety weeks before Plaintiff was injured.
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24 Without warning or opportunity to avoid, the rear of the commercial vehicle
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1 (Defendant Stag), where Plaintiff was performing the dangerous task of opening
2 the doors on the container prior to it approaching the raised loading dock, surged
3 towards him in moments, Plaintiff was crushed between the back of the container
4 and the raised loading dock.
5

6 As a result, Plaintiff was pinned against the wall by the commercial vehicle,
7 which continued to back up as the driver was unaware that Plaintiff was
8 pinned. Plaintiff suffered permanent and catastrophic injuries to his spinal column
9 at the neck, leaving him permanently paralyzed from the neck down. Plaintiff
10 also suffered a fractured jaw, severed nerves, crushed tissue, and deep
11 lacerations. Plaintiff is hospitalized and recovering but is unable to breathe
12 without the assistance of a ventilation machine to assist his damaged lungs and is
13 paralyzed without any movements in the arms or legs.
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18 Plaintiff sued T. Gregory Stagnitto, Bridge Transport, Stag Leasing, Inc. and
19 David F. Lopez, the driver of the vehicle for negligence. Plaintiff filed a workers'
20 compensation action and the Claim number is 05721930.
21

22 DEFENDANTS STAG, ET AL (NON-STATE DEFENDANTS):

23 Defendants Bridge Transport, LLC, Stag Leasing, David F. Lopez, and T.
24 Gregory Stagnitto dispute liability for the incident and contend that fault rests
25 exclusively with plaintiff, CDCR, State of California, State employees, and
26 potentially other unknown entities/persons.
27
28

1 Defendants contend that David F. Lopez was a properly licensed and trained
2 employee of Bridge Transport, which was delivering food products to San Quentin
3 Prison. Lopez was operating a truck and trailer owned by Stag Leasing, Inc.
4 Lopez was on state prison premises and was provided instructions by plaintiff and
5 the prison upon entering the premises, to include where to go, when to go, and
6 when to proceed in a reverse direction. Plaintiff was authorized to and did, in
7 fact, provide defendant with instructions to move in a reverse direction and to
8 properly guide the rear trailer to a metal loading dock ramp. Plaintiff provided
9 hand and arm signals to driver Lopez to move in reverse to the ramp, with which
10 Lopez complied, traveling at an extremely low rate of speed. The rig was
11 properly equipped with a functioning audible reverse alarm. When the trailer
12 was within feet of the ramp, plaintiff, for no apparent reason, placed himself
13 between the trailer and ramp whereby he sustained injury. The incident was fully
14 investigated by the CHP, who concluded plaintiff was at fault for the incident.

15 STATE DEFENDANTS:

16 Defendants Riley, Alioto, Foss, Moon, Moore, Chan, and Matteucci dispute
17 liability for the incident and contend that fault rests exclusively with Plaintiff,
18 Bridge Transport, LLC, Stag Leasing, David F. Lopez, and T. Gregory Stagnitto,
19 and potentially other unknown entities/persons. Defendants further deny
20 Plaintiff's allegations that "inmates complained about safety and situations similar
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1 to how the Plaintiff was injured” to Defendants and that any inmate was “fired for
2 complaining about safety.” Defendants further deny Plaintiff’s allegation that
3 work area and procedures for loading and unloading goods where Plaintiff
4 suffered his injury “disregarded any safety protocol or safeguards.”
5

6 3. Legal Issues

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8 As to Defendants David F. Lopez, T. Gregory Stagnitto, Bridge Transport,
9 and Stag Leasing, Inc., there are no current procedural issues. These defendants
10 dispute liability and contend Greg Stagnitto should be dismissed in that the
11 incident occurred while Mr. Lopez was within the course and scope of a properly
12 formed Limited Liability Company.
13

14 State Defendants dispute liability.
15

16 4. Motions

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18 The Court has not yet ruled on Defendants David F. Lopez, T. Gregory
19 Stagnitto, Michael Martel, Bridge Transport and Stag Leasing, Inc., Motion to
20 Dismiss State Defendants’ Cross Complaint, filed August 4, 2014. On December
21 4, 2014, the Court ordered additional briefs.
22

23 5. Amendment of Pleadings

24
25 Depending on the Court’s ruling on their Motion to Dismiss, the Non-State
26 Defendants anticipate cross/counter claims vs. persons, entities with legal
27 responsibility of the incident within 60 to 75 days.
28 6. Evidence Preservation

1 Prior to the litigation Plaintiff demanded that the parties preserve all
2 evidence in the matter by way of letter. All defendants have not and will not
3 destroy evidence. Limited discovery did commence on State Defendants pursuant
4 to Court Order.
5

6 7. Disclosures
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8 Plaintiff and Non-State Defendants provided disclosures. The parties
9 agreed to exchange amended and updated disclosures on or before December 18,
10 2014.
11

12 8. Discovery
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14 Pre-complaint discovery was done as outlined in the prior court orders.
15 The Plaintiff and Non-State defendants reserve the right to re-depose individuals
16 who were previously deposed by plaintiff on the limited and circumscribed basis
17 allowed by the Court's prior Order. These depositions were limited in time and
18 subject matter. Plaintiff and Non-state defendants also anticipate that they may
19 require more depositions than allotted to all defendants collectively under FRCP,
20 Rule 30(a).
21

22 State Defendants contend that re-deposing individuals previously deposed
23 by Plaintiff is unnecessary and overly burdensome, and if such depositions are
24 permitted they should be limited in time. State Defendants are willing to meet-
25 and-confer with non-State Defendants on this subject.
26
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1 9. Class Actions

2 This is not a class action.

3
4 10. Related Cases

5 There is no related civil cases.

6
7 11. Relief

8 Damages sought will be in excess of \$40,000,000.00. Plaintiff is a
9 quadriplegic as a result of this incident. At this time, he is unable to breathe on his
10 own and is on a ventilator. Currently, medical care exceeds \$3,000,000.00 with
11 significant care to do.
12

13 Plaintiff is deemed Totally Disabled. Plaintiff has a spinal cord injury with
14 subsequent tetraplegia, vent dependency, neurogenic bowel, neurogenic bladder
15 and pain. He is nursing care facility with 24 hour watch.
16

17 Plaintiff has the lost use of his hands, arms, legs, and limited neck
18 movement. He is currently living in a care center that is working with him to get
19 range of motion on his neck so that he can be ambulatory in a wheel-chair.
20

21 Plaintiff is on significant pain medication.

22
23 Defendants have no discovery/third-party confirmation as to plaintiff's
24 injuries, so the above is plaintiff's contention. Defendants contend damages to be
25 calculated as only those that are reasonable and necessary with application of
26 Hanif/Howell and other applicable law, dependent upon the scope of plaintiff's
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28

1 claimed damages.

2 12. Settlement and ADR

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4 The parties attended the first day of mediation on November 5, 2014 with
5 JAMS and Ken Gack as mediator. The parties mediated the matter but were
6 unable to resolve it. Discovery must ensue before the Parties can continue
7 mediation discussions. The parties have tentatively agreed to a second day of
8 mediation some 120 days out and set a preliminary date of April 3, 2015.

9
10 Completion of the scheduled mediation is contingent on the results of discovery.

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12 13. Consent to Magistrate Judge For All Purposes

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14 Whether **all** parties will consent to have a magistrate judge conduct all
15 further proceedings including trial and entry of judgment.

16 _____ YES X NO by Plaintiff

17
18 14. Other References

19 Plaintiff will not agree to binding arbitration. Defendants Stag Leasing,
20 Inc., Bridge Transport, T. Gregory Stagnitto, and David F. Lopez will not agree to
21 binding arbitration.

22
23 15. Narrowing of Issues

24 This issue is premature at this time.

25
26 16. Expedited Trial Procedure

27 This issue is premature at this time.

EXHIBIT A

Action	Plaintiff	Defendant State	Defendant Non-State
ADR completion date	October 30, 2015		
Expert Witness disclosure			
Supplemental expert disclosure			
Discovery cut off			
Pretrial motion cut off	November 2, 2015		
Filing of Joint Pretrial conference statement due 21 days before Joint Pretrial Conference date	January 26, 2016		
Lodging of Exhibits	January 26, 2016		
Serving and filing brief of disputed issues of law: Procedural and evidence	January 26, 2016		
Serving Jury Instructions and proposed findings of fact	January 26, 2016		
Serving and filing statements from designating information from discovery	January 26, 2016		
Objections due proposed information from discovery or evidence	January 26, 2016		
Final Pretrial Conference (Tuesday at 2:30 PM)	February 16, 2016		
Trial Date (Thursday is dark)	February 22, 2016		

1. **(1)** Commencement and completion of any ADR proceedings;
2. **(2)** Disclosure of proposed expert or other opinion witnesses pursuant to Fed. R. Civ. P. 26(a)(2), as well as supplementation of such disclosures;
3. **(3)** Conclusion of pretrial discovery and disclosure;
4. **(4)** Hearing pretrial motions;
5. **(5)** Counsel to meet and confer to prepare joint final pretrial conference statement and proposed order and coordinated submission of trial exhibits and other material;
6. **(6)** Filing joint final pretrial conference statement and proposed order;
7. **(7)** Lodging exhibits and other trial material, including copies of all exhibits to be offered and all schedules, summaries, diagrams and charts to be used at the trial other than for impeachment or rebuttal. Each proposed exhibit must be premarked for identification. Upon request, a party must make the original or the underlying documents of any exhibit available for inspection and copying;
8. **(8)** Serving and filing briefs on all significant disputed issues of law, including procedural and evidentiary issues;
9. **(9)** In jury cases, serving and filing requested voir dire questions, jury instructions, and forms of verdict; or in court cases, serving and filing proposed findings of fact and conclusions of law;
10. **(10)** Serving and filing statements designating excerpts from depositions (specifying the witness and page and line references), from interrogatory answers and from responses to requests for admission to be offered at the trial other than for impeachment or rebuttal;
11. **(11)** A date by which parties objecting to receipt into evidence of any proposed testimony or exhibit must advise and confer with the opposing party with respect to resolving

such objection;

12. (12) A final pretrial conference and any necessary Court hearing to consider unresolved objections to proposed testimony or exhibits;
13. (13) A trial date and schedule;
14. (14) Determination of whether the case will be maintained as a class action; and
15. (15) Any other activities appropriate in the management of the case, including use of procedures set forth in the Manual for Complex Litigation.