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9
 10 **UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA**

12 MITCHELL SMITH, an individual,

13 Plaintiff,

14 vs.

15 OVERLAND CONTRACTING, INC., a Georgia
16 Corporation; and DOES 1 through 30, inclusive,

17 Defendants.

) CASE NO. CV 12-02642 MEJ

) Case Assigned to the Honorable Maria-Elena
18 James – Ctrm. B

) [Complaint Filed: April 20, 2012]

) **JOINT STATUS REPORT RE: CASE
19 MANAGEMENT DEADLINES**

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TO THE HONORABLE MARIA-ELENA JAMES, CHIEF UNITES STATES MAGISTRATE JUDGE:

Plaintiff MITHCELL SMITH, by and through his attorneys of record, Hughes Legal Group, PC, and Defendant, OVERLAND CONTRACTING, INC., by and through its attorneys of record, Law Offices of Julia Azrael, provide this joint status report in accordance with the Court's order of March 11, 2013:

On December 14, 2012, the parties engaged in court ordered mediation with Jean Gaskill but did not resolve Plaintiff's claims.

1 On January 17, 2013 the Court dismissed Plaintiff's 7th cause of action for wrongful
2 termination and 8th cause of action for retaliation pursuant to stipulation of the parties.

3 On January 17, 2013, the Court extended the discovery cutoff from January 29, 2013, to
4 March 29, 2013.

5 On February 22, 2013, Defendant took the deposition of Plaintiff but did not complete the
6 deposition. Defendant has requested a date to complete Plaintiff's deposition in April or May 2013
7 (two hours anticipated). Currently the parties have agreed on a date between May 6 and 9, 2013.

8 Plaintiff has timely noticed the deposition of James Amato, an employee of defendant and
9 the parties are in the process of securing a date between May 6 and 9, 2013.

10
11 In response to the issues set forth in the Court's order:

12
13 (1) Plaintiff and Defendant submit it would be beneficial to extend the discovery cutoff
14 to May 31, 2013. Plaintiff does not oppose to moving the deadline for dispositive motions to early
15 July 2013. Defendant submits it would be beneficial to extend the heading date for dispositive
16 motions to July 31, 2013. Defendant submits it would be beneficial to extend the trial date by
17 approximately sixty days to mid-October 2013. Plaintiff takes no position as to moving the current
18 trial date of August 6, 2013, and leaves this decision to the Court's discretion.

19
20 (2) Plaintiff is willing to participate in a settlement conference with a magistrate judge.
21 Defendant submits it may be beneficial to participate in a settlement conference with
22 another magistrate judge if the classification issue is dealt with in a substantive manner (as a
23 construction manager earning approximately \$95,000/annum, was Mr. Smith properly classified as
24 exempt? Were his duties consistent with Wage Order #16 ["primarily ... managerial ... and which
25 requires the exercise of discretion or independent judgment"]). Defendant notes that this issue is
26 the core of a co-worker's claims against Defendant (*Lee Federico v. OCI / CV 12-02588*) which is
27 also before this Court.

1 Dated: March 29, 2013

HUGHES LEGAL GROUP, PC

2
3 By: *s/ Brad Stuckey*

4 BRAD STUCKEY
5 Attorneys for Plaintiff, MITCHELL SMITH
6

7 Dated: March 29, 2013

LAW OFFICES OF JULIA AZRAEL

8
9 By: *Julia Azrael*

10 JULIA AZRAEL
11 Attorneys for Defendant OVERLAND
12 CONTRACTING, INC.



13 The parties shall submit a stipulation
14 with the new deadlines set out in
15 p.2, paragraph (1), and requesting
16 that the trial be extended out 60 days.
17 The Court hereby refers the parties
18 to a settlement conference with a
19 magistrate judge. The parties will be
20 contacted by the magistrate judge once
21 the matter is referred.

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28 IT IS SO ORDERED.