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5 Attorneys for Defendant
 KIEWIT PACIFIC CO., INC.
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9 UNITED STATES DISTRICT COURT

10 IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 DAVID WALLACE,)	Case No. 07-03238 CW
)	
12 Plaintiff,)	REQUEST TO APPEAR BY
)	TELEPHONE AT THE OCTOBER 7,
13 v.)	2008 CASE MANAGEMENT
)	CONFERENCE
14 KIEWIT PACIFIC CO.,)	
)	
15 Defendant.)	

16
 17 TO DAVID WALLACE AND THE HONORABLE CLAUDIA WILKEN:

18 **PLEASE TAKE NOTICE THAT** Defendant Kiewit Pacific Co., Inc. (“Kiewit”) would
 19 like to request telephonic appearance at the case management conference scheduled for October
 20 7, 2008 at 2:00 p.m. before the Honorable Claudia Wilken. This urgent request is prompted by
 21 the following reasons:

22 (1) Kiewit’s counsel was unable to personally talk to David Wallace (“Wallace”),
 23 who is appearing *in pro per*, in order to file a joint case management conference and to discuss
 24 the ADR options.

25 (2) At the case management conference held on September 25, 2007, Kiewit’s
 26 counsel appeared before the Judge Wilken, and because the Court continued the case
 27 management conference, Judge Wilken specifically granted Kiewit’s counsel’s request to appear
 28 at the continued case management by telephone. Attached as Exhibit A is the Court’s Order

1 dated October 2, 2007 which allows the parties to appear by telephone for case management
2 conference appearances.

3 (3) We had tried to call CourtCall but were told last week that Judge Wilken was not
4 signed up with this service. We apologize for this mistake.

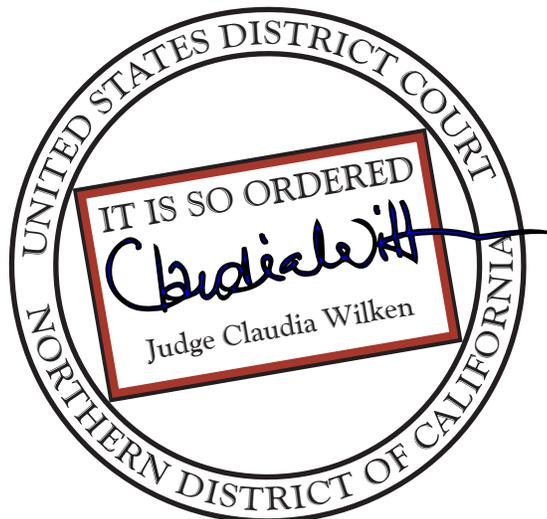
5 **IT IS HEREBY RESPECTFULLY REQUESTED** that the Court grant Kiewit's
6 counsel to appear by telephone at the October 7, 2008 case management conference. Further,
7 Kiewit's counsel is apologetic for the tardiness of this request, but implores Court's
8 understanding.

9
10 DATED: October 6, 2008

SEYFARTH SHAW LLP

11
12 By /s/ Laura J. Maechtlen
13 Laura J. Maechtlen
14 Attorneys for Defendant
KIEWIT PACIFIC CO., INC.

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PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN)
FRANCISCO)

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Seyfarth Shaw LLP, 560 Mission Street, Suite 3100, San Francisco, California 94105. On June 19, 2007, I served the within document:

Defendant's Request to Appear by Telephone At the October 7, 2008 Case Management Conference

I sent such document from facsimile machine (415) 397-8549 on October 6, 2008. I certify that said transmission was completed and that all pages were received and that a report was generated by facsimile machine (415) 397-8549 which confirms said transmission and receipt. I, thereafter, mailed a copy to the interested party(ies) in this action by placing a true copy thereof enclosed in sealed envelope(s) addressed to the parties listed below.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

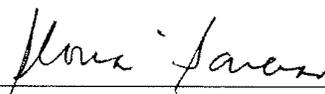
by placing the document(s) listed above, together with an unsigned copy of this declaration, in a sealed Federal Express envelope with postage paid on account and deposited with Federal Express at San Francisco, California, addressed as set forth below.

by transmitting the document(s) listed above, electronically, via the e-mail addresses set forth below.

David Wallace
890 Midway Avenue
San Leandro, CA 94577
(By email at prepostman1@yahoo.com; & U.S. Mail)

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than on day after the date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. Executed on October 6, 2008 at San Francisco, California.



Gloria Garcia

EXHIBIT A

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID WALLACE,
Plaintiff,
v.
KIEWIT PACIFIC CO.,
Defendant.

No. 07-03238 CW
ORDER CONTINUING
CASE MANAGEMENT
CONFERENCE AND
DENYING
PLAINTIFF'S
VARIOUS
MISCELLANEOUS
REQUESTS

A case management conference was held on September 25, 2007, in the above-captioned case. Laura Maehtlen appeared on behalf of Defendant Kiewit Pacific Co. No appearance was made by Plaintiff; however, Plaintiff did submit to the Court various miscellaneous requests including a motion for extension of time. Pursuant to the case management conference,

IT IS HEREBY ORDERED that the case management conference is continued to **February 5, 2008, at 2:00 p.m.**, to allow Plaintiff additional time to find an attorney and for the parties to complete labor arbitration. Parties may appear by telephone at the case management conference upon written request to the Court made at least one week prior to the conference. Failure by Plaintiff to participate in the case management conference may result in

1 dismissal for failure to prosecute.

2 IT IS FURTHER ORDERED that Plaintiff's motion to restore
3 jurisdiction back to Superior Court of California is denied.
4 Plaintiff's motion for pro bono web listing is denied without
5 prejudice. Plaintiff's motion for extension of time is granted as
6 set forth above. Plaintiff's motion for electronic filing is
7 denied without prejudice unless Plaintiff can comply with all the
8 requirements for electronic court filing. Plaintiff's motion for a
9 user friendly format is denied.

10 Extensions of time are not favored, though reasonable
11 extensions will be granted. Any motion for an extension of time
12 must be filed no later than seven (7) days prior to the deadline
13 sought to be extended.

14 All communications by Plaintiff with the Court must be served
15 on Defendant's counsel by mailing a true copy of the document to
16 Defendant's counsel.

17 It is Plaintiff's responsibility to prosecute this case.
18 Plaintiff must keep the Court and Defendant's counsel informed of
19 any change of address and must comply with the Court's orders in a
20 timely fashion. Failure to do so may result in dismissal for
21 failure to prosecute.

22
23 10/2/07

24 Dated _____

25 _____
26 CLAUDIA WILKEN
27 United States District Judge
28

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 DAVID WALLACE,
5 Plaintiff,

Case Number: CV07-03238 CW

CERTIFICATE OF SERVICE

6 v.

7 KIEWIT PACIFIC CO. et al,
8 Defendant.

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,
10 Northern District of California.

11 That on October 2, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
14 in the Clerk's office.

15 David Wallace
16 890 Midway Ave.
17 San Leandro, CA 94577

18 Laura J. Maechtlen
19 Mark Steven Ross
20 Seyfarth Shaw LLP
21 560 Mission Street, Suite 3100
22 San Francisco, CA 94105

23 David Wallace
24 P.O. Box 240989
25 Honolulu, HI 96824

26 Dated: October 2, 2007

27 Richard W. Wiekling, Clerk
28 By: Sheilah Cahill, Deputy Clerk

United States District Court
For the Northern District of California