

1 KENNETH R. O'BRIEN, Bar No. 072128
 BARBARA A. BLACKBURN, Bar No. 253731
 2 LITTLER MENDELSON
 A Professional Corporation
 3 2520 Venture Oaks Way, Suite 390
 Sacramento, CA 95833.4227
 4 Telephone: 916.830.7200
 Fax: 916.561.0828

5 Attorneys for Defendant
 6 CON-WAY FREIGHT, INC.

7 ERICA H. KELLEY, Bar No. 221702
 LITTLER MENDELSON
 8 A Professional Corporation
 50 West San Fernando Street, 15th Floor
 9 San Jose, CA 95113
 Telephone: 408.998.4150
 10 Fax: 408.288.5686

11 Attorneys for Defendant
 12 CON-WAY FREIGHT, INC.

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN JOSE DIVISION

16 JOSE ALBERTO FONSECA PINA AND
 ROGELIO VIGIL,

17 Plaintiff,

18 v.

19 CON-WAY FREIGHT, INC.,

20 Defendant.

Case No. C10 00100 JF

**STIPULATION AND ~~PROPOSED~~
 ORDER MODIFYING THE SCHEDULING
 ORDER**

21 JORGE R. QUEZADA AND ROBERT
 COLON,

22 Plaintiff,

23 v.

24 CON-WAY FREIGHT INC.,

25 Defendant.

Case No. C 09-03670 JF

Complaint Filed: February 17, 2009

1 **TO THE HONORABLE COURT AND THE CLERK OF THE COURT:**

2 TAKE NOTICE THAT THE undersigned counsel of record for Plaintiffs and
3 Defendant hereby stipulate and request that the Court enter the following Order forthwith:

4 WHEREAS, Defendants and Plaintiff Quezada agreed that Defendant had priority in
5 taking Plaintiff Quezada's deposition before taking Defendant's Person Most Knowledgeable
6 deposition;

7 WHEREAS, Defendant has taken the deposition of Plaintiff Quezada;

8 WHEREAS, after entering into the priority agreement respecting Plaintiff Quezada,
9 counsel for Quezada has assumed the representation of Plaintiff Colon in this action and
10 contemplates associating with counsel for Plaintiffs Vigil and Fonseca;

11 WHEREAS, Defendants assert that the deposition priority agreement applies to all
12 Plaintiffs;

13 WHEREAS, Defendant has requested dates to take the remaining Plaintiffs'
14 depositions, Plaintiff's counsel previously proposed alternative dates for Mr. Colon's deposition, but
15 those dates were unavailable on Defendants' counsel's calendar. As a result of complications arising
16 from a subsequent medical procedure, Mr. Colon is not expected to be fit to give a deposition until
17 January 2011 and;

18 Whereas, Plaintiff Fonseca Pina is scheduled to return from travel outside the United
19 States before the end of the year, Plaintiffs' counsel expects that the depositions of Messrs. Fonseca
20 and Vigil can also be completed in January 2011.

21 WHEREAS, once Defendant completes the depositions of all named Plaintiffs, then
22 Plaintiffs intend to notice depositions necessary before filing their motion for class certification;

23 WHEREAS, the current briefing schedule for Plaintiffs' certification motion does not
24 allow sufficient time for the parties to complete certification-related discovery and prepare their
25 certification motion;

26 WHEREAS, the parties agree that a continuance of sixty days of the current briefing
27 schedule will allow sufficient time for the parties to complete certification-related discovery and
28 allow Plaintiffs to prepare their motion;

1 NOW THEREFORE, the parties hereby request, based on the showing of good cause
2 discussed herein, that the certification briefing schedule be continued sixty days as follows:

- 3 (1) Certification Motion Filing Date: no later than April 15, 2011;
4 (2) Opposition Filing Date: no later than June 15, 2011;
5 (3) Reply Deadline: no later than July 15, 2011;
6 (4) Hearing Date: July 29, 2011 at 9:00 a.m.; and
7 (6) Further Case Management Conference: July 8, 2011 at 10:30 a.m.

8 All counsel agree that there have otherwise been no changes in the status of the case
9 since the Case Management Conference and this is the first request for a continuance of dates
10 requested by the parties.

11 Dated: December 20, 2010

13 /s/ Kenneth R. O'Brien
14 KENNETH R. O' BRIEN
15 ERICA H. KELLEY
16 LITTLER MENDELSON
17 A Professional Corporation
18 Attorneys for Defendant
19 CON-WAY FREIGHT INC.

18 Dated: December 20, 2010

20 /s/ R. Duane Westrup
21 R. DUANE WESTRUP
22 LAWRENCE R. CAGNEY
23 WESTRUP KLINK, LLP
24 Attorneys for Plaintiffs
25 JOREGE R. QUEZADA AND ROBERT
26 COLON

1 Dated: December 20, 2010

2

3

/s/ Jonathan Che Gettleman
JONATHAN CHE GETTLEMAN
Attorney for Plaintiffs
JOSE ALBERTO FONSECA PINA AND
ROGELIO VIGIL

4

5

6

PURSUANT TO STIPULATION, IT IS SO ORDERED THAT THE BRIEFING
7 SCHEDULING ON PLAINTIFFS' MOTION FOR CLASS CERTIFICATION BE MODIFIED AS
8 DESCRIBED ABOVE.


9

10

Dated: 1/5/11, ~~2010~~

11

12


The Honorable Jeremy Fogel
United States District Judge

13

14

Firmwide:99174960.1 012187.1046

15

16

17

18

19

20

21

22

23

24

25

26

27

28