

1 DAVID A. ROSENFELD, Bar No. 058163  
 ANNE I. YEN, Bar No. 187291  
 2 WEINBERG, ROGER & ROSENFELD  
 A Professional Corporation  
 3 1001 Marina Village Parkway, Suite 200  
 Alameda, California 94501  
 4 Telephone (510) 337-1001  
 Fax (510) 337-1023  
 5 E-Mail: drosenfeld@unioncounsel.net  
 ayen@unioncounsel.net

6 Attorneys for Defendant United Food & Commercial Workers  
 7 Union, Local 5

8 FRANK E. MAYO, Bar No. 42972  
 LAW OFFICES OF FRANK E. MAYO  
 9 4962 El Camino Real, Suite 104  
 Los Altos, C 94022  
 10 Telephone (650) 964-8901  
 Fax (650) 964-7293  
 11 E-Mail: fmayolaw@aol.com

12 Attorney for Plaintiff Humberto Arruda

13  
 14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 16 SAN JOSE DIVISION  
 17

18 HUMBERTO ARRUDA,  
 19 Plaintiff,  
 20 v.  
 21 UFCW-5, AND DOES 1 THROUGH 20,  
 22 Defendants.

Case No. 13-CV-01192 (LHK)

**JOINT CASE MANAGEMENT  
 STATEMENT; ~~PROPOSED~~ ORDER**

Date: June 19, 2013  
 Time: 2:00 p.m.  
 Ctrm: 8

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 25 Plaintiff's counsel substituted in effective June 6, 2013. Previously, Plaintiff was in pro  
 26 per. Counsel for the parties request continuance of the case management conference to allow  
 27 time to confer regarding initial disclosures, discovery and other litigation procedures. In the  
 28 event the Court grants continuance of the case management conference, for scheduling purposes

1 please note that counsel will be unavailable June 27 through July 7. At this time, the parties  
2 submit the following pursuant to Northern District Local Rules.

3 **1. JURISDICTION AND SERVICE**

4 Plaintiff filed this action under Title VII of the Civil Rights Act of 1964. Defendant  
5 removed to this Court on March 18, 2013.

6 **2. FACTS**

7 In Plaintiff's complaint, he states that he was an employee of Lucky Stores, Inc. as a meat  
8 cutter. He states that he was discharged from Lucky Stores, Inc. on August 11, 2011. Plaintiff  
9 alleges that he was sexually harassed by the meat manager at Lucky Stores; that he allegedly  
10 reported unfair treatment to his representative; and that Defendant, UFCW – 5, allegedly refused  
11 to investigate and take action to prevent discrimination. Defendant denies Plaintiff's allegations,  
12 except that Defendant agrees Plaintiff was a former employee of Lucky Stores in a bargaining  
13 unit represented by Local 5.

14 **3. LEGAL ISSUES**

15 In Defendant's Answer, Defendant denies the allegations of Plaintiff's Complaint and  
16 alleges fifteen affirmative defenses including, but not limited to, failure to exhaust administrative  
17 remedies, internal union remedies and contractual remedies; preemption by federal labor law; and  
18 statute of limitations.

19 **4. MOTIONS**

20 Plaintiff's attorney recently substituted in and the substitution was approved on June 6,  
21 2013. Previously, Plaintiff was in pro per. Counsel for the parties have not yet had the  
22 opportunity to confer regarding other anticipated motions, but they will do so at the earliest  
23 opportunity.

24 **5. AMENDMENT OF PLEADINGS**

25 See number 4 above.

26 **6. EVIDENCE PRESERVATION**

27 Those persons who may have records for electronically stored information at UFCW  
28 Local 5 which may be relevant to the issues reasonably anticipated in this case have been

1 informed of the need to preserve evidence.

2 **7. DISCLOSURES**

3 Please see number 4 above.

4 **8. DISCOVERY**

5 As Plaintiff's counsel only recently substituted effective June 6, discovery has not yet  
6 commenced. Defendant's counsel will confer with Plaintiff's new counsel regarding whether  
7 Plaintiff's counsel intends to amend the pleading and regarding discovery scheduling.

8 **9. CLASS ACTIONS**

9 Not applicable.

10 **10. RELATED CASES**

11 Please see number 4 above. Plaintiff has also filed an action against the employer, Lucky  
12 Store's Inc., and Defendant's counsel is willing to confer with Plaintiff's new counsel regarding  
13 whether the matters are related.

14 **11. RELIEF**

15 In Plaintiff's complaint, he seeks damages for health care expenses, emotional pain and  
16 suffering, punitive damages, lost wages and benefits, reinstatement and cost of suit.

17 **12. SETTLEMENT AND ADR**

18 An ADR phone conference has been scheduled by the ADR Program on June 17, 2013.

19 **13. CONSENT TO MAGISTRATE JUDGE**

20 Not applicable.

21 **14. OTHER REFERENCES**

22 Not applicable.

23 **15. NARROWING OF ISSUES**

24 Defendant's counsel is willing to confer with Plaintiff's new counsel regarding narrowing  
25 of issues.

26 **16. EXPEDITED TRIAL PROCEDURE**

27 Not applicable at this time.

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**17. SCHEDULING**

Defendant’s counsel is willing to confer with Plaintiff’s counsel regarding litigation scheduling and proposes that the Court continue the case management conference to allow the parties to counsel to do so.

**18. TRIAL**

See Number 17 above.

**19. DISCLOSURE OF NON ENTITY, INTERESTED ENTITIES OR PERSONS**

None to disclose by Defendant.

**20. OTHER**

Defendant has no other requests at this time.

Dated: June 12, 2013

WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

By:           /s/ Anne I. Yen            
          David A. Rosenfeld  
          Anne I. Yen

Attorneys for Defendant United Food &  
Commercial Workers Union, Local 5

Dated: June 12, 2013

LAW OFFICES OF FRANK E. MAYO

By:           /s/ Frank E. Mayo            
          Frank E. Mayo

Attorney for Plaintiff Humberto Arruda

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~~PROPOSED~~ ORDER

The request to continue the case management conference in this matter is approved. The parties shall appear for case management conference on July 24, 2013 and shall file a joint case management statement and proposed order no later than July 17, 2013.

IT IS SO ORDERED.

Date: June 17, 2013

  
United States District Court Judge Lucy H. Koh

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