Deputy



## Freedman, Judge Robert, Superior Court

From:

Dept. 20, Superior Court

Sent:

Thursday, December 01, 2011 10:38 AM

To:

Freedman, Judge Robert, Superior Court

Subject: FW: Godfrey, et al. v. AB Trucking, et al. (RG08379099)

ALAMEDA COUNTY

UEC 0 2 2011

CLERK OF THE SUPERIOR COURT

By

From: Guy Bryant [mailto:GuyBryant@bryantbrownlaw.com]

Sent: Thursday, December 01, 2011 10:31 AM

**To:** Dept. 20, Superior Court **Cc:** Iduncan@unioncounsel.net

Subject: Godfrey, et al. v. AB Trucking, et al. (RG08379099)

Honorable Judge Freedman:

Please be advised that this office has recently substituted into the above-referenced action. I am in recent possession of some of the case files and I have had a brief opportunity to review some of the pleadings listed on the Court's domain website and filed in this case. It is anticipated that I will have secured the entire case file by the end of next week (12/9/11).

Please be further advised that I have a trial scheduled for January 20, 2012 in Dept. 520 of the Alameda County Superior Court (a 7-10 day jury trial) before Honorable Judge David Hunter. This matter is unlikely to settle and the Judge has stated on the record that there will be no further continuances.

I have provided notice to opposing counsel that I will be appearing at the CMC scheduled for tomorrow in Dept. 20 at 11 a.m. I would like to make the Court aware that I anticipate bringing up the following issues for discussion:

- 1. Continuing the trial date for 120-180 days due to items 2, 3 and 4 set forth below.
- 2. Rules of Court, Rule 3.764 Motion to decertify a class action. Given the many recent decisions in 2011 (e.g., *Wal-Mart Stores Inc.* v. *Dukes* or *Cruz* v. *Dollar Tree Stores* just to name a few) that have been decided since the Plaintiffs were certified as a class in the instant case, it would seem appropriate that this issue be revisited in the interest of fairness to the Defendant.
- 3. Allow discovery to be reopened until 30 days before trial or to a period that both sides are able to stipulate to. For example, this office has found very little discovery that has been conducted by various prior legal counsels that inquires into class certification issues or whether Plaintiffs engaged in interstate commerce as truck drivers. I also note that very few motions appear to have been filed on behalf of Defendant in this case. My initial review of the case suggests that additional discovery is required in order to properly streamline the case for trial if settlement is not an option. This office would like to avoid filing a CCP section 2024.050 motion if at all possible.
- 4. I will be the lead attorney from my firm to take this matter through trial if necessary. Due to my 1/20/12 firm trial date, I strongly urge the Court to grant a continuance of the trial into the spring of 2012. This would clearly permit time for a ruling in the *Brinker* case by the California Supreme Court and provide necessary time to resolve any remaining class certification concerns.

Thank you for your attention to this matter.

Best regards,

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