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Freedman, Judge Robert, Superior Court

From: Guy Bryant [GuyBryant@bryantbrownlaw.com]
Sent: Thursday, January 12, 2012 10:06 PM
To: Dept. 20, Superior Court
Cc: Lisl Duncan
Subject: Godfrey, et al. v. AB Trucking, et al. (RG08379099)-Motion to Reconsider Class Certification- 2/9/12 and CMC 1/13/12

Honorable Judge Freedman:

Please be advised that today I filed a Motion to Reconsider Class Certification with regard to the above referenced matter and provided your department with a courtesy copy. As you may recall, I have recently substituted into this litigation (12/11) as defense counsel and have been working diligently to catch up on the important facts of this case. Please be advised that I still have my pending trial scheduled for 1/20/12 moving forward in Dept. 520 of the Alameda County Superior Court.

The purpose of this e-mail is twofold. First, in my haste to meet my filing deadline for the filing of the aforementioned motion, I failed to notice that I improperly cited the appellate case of *Tien v. Tenet Healthcare*, 192 Cal. App. 4th 1055 (2011). Upon double checking my citations I learned that on May 18, 2011, the California Supreme Court granted review of the Second District (Division 8) *Tien* opinion upholding denial of certification of meal break claims as a result of the pending *Brinker* decision. I apologize for this oversight and want to make clear that it was not my intent to mislead the Court.

Second, Plaintiffs' counsel has graciously presented a proposed Trial Management Plan for your review. While this office fundamentally disagrees with much of the law and facts of the case as presented, we are not that far apart with regard to the overall format of the trial proceedings if this matter proceeds in its current class action status. For example, my client confirmed after the last CMC that prior defense counsel had indeed withdrawn any demand for a jury trial. It is anticipated that the parties will be able to reach an accord with regard to the Trial Management Plan as soon as possible.

Best regards,

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