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ALAMEDA COUNTY

APR 08 2013

CLERK OF THE SUPERIOR COURT

By SIANTE DEWBERRY Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

LAVON GODREY, et al

Plaintiffs,

v.

AB TRUCKING, INC. , et al.,

Defendants.

No. RG08379099

ORDER RE: STATEMENT OF
DECISION, PROPOSED
JUDGEMENT, CLAIMS
ADMINISTRATION ISSUES AND
RELATED POST-TRIAL CASE
MANAGEMENT

The court resolves the Statement of Decision as follows:

1. On October 2, 2012 the court issued a Notice of Intended Decision and Order (“NOID”). The NOID provided, in pertinent part, that it would serve as Statement of Decision (“SOD”) absent subsequent proceedings pursuant to Code of Civil Procedure Section 632 and California Rules of Court, Rule 3.1590. The NOID also directed Plaintiffs to submit a supplemental memorandum addressing proposed

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recovery for the class based on the conclusions in the NOID together with proposals for a claims administration process. The court conditionally set a hearing for November 9, 2012.

2. On October 11, 2012, Defendant filed a Request For Written Statement of Decision identifying six enumerated topics and referencing the direction in the NOID for a SOD to be prepared.
3. On November 2, 2013, Plaintiffs filed their Proposed Statement of Decision (“PSOD”). The form and content of the PSOD includes argument and advocacy that exceeds the scope of Section 632 or Rule 3.1590, but in substance is responsive to the Defendant’s request and consistent with the NOID. Defendant’s Objections To Proposed Statement of Decision (“Objections”) was filed on November 12, 2013.
4. In addition to taking exception to the form and content of the PSOD, the Objections included extensive briefing on the purported preemptive effect of federal law. The Objections asserted that the Federal Aviation Administration Authorization Act (FAAAA”) preempted the application of state law to the within meal and rest break claims. Likewise the Objections assert that UCL claims are preempted by the FAAAA. Further, the Objections argued that regulations of the Federal Motor Carrier Safety Administration (“FMCSA”) preempt California law on meal and rest breaks. These preemption defenses had

not been fully articulated by Defendant before post trial briefing and, specifically, the filing of the Objections Plaintiffs, for their part also informally submitted additional authority after the close of post-trial briefing in the form of a copy of an opinion from the United States District Court for the Northern District of California in *Mendez v. R+L Carriers, Inc., etc.* C11-2478 CW (“*Mendez*”). So far as this court has been able to determine, the *Mendez* decision has not been published in F.Supp or been the subject of an appeal to the Ninth Circuit. Thus the decision has informational value, but not precedential effect. The court notes that the reasoning in *Mendez* is applicable to the preemption analysis herein.

5. The court concludes that Plaintiffs claims and entitlement to relief under California law are not preempted by the federal law or regulations and the cases cited¹ by Defendant are not applicable to the class members participation in Defendant’s operations.
6. The balance of the Objections identify and object to seven numbered (i.e. objections 2 through 8). The court overrules Objections 2 through 8.
7. Because of the informal augmentation of briefing and the record herein and for the purpose of resolving the form and content of the

SOD and a judgment consistent therewith, and for addressing the timing and implementation of a claims process, a further hearing should be conducted. Hearing is hereby set for May 10, 2013 at 2:00 p.m. in Department 20.

8. So that the case record is complete for any review purposes, to the extent the parties have not actually filed their supplemental authority they shall do so at least 5 court days before the hearing. Additionally, the parties are directed to provide to the court via email to Dept.20@alameda.courts.ca.gov electronic copies in Microsoft Word readable and modifiable format², the following documents: (a) as to Plaintiffs, the PSOD; (b) as to Defendant, the Objections. The same shall be provided to the court at least 10 court days before the hearing.

9. The parties are also directed to submit a joint status report to the court at least 5 court days before the hearing identifying those matters and issues that should be addressed for further case management. In this regard, the court concludes that Plaintiffs' fee request should be addressed by separate motion. A hearing date should be reserved for this purpose with the Dept. 20 clerk.

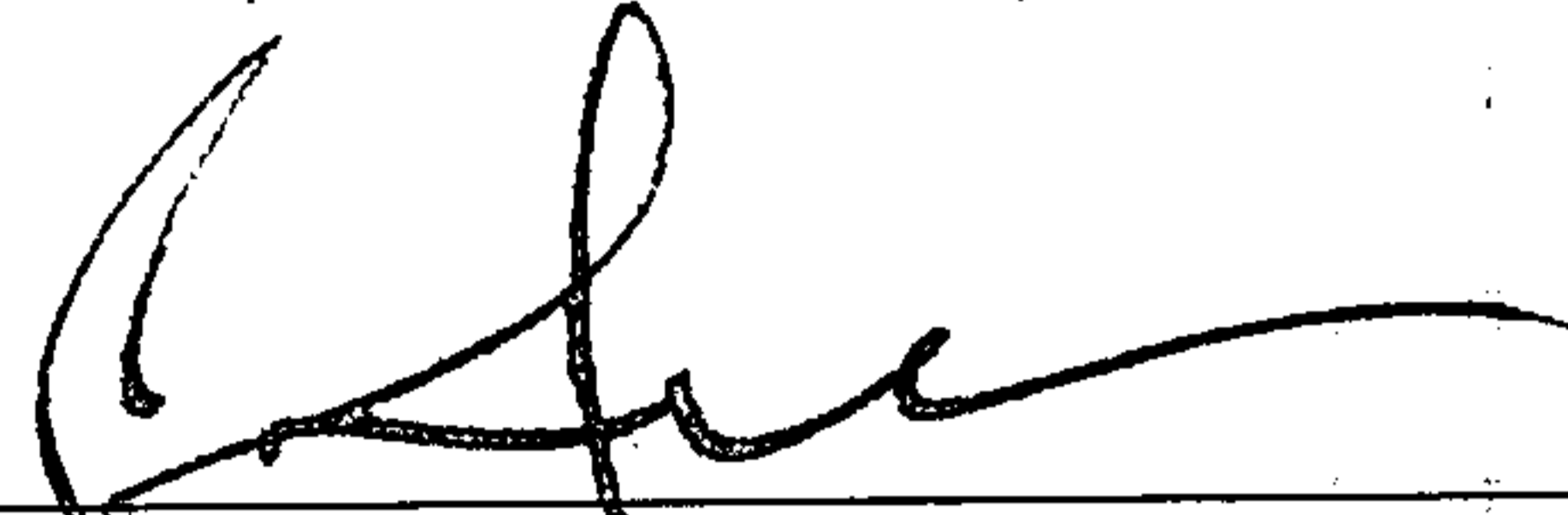
¹ Defendant relies heavily on *Fitz-Gerald v. Skywest Airlines, Inc.* (2007) 155 Cal.App.4th 411.

10. The Clerk of Court is directed to serve endorsed filed copies of this Order on counsel of record with proof of service.

IT IS SO ORDERED.

Date

Aug, 2013



ROBERT B. FREEDMAN
Judge of the Superior Court

² The court notes that the parties may have provided electronic copies previously, but if so, the court has not been able to locate the same.

Superior Court of California, County of Alameda
Department 20, Administration Building

Case Number RG08379099

RE: ORDER RE: STATEMENT OF DECISION, PROPOSED JUDGMENT, CLAIMS ADMINISTRATION
ISSUES AND RELATED POST-TRIAL CASE MANAGEMENT

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct. I am the clerk of the above-named court and not a party to this cause. A copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown at the bottom of this document, and that the mailing of the foregoing and execution of this certificate occurred at 1221 Oak Street, Oakland, California.

Executed on April 8th 2013

Executive Officer/Clerk of the Superior Court

By


Sianté Dewberry, Deputy Clerk

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