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 9 Attorneys for Defendants David Nickum,
 Valley Aggregate Transport, Inc., and
 Administration Committee for the Valley
 10 Aggregate Transport, Inc., Employee Stock Ownership Plan

11 UNITED STATES DISTRICT COURT
 12 FOR THE EASTERN DISTRICT OF CALIFORNIA
 13 SACRAMENTO DIVISION

15 EDWARD CLARKE,

16 Plaintiff,

17 v.

18 MICHAEL LINDEMAN, LORRAINE
 LINDEMAN, DAVID NICKUM, VALLEY
 19 AGGREGATE TRANSPORT, INC., and
 ADMINISTRATION COMMITTEE FOR
 20 THE VALLEY AGGREGATE, INC.,
 EMPLOYEE STOCK OWNERSHIP PLAN,

21 Defendants.

Case No. 2:09-CV-03467-JAM-DAD

**STIPULATION AND ORDER
 CONTINUING HEARING ON MOTION
 FOR DISMISSAL OF PLAINTIFF’S
 COMPLAINT FILED BY DAVID
 NICKUM, VALLEY AGGREGATE
 TRANSPORT, INC., AND
 ADMINISTRATION COMMITTEE FOR
 THE VALLEY AGGREGATE
 TRANSPORT, INC., EMPLOYEE
 STOCK OWNERSHIP PLAN**

**Date: May 19, 2010
 Time: 9:30 a.m.
 Location: Courtroom 6
 Judge: Hon. John A. Mendez**

25 Defendants DAVID NICKUM, VALLEY AGGREGATE TRANSPORT, INC. and
 26 ADMINISTRATION COMMITTEE FOR THE VALLEY AGGREGATE TRANSPORT, INC.,
 27 EMPLOYEE STOCK OWNERSHIP PLAN (“Valley Aggregate Defendants”) and Plaintiff
 28 EDWARD CLARKE (“Plaintiff”) (together the “Parties”) hereby stipulate, by and through their

1 respective counsel, to continue the hearing on the Valley Aggregate Defendants’ Motion for
2 Dismissal of Plaintiff’s Complaint (“Motion to Dismiss”), currently scheduled for May 19, 2010 at
3 9:30 a.m. Pursuant to this Stipulation, the Parties request an Order setting the date for hearing on
4 the Motion to Dismiss as June 16, 2010 at 9:30 a.m.

5 The Parties request this continuance for the following reasons:

6 1. The Plaintiff has propounded two sets of Requests for Production of Documents to
7 All Defendants (the “Requests”). The Valley Aggregate Defendants’ written responses and
8 objections to those Requests are currently due, by agreement, on April 19, 2010.

9 2. Virginia Perkins, the attorney at Trucker Huss in charge of preparing the written
10 responses and objections to Plaintiff’s Requests and in charge of producing documents on behalf of
11 the Valley Aggregate Defendants in response to those Requests, is scheduled for surgery on
12 April 9, 2010 and will be out of the office for that surgery from April 8, 2010 through April 26,
13 2010. The timing of this surgery was unanticipated.

14 3. The Plaintiff and the Valley Aggregate Defendants have agreed to extend the
15 deadline for the Valley Aggregate Defendants to respond to the Plaintiff’s Requests, however, the
16 Plaintiff would like sufficient time after those responses are provided to prepare his Opposition to
17 the Motion to Dismiss.

18 4. In order to give the Plaintiff sufficient time to prepare his Opposition to the Motion
19 to Dismiss after the production of documents pursuant to Plaintiff’s Requests, the Parties request a
20 continuance of the hearing on the Motion to Dismiss to June 16, 2010 at 9:30 a.m.

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5. The Parties have not requested any prior Order extending time in this litigation. This extension will alter the current date for hearing on the Valley Aggregate Defendants' Motion for Dismissal of Plaintiff's Complaint from May 19, 2010 to June 16, 2010.

DATED: April 6, 2010

TRUCKER & HUSS

By: /s/R. Bradford Huss
R. Bradford Huss
Attorneys for Defendants
David Nickum, Valley Aggregate Transport, Inc.
and the Valley Aggregate Transport, Inc.
Employee Stock Ownership Plan

DATED: April 6, 2010

LEWIS, FEINBERG, LEE, RENAKER &
JACKSON, P.C.

By: /s/Daniel Feinberg (as authorized on 4/6/2010)
Daniel Feinberg
Attorneys for Plaintiff and the Proposed Class

IT IS SO ORDERED.

DATED: April 6, 2010

/s/ John A. Mendez
Honorable John A. Mendez
United States District Court Judge