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12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA

15 THE BOARD OF TRUSTEES, in their)
 16 capacities as Trustees of the LABORERS)
 17 HEALTH AND WELFARE TRUST FUND)
 18 FOR NORTHERN CALIFORNIA; LABORERS)
 19 VACATION-HOLIDAY TRUST FUND FOR)
 20 NORTHERN CALIFORNIA; LABORERS)
 21 PENSION TRUST FUND FOR NORTHERN)
 22 CALIFORNIA; and LABORERS TRAINING)
 23 AND RETRAINING TRUST FUND FOR)
 24 NORTHERN CALIFORNIA; NORTHERN)
 25 CALIFORNIA DISTRICT COUNCIL OF)
 26 LABORERS for itself and on behalf of)
 27 LABORERS' LOCAL 139)

22 Plaintiffs,

23 v.

24 CAL-KIRK LANDSCAPING, INC., A)
 25 California Corporation,)

26 Defendant.

) No. C 08-03292 EMC

) **STIPULATED REQUEST TO**
) **CONTINUE CASE MANAGEMENT**
) **CONFERENCE; [PROPOSED]**
) **ORDER**

) Date: January 27, 2010
) Time: 1:30 p.m.
) Judge: Honorable Edward M. Chen
) Courtroom: C, 15th Floor

1 Pursuant to Civil Local Rules 7-12 and 16-2, Plaintiffs and Defendant hereby request that
2 the initial Case Management Conference scheduled for November 18, 2009 be continued for 60
3 days. Plaintiffs and Defendant are in the process of attempting to resolve this matter. Plaintiffs
4 filed the original Complaint and Petition to Confirm in this action on July 9, 2008. On or around
5 November 2008, Defendant agreed to allow Plaintiffs' auditors to audit their records to determine
6 whether any amounts were due and owing as a result of the audit. Plaintiffs thereafter conducted
7 an audit of Defendant's records and found a number of delinquencies owed by Defendant. On or
8 around February 2009, Plaintiffs submitted their audit findings to Defendant to allow Defendant
9 the opportunity to review those results and challenge any delinquencies it believed were in error.
10 After receiving no response from Defendant, Plaintiffs filed their First Amended Complaint for
11 Petition to Confirm Arbitration Award, Breach of Contract, Damages, and Breach of Fiduciary
12 Duty on May 7, 2009. On or around May 15, 2009, Plaintiffs received documentation from
13 Defendant. On or around June 3, 2009, Plaintiffs were notified that Defendant had retained legal
14 counsel on or around May 21, 2009. On June 4, at the request of the parties, the Court granted
15 Defendant an extension of time to answer or otherwise respond to Plaintiffs' First Amended
16 Complaint to July 31, 2009. The parties thereafter stipulated to two additional extensions of time
17 for Defendant to answer or otherwise respond to Plaintiffs' First Amended Complaint to August
18 31, 2009 and September 9, 2009, respectively. Defendant timely answered on September 9, 2009.

19 As a result of the documentation that Defendant submitted to Plaintiffs, Plaintiffs have
20 made adjustments to the audit worksheets. Plaintiffs and Defendant are currently engaged in a
21 review of the revised audit worksheets and are attempting to resolve the matter without further
22 litigation. The parties have requested two prior continuances of the Case Management Conference.
23 A third continuance would promote judicial efficiency because the parties are continuing to partake
24 in settlement discussions and are very close to reaching a settlement. Based on the current state of
25 negotiations, the parties anticipate they will reach a settlement in this matter within the next 90
26 days.


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1 Based on the above, Plaintiffs and Defendant respectfully request that the initial case
2 management conference, currently scheduled for January 27, 2010, be continued for 90 days, in
3 order to allow the parties time to attempt to resolve the matter without further litigation.


4 Dated: January 2, 2010

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

6 By:  /s/
7 KRISTINA M. ZINNEN
8 Attorney for Plaintiffs

9
10 Dated: January 20, 2010

SEYFARTH SHAW LLP

11
12 By:  /s/
13 ARI HERSHER
14 Attorney for Defendant

15 **[PROPOSED] ORDER CONTINUING CASE MANAGEMENT CONFERENCE**

16 Based upon the foregoing Stipulated Request to Continue Case Management Conference,
17 the Court orders the continuance of the case management conference for 90 days, or as soon
18 thereafter as a court date is available. In addition, the Court Orders:
19 The case management conference is reset from 1/27/10 to 4/28/10 at 2:30 p.m. A joint
20 cmc statement shall be filed by 4/21/10.

21 Dated: 1/22/10

