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12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA

15 THE BOARD OF TRUSTEES, in their ) No. C 08-03292 EMC  
 16 capacities as Trustees of the LABORERS )  
 HEALTH AND WELFARE TRUST FUND )  
 17 FOR NORTHERN CALIFORNIA; LABORERS )  
 VACATION-HOLIDAY TRUST FUND FOR )  
 18 NORTHERN CALIFORNIA; LABORERS )  
 PENSION TRUST FUND FOR NORTHERN )  
 19 CALIFORNIA; and LABORERS TRAINING )  
 AND RETRAINING TRUST FUND FOR )  
 20 NORTHERN CALIFORNIA; NORTHERN )  
 CALIFORNIA DISTRICT COUNCIL OF )  
 21 LABORERS for itself and on behalf of )  
 LABORERS' LOCAL 139 )

22 Plaintiffs,

23 v.

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

26 Defendant.  
27

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

Date: October 13, 2010  
 Time: 1:30 p.m.  
 Judge: Honorable Edward M. Chen  
 Courtroom: C, 15<sup>th</sup> 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 October 13, 2010 be continued for 60 days.  
3 Plaintiffs and Defendant are in the process of attempting to resolve this matter. Plaintiffs filed the  
4 original Complaint and Petition to Confirm in this action on July 9, 2008. On or around November  
5 2008, Defendant agreed to allow Plaintiffs' auditors to audit their records to determine whether any  
6 amounts were due and owing as a result of the audit. Plaintiffs thereafter conducted an audit of  
7 Defendant's records and found a number of delinquencies owed by Defendant. On or around  
8 February 2009, Plaintiffs submitted their audit findings to Defendant to allow Defendant the  
9 opportunity to review those results and challenge any delinquencies it believed were in error. After  
10 receiving no response from Defendant, Plaintiffs filed their First Amended Complaint for Petition  
11 to Confirm Arbitration Award, Breach of Contract, Damages, and Breach of Fiduciary Duty on  
12 May 7, 2009. On or around May 15, 2009, Plaintiffs received documentation from Defendant. On  
13 or around June 3, 2009, Plaintiffs were notified that Defendant had retained legal counsel on or  
14 around May 21, 2009. On June 4, at the request of the parties, the Court granted Defendant an  
15 extension of time to answer or otherwise respond to Plaintiffs' First Amended Complaint to July  
16 31, 2009. The parties thereafter stipulated to two additional extensions of time for Defendant to  
17 answer or otherwise respond to Plaintiffs' First Amended Complaint to August 31, 2009 and  
18 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 prior continuances of the Case Management Conference.  
23 The parties are requesting a further continuance at this time because the working attorneys for both  
24 parties have been on extended medical leaves of absence and have only recently returned to work  
25 to resume the settlement discussions in this matter. A further continuance would promote judicial  
26 efficiency because the parties are very close to reaching a settlement and anticipate they will reach  
27 a settlement in the next 60 days.

1 Based on the above, Plaintiffs and Defendant respectfully request that the initial case  
2 management conference scheduled for October 13, 2010 be continued for 60 days, in order to  
3 allow the parties time to attempt to resolve the matter without further litigation.

4 Dated: September 23, 2010

WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

6 By: \_\_\_\_\_ /s/  
7 KRISTINA M. ZINNEN  
8 Attorneys for Plaintiffs

10 Dated: September 23, 2010

SEYFARTH SHAW LLP

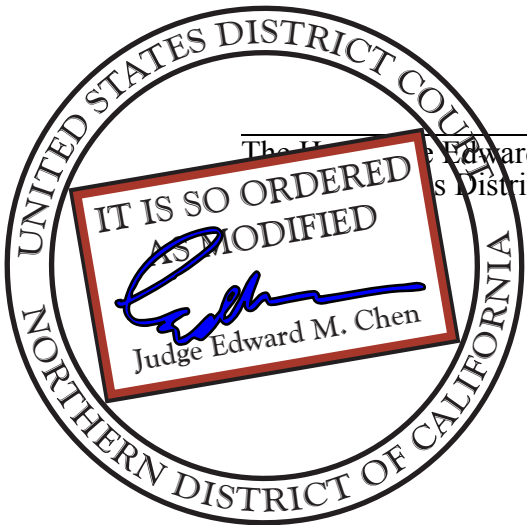
12 By: \_\_\_\_\_ /s/  
13 ARI HERSHER  
14 Attorneys for Defendant

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 60 days, or as soon  
18 thereafter as a court date is available. In addition, the Court Orders:

The CMC is reset from  
10/13/10 at 1:30 p.m.  
to 12/15/10 at 1:30 p.  
m. A joint CMC  
statement is due  
12/8/10.

21 Dated: 9/24/10



22 The Honorable Edward M. Chen  
23 District Court Judge

24 115853/590341