

1 BARRY E. HINKLE, Bar No. 071223  
 CONCEPCIÓN E. LOZANO-BATISTA, Bar No. 227227  
 2 KRISTINA M. ZINNEN, Bar No. 245346  
 WEINBERG, ROGER & ROSENFELD  
 3 A Professional Corporation  
 1001 Marina Village Parkway, Suite 200  
 4 Alameda, California 94501-1091  
 Telephone (510) 337-1001  
 5 Fax (510) 337-1023

6 Attorneys for Plaintiffs

7 G. DANIEL NEWLAND, Bar No. 087965  
 ARI HERSHER, Bar No. 260321  
 8 SEYFARTH SHAW LLP  
 560 Mission Street, Suite 3100  
 9 San Francisco, California 94105  
 Telephone (415) 397-2823  
 10 Fax (415) 397-8549

11 Attorneys for Defendant

12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA  
 14

15	THE BOARD OF TRUSTEES, in their	) No. C 08-03292 EMC
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	) <b>STIPULATED REQUEST TO</b>
23	AND RETRAINING TRUST FUND FOR	) <b>CONTINUE CASE MANAGEMENT</b>
24	NORTHERN CALIFORNIA; NORTHERN	) <b>CONFERENCE; [PROPOSED]</b>
25	CALIFORNIA DISTRICT COUNCIL OF	) <b>ORDER</b>
26	LABORERS for itself and on behalf of	)
27	LABORERS' LOCAL 139	)
28		)
	Plaintiffs,	)
		)
	v.	) Date: December 15, 2010
		) Time: 1:30 p.m.
	CAL-KIRK LANDSCAPING, INC., A	) Judge: Honorable Edward M. Chen
	California Corporation,	) Courtroom: C, 15 <sup>th</sup> Floor
		)
	Defendant.	)
		)

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 are requesting a further continuance at this time because the working  
23 attorneys for both parties have recently returned from extended medical leaves and the parties are  
24 continuing to partake in meaningful settlement discussions. A further continuance would promote  
25 judicial efficiency because the parties are very close to reaching a settlement and anticipate they  
26 will reach a settlement in the next 60 days.

27 ///

1 Based on the above, Plaintiffs and Defendant respectfully request that the initial case  
2 management conference, currently scheduled for December 15, 2010, be continued for 60 days, in  
3 order to allow the parties time to attempt to resolve the matter without further litigation.

4 Dated: December 6, 2010

WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

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

10 Dated: December 6, 2010

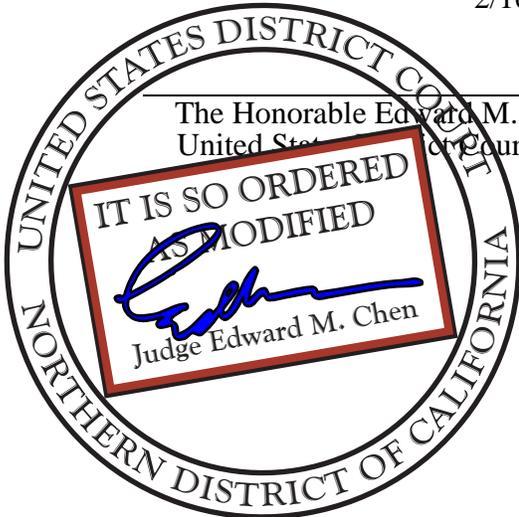
SEYFARTH SHAW LLP

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 60 days, or as soon  
18 thereafter as a court date is available. In addition, the Court Orders: The CMC is reset for 2/23/11  
19 at 1:30 p.m. A Joint CMC  
20 statement shall be filed by  
21 2/16/11.

21 Dated: 12/14/10



22 The Honorable Edward M. Chen  
23 United States District Court Judge