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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 ) **STIPULATED REQUEST TO**  
 AND RETRAINING TRUST FUND FOR ) **CONTINUE CASE MANAGEMENT**  
 20 NORTHERN CALIFORNIA; NORTHERN ) **CONFERENCE; [PROPOSED]**  
 CALIFORNIA DISTRICT COUNCIL OF ) **ORDER**  
 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.

) Date: February 23, 2011  
 ) 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 February 23, 2011 be continued for 90  
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. The parties then engaged in informal discovery,  
21 including the exchange of payroll records and related documents. Defendant then provided  
22 Plaintiffs with an analysis of Plaintiffs' audit. Plaintiffs and Defendant are currently engaged in a  
23 review of the revised audit worksheets and Defendant's audit analysis, and are attempting to  
24 resolve the matter without further litigation. The parties are requesting a further continuance at this  
25 time because a continuance would promote judicial efficiency and allow the parties to allocate their  
26 time and resources towards settlement. The parties believe that they are close to reaching a  
27 settlement and anticipate they will reach an agreement within the next 90 days.

1 Based on the above, Plaintiffs and Defendant respectfully request that the initial case  
2 management conference, currently scheduled for February 23, 2011, be continued for 90 days, in  
3 order to allow the parties time to attempt to resolve the matter without further litigation.

4 Dated: February 15, 2011

WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

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

10 Dated: February 15, 2011

SEYFARTH SHAW LLP

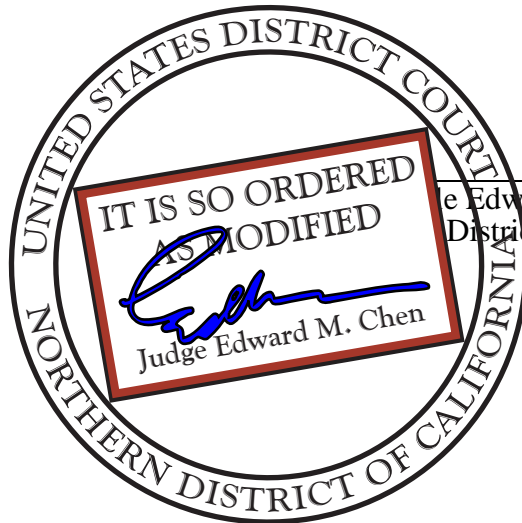
12 By: \_\_\_\_\_ /s/  
13 ARI HERSHER  
14 Attorney for Defendant

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

CMC is reset to 6/1/11 at  
1:30 p.m. A joint cmc  
statement shall be filed  
by 5/25/11.

21 Dated: 2/22/11



\_\_\_\_\_  
e Edward M. Chen  
District Court Judge