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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: June 1, 2011
) 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 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' Trust Fund audit, as well as an analysis of the wage issues
23 brought by the Unions. Plaintiffs and Defendant are currently engaged in a review of the revised
24 audit worksheets and Defendant's analyses, and are attempting to resolve the matter without
25 further litigation.

26 The parties have exchanged settlement figures on multiple occasions and believe that there
27 is a bridgeable gap between their respective settlement positions. The parties are now requesting a
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1 further continuance of the Case Management Conference because a continuance would promote
2 judicial efficiency and allow the parties to allocate their time and resources towards settlement.
3 The parties believe that they are close to reaching a settlement and anticipate they will reach an
4 agreement within the next 120 days.

5 Based on the above, Plaintiffs and Defendant respectfully request that the initial case
6 management conference, currently scheduled for June 1, 2011, be continued for 120 days, in order
7 to allow the parties time to attempt to resolve the matter without further litigation.

8 Dated: May 24, 2011

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

9 By: _____ /s/_____
10 KRISTINA M. ZINNEN
11 Attorney for Plaintiffs
12

13
14 Dated: May 24, 2011

SEYFARTH SHAW LLP

15 By: _____ /s/_____
16 ARI HERSHER
17 Attorney for Defendant
18

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

20 Based upon the foregoing Stipulated Request to Continue Case Management Conference,
21 the Court orders the continuance of the case management conference for ~~120~~ 20 days, or as soon
22 thereafter as a court date is available. In addition, the Court Orders:

23 The Case Management Conference is reset from 6/1/11 to 8/5/11 at 9:00 a.m. in Courtroom 5,
24 17th Floor. No further continuance will be granted.

25 Dated: 6/1/11

26 The Honorable Edward M. Chen
27 United States District Court Judge
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