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6 Attorneys for Plaintiffs

7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10	THE BOARD OF TRUSTEES, in their capacities as Trustees of the LABORERS HEALTH AND WELFARE TRUST FUND FOR NORTHERN CALIFORNIA; LABORERS VACATION-HOLIDAY TRUST FUND FOR NORTHERN CALIFORNIA; LABORERS PENSION TRUST FUND FOR NORTHERN CALIFORNIA; and LABORERS TRAINING AND RETRAINING TRUST FUND FOR NORTHERN CALIFORNIA; NORTHERN CALIFORNIA DISTRICT COUNCIL OF LABORERS for itself and on behalf of LABORERS' LOCAL 139) No. CV 08-3292 EMC
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PLAINTIFFS' REQUEST FOR ENTRY OF DEFAULT ; ORDER

Plaintiffs,

v.

CAL-KIRK LANDSCAPING, INC., A California Corporation,

Defendant.

Plaintiffs, the Board of Trustees, in their capacities as Trustees of the Laborers Health and Welfare Trust Fund for Northern California; Laborers Vacation-Holiday Trust Fund for Northern California; Laborers Pension Trust Fund for Northern California; and Laborers Training and Retraining Trust Fund for Northern California; and the Northern California District Council of Laborers, for itself and on behalf of Laborers Local 139 ("Plaintiffs") hereby request that the Court enter default of Defendant Cal-Kirk Landscaping, Inc. ("Defendant"). The basis for this request is set forth in the accompanying declaration of Kristina M. Zinnen, filed herewith.

1 Plaintiffs filed their Petition to Confirm Arbitration Award and Complaint for Audit,
2 Breach of Contract, Damages and Injunction on July 9, 2008. Plaintiffs served Defendant Cal-
3 Kirk Landscaping, Inc. ("Defendant") with the Complaint by personal service on August 7, 2008,
4 for which Plaintiffs filed Proof of Service with this Court on August 25, 2008.

5 Plaintiffs thereafter filed and served their First Amended Complaint for Petition to
6 Confirm Arbitration Award, Breach of Contract, Damages, and Breach of Fiduciary Duty on
7 May 7, 2009. On June 4, 2009, at the request of the parties, the Court granted Defendant an
8 extension of time to answer or otherwise respond to Plaintiffs' First Amended Complaint to
9 July 31, 2009. The parties thereafter stipulated to two additional extensions of time for Defendant
10 to answer or otherwise respond to Plaintiffs' First Amended Complaint to August 31, 2009 and
11 September 9, 2009, respectively. Defendant timely answered on September 9, 2009.

12 On December 15, 2011, the Court granted Seyfarth Shaw LLP's motion to withdraw at
13 Defendant's counsel effective December 2, 2011. (Document 71.) The Court further ordered
14 Defendant to find substitute counsel to represent it and make an appearance in this case within
15 sixty (60) days of the December 15, 2011 Order, or the Court would enter Defendant's default.

16 To date, Defendant has failed to have substitute counsel make an appearance in this case.
17 Because the sixty day deadline has expired, Plaintiffs respectfully request that the Court enter
18 Defendant's default.

19 Dated: February 14, 2012

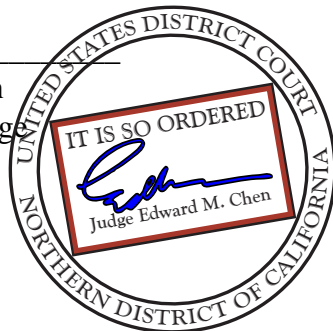
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21 IT IS SO ORDERED that default is
22 entered against Defendant Cal-
23 Kirk. The 3/16/12 CMC is reset
24 for 5/25/12 at 9:00 a.m.

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: /s/Kristina M. Zinnen
KRISTINA M. ZINNEN
Attorneys for Plaintiffs

25 Edward M. Chen
26 U.S. District Judge

27 115853/655984



1 **PROOF OF SERVICE**

2 I am a citizen of the United States, and a resident of the State of California. I am over the
3 age of eighteen years, and not a party to the within action. My business address is 1001 Marina
4 Village Parkway, Suite 200, Alameda, California 94501-1091. On February 15, 2011, I served
5 upon the following parties in this action:

6 Cal Kirk Landscaping, Inc., A
7 California Corporation
8 2905 Saint Louis Road
9 Arcata, CA 95521

10 copies of the document(s) described as:

11 **PLAINTIFFS' REQUEST FOR ENTRY OF DEFAULT**

12 **BY MAIL** I placed a true copy of each document listed herein in a sealed envelope,
13 addressed as indicated herein, and caused each such envelope, with postage thereon fully
14 prepaid, to be placed in the United States mail at Alameda, California. I am readily
15 familiar with the practice of Weinberg, Roger & Rosenfeld for collection and processing
16 of correspondence for mailing, said practice being that in the ordinary course of business,
17 mail is deposited in the United States Postal Service the same day as it is placed for
18 collection.

19 **BY PERSONAL SERVICE** I placed a true copy of each document listed herein in a
20 sealed envelope, addressed as indicated herein, and caused the same to be delivered by
21 hand to the offices of each addressee.

22 **BY OVERNIGHT DELIVERY SERVICE** I placed a true copy of each document listed
23 herein in a sealed envelope, addressed as indicated herein, and placed the same for
24 collection by Overnight Delivery Service by following the ordinary business practices of
25 Weinberg, Roger & Rosenfeld, Alameda, California. I am readily familiar with the
26 practice of Weinberg, Roger & Rosenfeld for collection and processing of Overnight
27 Delivery Service correspondence, said practice being that in the ordinary course of
28 business, Overnight Delivery Service correspondence is deposited at the Overnight
Delivery Service offices for next day delivery the same day as Overnight Delivery Service
correspondence is placed for collection.

BY FACSIMILE I caused to be transmitted each document listed herein via the fax
number(s) listed above or on the attached service list.

I certify that the above is true and correct. Executed at Alameda, California, on
February 15, 2011.

/s/J. L. Aranda
J. L. ARANDA