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6 Attorneys for Plaintiffs

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 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

10 BOARD OF TRUSTEES OF THE CEMENT  
 MASONS HEALTH AND WELFARE TRUST  
 11 FUND FOR NORTHERN CALIFORNIA;  
 BOARD OF TRUSTEES OF THE CEMENT  
 12 MASONS VACATION-HOLIDAY TRUST  
 FUND FOR NORTHERN CALIFORNIA;  
 13 BOARD OF TRUSTEES OF THE CEMENT  
 MASONS PENSION TRUST FUND FOR  
 14 NORTHERN CALIFORNIA; and BOARD OF  
 TRUSTEES OF THE CEMENT MASONS  
 15 TRAINING TRUST FUND FOR NORTHERN  
 CALIFORNIA,

16 Plaintiffs,

17 v.

18 K.M. JACKSON ENGINEERING, INC., a  
 19 California corporation and KURT THOMAS  
 MCFADDEN, an individual,

20 Defendants.  
21

Case No.: C 08-03555 CRB

**STIPULATION TO CONTINUE CASE SCHEDULE; ORDER THEREON**

Date: October 31, 2008  
 Time: 8:30 a.m.  
 Ctroom: 8, 19<sup>th</sup> Floor

22 BOARD OF TRUSTEES OF THE  
 LABORERS HEALTH AND WELFARE  
 23 TRUST FUND FOR NORTHERN  
 CALIFORNIA; BOARD OF TRUSTEES OF  
 24 THE LABORERS VACATION-HOLIDAY  
 TRUST FUND FOR NORTHERN  
 25 CALIFORNIA; BOARD OF TRUSTEES OF  
 THE LABORERS PENSION TRUST FUND  
 26 FOR NORTHERN CALIFORNIA; and  
 BOARD OF TRUSTEES OF THE  
 27 LABORERS TRAINING AND RETRAINING  
 TRUST FUND FOR NORTHERN  
 28 CALIFORNIA,

Case No.: C 08-03556 CRB

1 Plaintiffs,  
2 v.  
3 K.M. JACKSON ENGINEERING, INC., a  
4 California corporation and KURT THOMAS  
MCFADDEN, an individual,  
5 Defendants.

6  
7 **STIPULATION**

8 IT IS HEREBY STIPULATED by and between Plaintiffs Board of Trustees of the  
9 Cement Masons Health and Welfare Trust Fund for Northern California, Board of Trustees of  
10 the Cement Masons Vacation-Holiday Trust Fund for Northern California, Board of Trustees of  
11 the Cement Masons Pension Trust Fund for Northern California and Board of Trustees of the  
12 Cement Masons Training Trust Fund for Northern California ("Cement Masons Trust Funds"),  
13 Case No. C 08 03555 CRB; and Plaintiffs Board of Trustees of the Laborers Health and Welfare  
14 Trust Fund for Northern California, Board of Trustees of the Laborers Vacation-Holiday Trust  
15 Fund for Northern California, Board of Trustees of the Laborers Pension Trust Fund for  
16 Northern California and Board of Trustees of the Laborers Training and Retraining Trust Fund  
17 for Northern California ("Laborers Trust Funds"), Case No. C 08 03556 CRB, on the one hand,  
18 and Defendant Kurt Thomas McFadden, on the other hand, through their respective counsel, as  
19 to the following.

20 On July 24, 2008 Plaintiffs Cement Masons Trust Funds and Plaintiffs Laborers Trust  
21 Funds filed their respective Complaints for Damages for Breach of Collective Bargaining  
22 Agreement, To Recover Unpaid Trust Fund Contributions and For Breach of Fiduciary Duty  
23 against Defendants K.M. Jackson Engineering, Inc. and Kurt Thomas McFadden to recover  
24 alleged unpaid trust fund contributions. Defendant Kurt Thomas McFadden was served on or  
25 about July 29, 2008. Defendant K.M Jackson, Inc. was served on or about September 4, 2008.

26 On September 12, 2008 the two cases were consolidated and assigned to the Hon.  
27 Charles R. Breyer.

28

1 Plaintiffs Cement Masons Trust Funds and Laborers Trust Funds are informed and  
2 believe that Defendant K.M. Jackson Engineering, Inc., a general contractor, is no longer in  
3 business and its license has expired.

4 Counsel for Plaintiffs and counsel for Defendant Kurt Thomas McFadden are attempting  
5 to settle the disputes in both cases in an effort to avoid further litigation costs and fees.

6 IT IS FURTHER STIPULATED that to allow Plaintiffs and Defendant additional time  
7 to try to settle this action:

- 8 • Defendant Kurt Thomas McFadden shall have up to and including November 14,  
9 2008 to file a responsive pleading;
- 10 • The parties shall meet and confer re initial disclosures, early settlement, ADR  
11 process selection, and discovery plan; file ADR Certification signed by Parties  
12 and Counsel; and file either Stipulation to ADR Process or Notice of Need for  
13 ADR Phone Conference by November 24, 2008;
- 14 • The parties shall file their Rule 26(f) Report, complete initial disclosures or state  
15 objection to Rule 26(f) Report and file Case Management Statement per attached  
16 Standing Order re Contents of Joint Case Management Statement by December  
17 8, 2008; and

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- The Initial Case Management Conference shall be held on or about December 19, 2008 [subject to this Court's calendar availability].

DATED: October 23, 2008

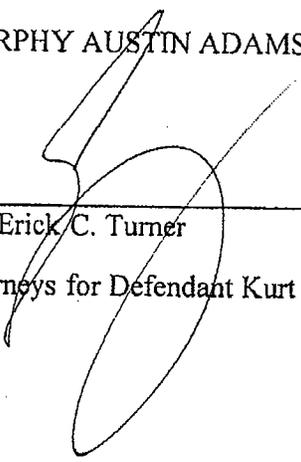
BULLIVANT HOUSER BAILEY PC

By   
\_\_\_\_\_  
Ronald L. Richman  
Susan J. Olson

Attorneys for Plaintiffs

DATED: October 23, 2008

MURPHY AUSTIN ADAMS SCHOENFFLD  
LLP

By   
\_\_\_\_\_  
Erick C. Turner

Attorneys for Defendant Kurt Thomas McFadden

1 CASE MANAGEMENT ORDER

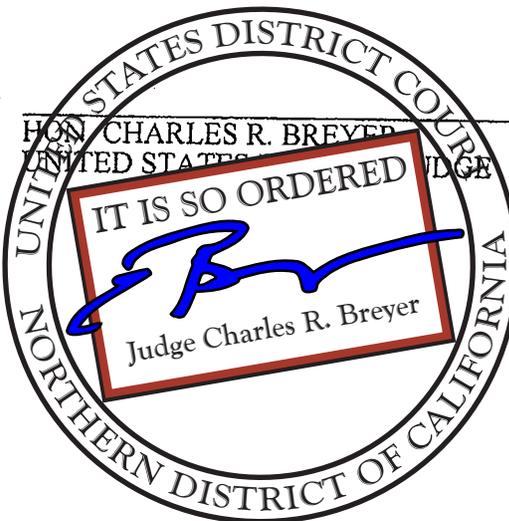
2 The Court having read the Stipulation To Continue Case Schedule for 30 day and good  
3 cause appearing therefore:

4 IT IS HEREBY ORDERED that:

- 5 • Defendant Kurt Thomas McFadden shall have up to and including November 14,  
6 2008 to file a responsive pleading;
- 7 • The parties shall meet and confer re initial disclosures, early settlement, ADR  
8 process selection, and discovery plan; file ADR Certification signed by Parties  
9 and Counsel; and file either Stipulation to ADR Process or Notice of Need for  
10 ADR Phone Conference by November 24, 2008;
- 11 • The parties shall file their Rule 26(f) Report, complete initial disclosures or state  
12 objection to Rule 26(f) Report and file Case Management Statement per attached  
13 Standing Order re Contents of Joint Case Management Statement by December  
14 8, 2008; and
- 15 • The Initial Case Management Conference shall be held on December 12, 2008  
16 at 8:30 a.m., Courtroom 8, 19<sup>th</sup> Floor.

17 DATED: Oct. 24, 2008

18 By \_\_\_\_\_



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