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7 Attorneys for Defendants  
 8 CLARK'S WELDING AND MACHINE,  
 9 SYLVESTER HABERMAN, and FRANZ  
 EDELMAYER, erroneously sued herein as Franz  
 Edel Mayer

10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA

DOWNEY BRAND LLP

13 OPERATING ENGINEERS' PENSION  
 14 TRUST FUND; GIL GROSTHWAITE  
 15 AND RUSS BURNS, as Trustees,

16 Plaintiffs,

17 v.

18 CLARK'S WELDING AND MACHINE, a  
 19 California partnership, aka CLARK'S  
 20 WELDING, aka CLARK'S WELDING  
 AND MACHINING; SYLVESTER  
 HABERMAN, individually, and FRANZ  
 EDEL MAYER, individually,

21 Defendants.

Case No. 3:09-cv-00044-SC

~~PROPOSED~~ ORDER EXCUSING  
 DEFENDANT SYLVESTER HABERMAN  
 FROM PERSONAL APPEARANCE AT  
 JULY 14, 2009 MEDIATION

Mediation Date: July 14, 2009  
 Mediation Time: 10:00 a.m.  
 Courtroom: 4  
 Judge: Wayne D. Brazil

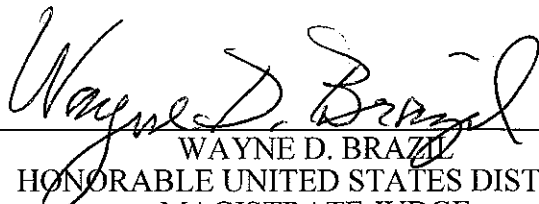
Complaint Filed January 7, 2009

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 23 Defendants CLARK'S WELDING AND MACHINE, SYLVESTER HABERMAN, and  
 24 FRANZ EDELMAYER (collectively "Defendants"), erroneously sued herein as Franz Edel  
 25 Mayer, requested that the Court excuse Defendant Haberman from personal attendance at the  
 26 parties' July 14, 2009 mediation. Plaintiffs OPERATING ENGINEERS' PENSION TRUST  
 27 FUND, GIL GROSTHWAITE, and RUSS BURNS (collectively "Plaintiffs") do not oppose  
 28 Defendants request. Having read and considered all papers supporting and opposing the request,

1 the Court **HEREBY GRANTS** Defendants request and excuses Defendant Haberman from  
2 personal attendance at the July 14, 2009 mediation with the understanding that Mr. Haberman has  
3 given the Defendants in attendance full authority to represent his interests.

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5 **IT IS SO ORDERED.**

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7 DATED: 6-30, 2009

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11 WAYNE D. BRAZIL  
12 HONORABLE UNITED STATES DISTRICT  
13 MAGISTRATE JUDGE

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DOWNEY BRAND LLP