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 BAY AREA PAINTERS AND TAPERS
 8 PENSION TRUST FUNDS, et al.

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 10 UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 BAY AREA PAINTERS AND TAPERS
 12 PENSION TRUST FUND, et al.,
 13 Plaintiffs,
 14 v.
 15 NUNN BETTER PAINTING, INC., a
 16 California Corporation,
 17 Defendant.

Case No.: C09-0245 BZ

**REQUEST TO EXTEND TIME FOR
 SERVICE PURSUANT TO F.R.C.P. 4(m);
 DECLARATION OF M. KAPLAN IN
 SUPPORT THEREOF**

19 Plaintiffs respectfully request that the Court, under Federal Rules of Civil Procedure Rule
 20 4(m), issue an additional Order extending the time for service of the Complaint and Summons on
 21 Defendant NUNN BETTER PAINTING, INC. for approximately sixty (60) days, as follows:

22 1. A Complaint was filed in this action on January 21, 2009, to compel an audit of
 23 Defendant’s records by the Plaintiffs, since Defendant was unresponsive to Plaintiffs’ prior
 24 requests.

25 2. Prior to service of the Complaint and Summons, however, Defendant scheduled an
 26 audit for February 12 and 13, 2009, for the period of January 1, 2005 through the date of review.
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1 3. This Court therefore granted an extension for service by September 21, 2009 to
2 allow time to complete the audit of Defendant's payroll records, internal reviews, billing,
3 employer review, any discussion, and payment.

4 4. The Trust Funds' auditor has reviewed the four (4) years of records submitted by
5 Defendant, and has advised me that significant amounts have been found due in under-paid
6 contributions, but that there are also overpayments. The auditors are persuing further information
7 which may result in a significant change to their findings.

8 5. Once the report is finalized, it will be sent to Defendant for two (2) weeks for
9 review and comments, and for Defendant to address any objections. If no objections are raised,
10 the auditor will forward the report to the Plaintiff's administrator for billing. Defendant will then
11 be allowed (10) days to submit payment for amounts found due on the audit.

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