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7 Attorneys for Defendant ZOLMAN CONSTRUCTION  
 AND DEVELOPMENT, INC.  
 8

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11

12 THE BOARD OF TRUSTEES, in their capacities as )  
 Trustees of the LABORERS HEALTH AND )  
 13 WELFARE TRUST FUND FOR NORTHERN )  
 CALIFORNIA; LABORERS VACATION- )  
 14 HOLIDAY TRUST FUND FOR NORTHERN )  
 CALIFORNIA; LABORERS PENSION TRUST )  
 15 FUND FOR NORTHERN CALIFORNIA; and )  
 LABORERS TRAINING AND RETRAINING )  
 16 TRUST FUND FOR NORTHERN CALIFORNIA, )

Case No. CV-09-0703 SI

) **STIPULATION AND ORDER TO**  
 ) **VACATE DEFAULT AGAINST**  
 ) **DEFENDANT ZOLMAN**  
 ) **CONSTRUCTION AND**  
 ) **DEVELOPMENT, INC.**

) Complaint Filed: February 18, 2009

17 Plaintiffs, )  
 18 )

19 v. )

20 ZOLMAN CONSTRUCTION AND )  
 DEVELOPMENT, INC., a California Corporation )  
 21 )

22 Defendants. )  
 23 )

24 IT IS HEREBY STIPULATED by and between the parties hereto, through their respective  
 25 attorneys of record, that the default entered April 24, 2009, in the above-captioned case be vacated  
 26 and that Defendant Zolman Construction and Development, Inc. be granted 60 days from the date  
 27 of filing this action, or until May 11, 2009 to file a responsive pleading.

28 The parties stipulate that the following factors warrant this relief:


1 Plaintiff filed this action February 18, 2009;  
 2 Plaintiff served the Complaint on or about March 11, 2009;  
 3 Defendant failed to file a responsive pleading within the time permitted by law;  
 4 The Court entered default in the matter on April 24, 2009;  
 5 Plaintiff consulted with and retained counsel for this action on or about April 27, 2009; and  
 6 Counsel for the Parties discussed the issues on April 28, 2009, and Plaintiff's counsel  
 7 agreed to vacating the default and permitting Defendant an extension of time in which to respond  
 8 to the Complaint.

9 THEREFORE, THE PARTIES IN THE ABOVE-ENTITLED ACTION HEREBY  
 10 STIPULATE AND AGREE:

- 11 1. That the Default entered April 24, 2009 be vacated; and
- 12 2. That Defendant be granted until May 11, 2009 in which to file a responsive  
 13 pleading to the Complaint.

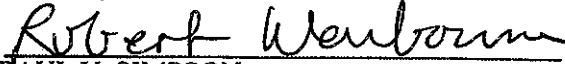
14 Date: May 4, 2009

WEINBERG, ROGER & ROSENFELD

15  
 16 By:   
 17 Concepción E. Lozano-Batista  
 Attorneys for Plaintiffs

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 19 Date: May 4, 2009

20 Respectfully submitted,  
 21 SIMPSON, GARRITY, INNES & JACUZZI  
 Professional Corporation

22 By:   
 23 PAUL V. SIMPSON  
 ROBERT J. WENBOURNE  
 Attorneys for Defendant  
 24 ZOLMAN CONSTRUCTION AND  
 DEVELOPMENT, INC.

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**ORDER**

Based on the stipulation of counsel, and good cause having been shown, the Court here by makes the following orders in this action:

- 1. That the Default entered April 24, 2009 be and hereby is VACATED; and
- 2. That Defendant be and hereby is GRANTED until May 11, 2009 in which to file a responsive pleading to the Complaint.

IT IS SO ORDERED.

Date: \_\_\_\_\_, 2009



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HON.  
JUDGE, UNITED STATES DISTRICT COURT  
NORTHER DISTRICT OF CALIFORNIA