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8 UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 GIL CROSTHWAITE, et al., as Trustees of the
OPERATING ENGINEERS' HEALTH AND
11 WELFARE TRUST FUND FOR NORTHERN
CALIFORNIA, et al.,

12 Plaintiffs,

13 v.

14 D P CRUSHING, INC.; DAVID ARTHUR
15 PILE,

16 Defendants.

Case No.: C09-0780 SI

**NOTICE OF VOLUNTARY DISMISSAL
and
REQUEST TO VACATE CASE
MANAGEMENT CONFERENCE**

18 PLEASE TAKE NOTICE that pursuant to F.R.C.P., Rule 41(a)(1), plaintiffs GIL
19 CROSTHWAITE, et al., in their respective capacities as Trustees of the OPERATING
20 ENGINEERS HEALTH AND WELFARE TRUST FUND FOR NORTHERN CALIFORNIA, et
21 al., voluntarily dismiss, without prejudice, their claim against defendants D P CRUSHING, INC.
22 and DAVID ARTHUR PILE. Defendants have neither served an answer nor moved for summary
23 judgment, and plaintiffs have not previously filed or dismissed any similar action against
24 Defendants.

25 It is therefore requested that this action be dismissed without prejudice, and that the Court
26 shall retain jurisdiction over this matter.

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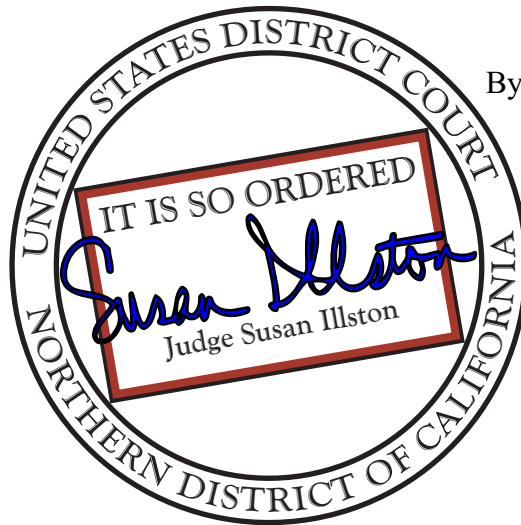
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1 Accordingly, plaintiffs respectfully request that the Case Management Conference,
2 currently scheduled for May 29, 2009, at 2:30 p.m., and all related dates here in VACATED.

3 I declare under penalty of perjury that I am the attorney for the plaintiffs in the above
4 entitled action, and that the foregoing is true of my own knowledge.

5 Executed this 11th day of May, 2009, at San Francisco, California.

6
7 SALTZMAN & JOHNSON
LAW CORPORATION



By: _____/S/_____
Michele R. Stafford
Attorneys for Plaintiffs

PROOF OF SERVICE

I, the undersigned, declare:

I am a citizen of the United States and am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to this action. My business address is 44 Montgomery Street, Suite 2110, San Francisco, California 94104.

On May 11, 2009, I served the following document:

**NOTICE OF VOLUNTARY DISMISSAL
and
REQUEST TO VACATE CASE MANAGEMENT CONFERENCE**

on the interested parties in said action by First Class U.S. Mail, by placing a true and exact copy of each document in a sealed envelope with postage thereon fully prepaid, in a United States Post Office box in San Francisco, California, addressed as follows:

**Mark D. Magarian, Esq.
Magarian Law LLP
Anaheim Hills Corporate Park
1265 N. Manassero Street, Suite 304
Anaheim, California 93807**

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 11th day of May, 2009, at San Francisco, California.

_____/S/
Vanessa de Fábrega