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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,

Case No.: C 09-01732 JSW

**STIPULATION TO STAY ACTION FOR  
 60 DAYS; ORDER THEREON**

16 Plaintiffs,

17 v.

18 ALL WEST CONSTRUCTION, INC., a  
 19 California corporation,

20 Defendant.

21 **STIPULATION**

22 IT IS HEREBY STIPULATED by and between Plaintiffs Boards of Trustees of the  
 23 Cement Masons Health and Welfare Trust Fund for Northern California, Board of Trustees of  
 24 the Cement Masons Vacation-Holiday Trust Fund for Northern California, Board of Trustees of  
 25 the Cement Masons Pension Trust Fund for Northern California, and Board of Trustees of the  
 26 Cement Masons Training Trust Fund for Northern California (“Cement Masons Trust Funds”),  
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1 on the one hand, and Defendant All West Construction, Inc. (“All West Construction”), on the  
2 other hand, through their respective counsel, as to the following.

3 1. On April 21, 2009 Plaintiffs Cement Masons Trust Funds filed their Complaint  
4 for Damages for Breach of Collective Bargaining Agreement and For a Mandatory Injunction  
5 (“Complaint”). Plaintiffs seek to conduct an audit of Defendant All West Construction’s books  
6 and records for the period June 20, 2005 through the present in connection with a certain Job  
7 otherwise known as the Waste Water Reclamation Facility Admin Project to determine if All  
8 West Construction properly reported and paid its trust fund contributions on behalf of its  
9 covered workers. Defendant All West Construction was served with the Complaint on May 1,  
10 2009.

11 2. Defendant All West Construction has agreed to allow an audit, as further  
12 provided for herein, without waiving any of its legal rights and remedies. Defendant All West  
13 Construction agrees to allow auditors selected by the Plaintiffs to appear at Defendant’s  
14 business location and audit the relevant books and records of Defendant. There was a delay in  
15 conducting the audit, due to no fault of Defendant All West. The inspection and audit shall be  
16 conducted and completed by October 16, 2009. Plaintiffs’ auditor shall contact Defendant All  
17 West Construction to arrange for a mutually convenient time for the audit. The parties agree  
18 that if there is any issue or problem regarding the audit process, the parties will meet and confer  
19 and if they are still unable to resolve any dispute regarding the audit process, the parties will  
20 jointly notify this Court and request a conference with this Court.

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3. Once the audit is completed, Plaintiffs Cement Masons Trust Funds will share the preliminary audit results with Defendant and give Defendant an opportunity to review and discuss the audit results with Plaintiffs Trust Funds. The parties further agree to a stay of the above proceedings for 60 days so that the audit can be completed, the audit results provided to Defendant, and the parties can have an opportunity to meet and confer in an attempt to resolve any dispute regarding the audit results.

4. If the audit and/or other negotiations between the parties hereto resolve the claims of Plaintiffs to their satisfaction, Plaintiffs will promptly seek a dismissal of this action in its entirety.

DATED: September 21, 2009

BULLIVANT HOUSER BAILEY PC

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

Attorneys for Plaintiffs  
Cement Masons Trust Funds

DATED: September 21, 2009

HAWKINS – BOHMAN

By \_\_\_\_\_ /s/  
Scott C. Hawkins

Attorneys for Defendant  
All West Construction, Inc.

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**ORDER**

The parties having submitted this Stipulation To Stay Case for 90 days and good cause appearing:

IT IS HEREBY ORDERED that this case be stayed for 60 days and that dates set forth in this Court's Order Setting Initial Case Management Conference and ADR Guidelines be vacated, as well. The audit shall proceed pursuant to the Stipulation, above. The Case Management Conference will be rescheduled for December 4, 2009 in Courtroom 11, 19<sup>th</sup> Floor, at 1:30 p.m. The parties are required to submit a Joint Case Management Conference Statement seven (7) days prior to the new Case Management Conference advising this Court as to the status of the audit and the parties' informal attempts to resolve any dispute regarding the results of audit.

DATED: September<sup>21</sup>, 2009

By   
\_\_\_\_\_  
HON. JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE

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