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23 Attorneys for Plaintiffs
24 GIL CROSTHWAITE and RUSS BURNS, in their respective capacities as Trustees of the
25 OPERATING ENGINEERS' HEALTH AND WELFARE TRUST FUND,
26 PENSION TRUST FUND FOR OPERATING ENGINEERS,
27 PENSIONED OPERATING ENGINEERS' HEALTH AND WELFARE TRUST FUND,
28 OPERATING ENGINEERS AND
PARTICIPATING EMPLOYERS PRE- APPRENTICESHIP,
APPRENTICE AND JOURNEYMEN AFFIRMATIVE ACTION TRAINING FUND,
HEAVY AND HIGHWAY COMMITTEE; and
OPERATING ENGINEERS LOCAL 3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN FRANCISCO DIVISION)

GIL CROSTHWAITE and RUSS BURNS, in) CASE NO. C09-5741 TEH
their respective capacities as Trustees of the)
OPERATING ENGINEERS' HEALTH AND) **JOINT STIPULATION TO EXTEND TIME**
WELFARE TRUST FUND,) **TO RESPOND TO COMPLAINT AND TO**
PENSION TRUST FUND FOR OPERATING) **RESCHEDULE INITIAL CASE**
ENGINEERS,) **MANAGEMENT CONFERENCE;**
PENSIONED OPERATING ENGINEERS') **[PROPOSED] ORDER**
HEALTH AND WELFARE TRUST FUND,)
OPERATING ENGINEERS AND)
PARTICIPATING EMPLOYERS PRE-)

1 APPRENTICESHIP, APPRENTICE AND)
2 JOURNEYMEN AFFIRMATIVE ACTION)
3 TRAINING FUND,)
4 HEAVY AND HIGHWAY COMMITTEE;)
5 AND OPERATING ENGINEERS LOCAL 3,)
6)
7 Plaintiffs,)
8)
9 vs.)
10)
11 LANDAVAZO BROTHERS, INC., a)
12 California Corporation)
13)
14 Defendant.)
15)
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29 This Stipulation to Extend the Time to Respond to the Complaint and to Reschedule the
30 Initial Case Management Conference is entered into by and between Plaintiffs GIL
31 CROSTHWAITE and RUSS BURNS, in their respective capacities as Trustees of the
32 OPERATING ENGINEERS' HEALTH AND WELFARE TRUST FUND, PENSION TRUST
33 FUND FOR OPERATING ENGINEERS, PENSIONED OPERATING ENGINEERS' HEALTH
34 AND WELFARE TRUST FUND, OPERATING ENGINEERS AND PARTICIPATING
35 EMPLOYERS PRE- APPRENTICESHIP, APPRENTICE AND JOURNEYMEN
36 AFFIRMATIVE ACTION TRAINING FUND, HEAVY AND HIGHWAY COMMITTEE; and
37 OPERATING ENGINEERS LOCAL 3 and Defendant LANDAVAZO BROTHERS, INC. by
38 and through their respective counsel with respect to the following:

39 1. WHEREAS, Plaintiffs filed their Complaint on December 7, 2009. Defendant
40 accepted service by Waiver of Summons on January 13, 2010.

41 2. WHEREAS, defendant's time to respond to Plaintiffs' Complaint expires on
42 February 15, 2010.

43 3. WHEREAS, pursuant to Local Rule 6-1(a), the parties to this litigation stipulate
44 to an extension of time for defendant to file a responsive pleading to Plaintiffs' Complaint;

45 4. WHEREAS, this litigation involves ERISA claims of unpaid wages and deficient
46 employer contributions to a union's pension trust fund over a four (4) year period;

47 5. WHEREAS, the parties have had fruitful ongoing discussions regarding the
48

1 merits of this action in the hopes of achieving an early resolution with the intent of settling of
 2 this matter thereby eliminating the need for protracted litigation;

3 6. WHEREAS, the parties agree that providing Defendant with additional time to
 4 respond to Plaintiffs' Complaint will be beneficial towards achieving an early resolution of this
 5 matter;

6 7. WHEREAS, the parties stipulate to a 45-day extension of time to respond to
 7 Plaintiffs' Complaint, or until April 2, 2010;

8 8. WHEREAS, in the interest of judicial economy and their effort to minimize
 9 litigation expenses for the parties, the parties further stipulate to reschedule the Initial Case
 10 Management Conference currently set for March 15, 2010, to Monday, May 3, 2010;

11 9. WHEREAS, as the proposed Stipulation affects the currently set Case
 12 Management dates, the parties further stipulate that the Court modify its Order Setting Initial
 13 Case Management Conference and ADR Deadlines as follows:

Event	Current Date	Proposed Date
Defendant's Responsive pleading due	2/15/2010	4/2/2010
Last day to: • meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan • file ADR Certification signed by Parties and Counsel (form available at http://www.cand.uscourts.gov) • file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference (form available at http://www.cand.uscourts.gov)	2/22/2010	4/9/2010
Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement per attached Standing Order re Contents of Joint Case Management Statement (also available at http://www.cand.uscourts.gov)	3/8/2010	4/23/2010
INITIAL CASE MANAGEMENT CONFERENCE(CMC) in Courtroom 12, 19th Fl., SF at 1:30 PM	3/15/2010	5/3/2010

1 Whereas, the parties agree that they will not suffer any prejudice by agreeing to the
2 alternative dates set forth above.

3
4 **SO STIPULATED.**

5
6 Dated: February 15, 2010

SALTZMAN & JOHNSON LAW
CORPORATION

7
8 /s/ Michele R. Stafford
9 By: _____
10 Michele R. Stafford
 Attorneys for Plaintiffs

11 Dated: February 16, 2010

GORDON & REES LLP

12 /s/ Jon C. Yonemitsu
13 By: _____
14 Jon C. Yonemitsu
 Attorneys for Defendant

15 ~~PROPOSED~~ ORDER

16 Pursuant to the stipulation of the Parties, good cause appearing therefore, the
17 following dates for the Initial Case Management Conference hearing and associated ADR Initial
18 Order are extended as follows:

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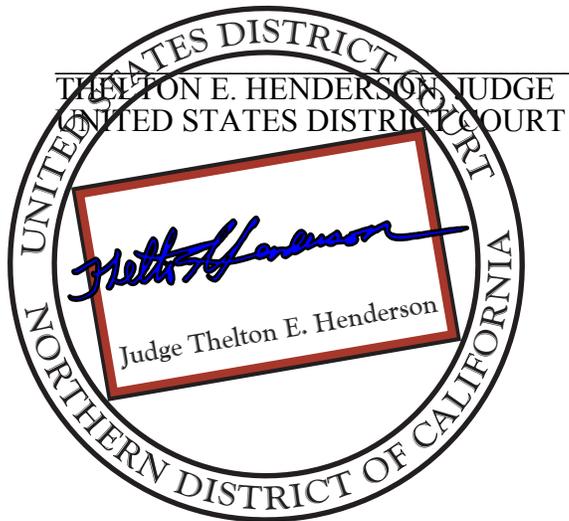
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IT IS SO ORDERED.

Dated: 02/16, 2010



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