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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 10-00124 JL

**PLAINTIFFS' CASE MANAGEMENT  
 CONFERENCE STATEMENT; ORDER  
 THEREON**

**Date: August 25, 2010**  
**Time: 10:30 a.m.**  
**Ctroom: F, 15<sup>th</sup> Floor,**  
**Hon. James Larson**

16 Plaintiffs,

17 v.

18 KENNETH BERNARD HERRERA dba KB  
 19 CONCRETE,

20 Defendant.

21  
 22 Plaintiffs Laborers Trust Funds provide this Court with the following case management  
 23 conference statement.

24 On January 11, 2010 Plaintiffs Laborers Trust Funds filed their Complaint for Damages  
 25 for Breach of Collective Bargaining Agreement, To Recover Unpaid Trust Fund Contributions  
 26 and for Breach of Fiduciary Duty ("Complaint") against Defendant Kenneth Bernard Herrera.  
 27 In the Complaint, Laborers Trust Funds seek to recover the principal balance of 44,577.35 plus  
 28 liquidated damages, interest, attorneys' fees and costs. Several attempts were made to serve the

1 Defendant. The attempts were unsuccessful. On March 16, 2010 Plaintiffs Laborers Trust  
2 Funds filed a Declaration of Due Diligence advising this Court of the attempts at service of the  
3 original Complaint.

4 On February 12, 2010 Plaintiffs Laborers Trust Funds filed their First Amended  
5 Complaint for Breach of Collective Bargaining Agreement, To Recover Unpaid Trust Fund  
6 Contributions, Breach of Fiduciary Duty and For a Mandatory Injunction ("First Amended  
7 Complaint"). Once again, several attempts were made to serve the Defendant. These attempts  
8 were unsuccessful. On March 16, 2010 Plaintiffs Laborers Trust Funds filed a Declaration of  
9 Due Diligence advising this Court of the attempts at service of the First Amended Complaint.

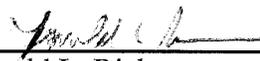
10 On May 26, 2010 Plaintiffs filed their Ex Parte Application for Order for Service by  
11 Publication. On June 15, 2010 this Court granted Plaintiffs Ex Parte Application.

12 Plaintiffs prepared the service by Publication with the Fresno Bee. It was submitted on  
13 June 25, 2010. The publication ran for four (4) consecutive weeks, the last day of service being  
14 July 16, 2010. A responsive pleading was due on August 2, 2010. No responsive pleading was  
15 filed and Plaintiffs will proceed in default.

16 Based on the above, Plaintiffs Laborers Trust Funds respectfully request that this Court  
17 continue the case management conference for 60 days to allow Plaintiffs to file their motion for  
18 default judgment.

19 DATED: August 18, 2010

20 BULLIVANT HOUSER BAILEY PC

21  
22 By   
23 Ronald L. Richman  
Susan J. Olson

24 Attorneys for Plaintiffs  
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**ORDER**

Pursuant to Plaintiffs Laborers Trust Funds request for continuance of the case management conference and good cause appearing:

IT IS HEREBY ORDERED that the case management conference scheduled for August 25, 2010 shall be continued to October 27, 2010 at 10:30 a.m., Courtroom F, 15<sup>th</sup> Floor.

Plaintiff shall 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 this case.

DATED: 8/23, 2010

By   
HON. JAMES LARSON  
UNITED STATES MAGISTRATE JUDGE

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