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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
 11 MASONS HEALTH AND WELFARE TRUST
 12 FUND FOR NORTHERN CALIFORNIA;
 13 BOARD OF TRUSTEES OF THE CEMENT
 14 MASONS VACATION-HOLIDAY TRUST
 15 FUND FOR NORTHERN CALIFORNIA;
 16 BOARD OF TRUSTEES OF THE CEMENT
 17 MASONS PENSION TRUST FUND FOR
 18 NORTHERN CALIFORNIA; AND BOARD
 19 OF TRUSTEES OF THE CEMENT MASONS
 20 TRAINING TRUST FUND FOR NORTHERN
 21 CALIFORNIA,

Case No.: C 10-00124 JL

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

Date: December 15, 2010
Time: 10:30 a.m.
Ctroom: F, 15th Floor,
Hon. James Larson

Plaintiffs,

v.

18 KENNETH BERNARD HERRERA dba KB
 19 CONCRETE,

Defendant.

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

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

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

4 On February 12, 2010 Plaintiffs filed their First Amended Complaint for Breach of
5 Collective Bargaining Agreement, To Recover Unpaid Trust Fund Contributions, Breach of
6 Fiduciary Duty and For a Mandatory Injunction ("First Amended Complaint"). Once again,
7 several attempts were made to serve the Defendant. These attempts were unsuccessful. On
8 March 16, 2010 Plaintiffs filed a Declaration of Due Diligence advising this Court of the
9 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 On September 2, 2010 the Clerk issued the default of Defendant. Subsequently,
17 Plaintiffs made efforts to recover the outstanding balance due which would have obviated the
18 need for further litigation. Plaintiffs request an additional 30 days to attempt to recover monies
19 (via joint checks from general contractors) which can be used to reduce the outstanding balance.
20 were unable to recover the monies and are now able to proceed with a motion for default .

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1 Based on the above, respectfully request that this Court continue the case management
2 conference for 30 days to allow Plaintiffs to attempt to collect additional monies and to file their
3 motion for default judgment.

4 DATED: December 7, 2010

5 BULLIVANT HOUSER BAILEY PC

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7 By 
8 Ronald L. Richman
Susan J. Olson

9 Attorneys for Plaintiffs

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11 **ORDER**

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

14 IT IS HEREBY ORDERED that the case management conference scheduled for
15 December 15, 2010 shall be continued to January 19, 2011 at 10:30 a.m., Courtroom F,
16 15th Floor. Plaintiff shall submit a Joint Case Management Conference Statement seven (7)
17 days prior to the new Case Management Conference advising this Court as to the status of this
18 case. If a Motion for Default Judgment is filed on or before the new case management
19 conference date, the case management conference will be vacated.

20 DATED: December 8, 2010

21 By 
22 HON. JAMES LARSON
23 UNITED STATES MAGISTRATE JUDGE

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