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7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10 THE BOARD OF TRUSTEES, in their) No. C 10-01492 EDL
 11 capacities as Trustees of the CEMENT) (Consolidated Cases)
 MASONS HEALTH AND WELFARE TRUST)
 12 FUND FOR NORTHERN CALIFORNIA,)
 CEMENT MASONS PENSION TRUST FUND)
 13 FOR NORTHERN CALIFORNIA, CEMENT)
 MASONS VACATION/HOLIDAY TRUST)
 14 FUND FOR NORTHERN CALIFORNIA,) **STIPULATED REQUEST TO MODIFY**
 CEMENT MASONS APPRENTICESHIP AND) **THE PRETRIAL ORDER;**
 15 TRAINING TRUST FUND FOR NORTHERN) **[PROPOSED] ORDER**
 CALIFORNIA,)

16 Plaintiffs,

17 v.

18
 19 PAUL T. BECK CONTRACTORS, INC., A)
 California Corporation; JAMES RAY BECK,)
 20 individually and doing business as J R B)
 GRADING & PAVING, as successor in interest)
 21 to PAUL T. BECK CONTRACTORS, INC.;)
 and J R B GRADING & PAVING, as successor)
 22 in interest to PAUL T. BECK)
 CONTRACTORS, INC.,)

23 Defendants.

24
 25 THE BOARD OF TRUSTEES, in their) No. C 10-01493 EDL
 capacities as Trustees of the LABORERS)
 26 HEALTH AND WELFARE TRUST FUND)
 FOR NORTHERN CALIFORNIA;)
 27 LABORERS VACATION-HOLIDAY TRUST)
 FUND FOR NORTHERN CALIFORNIA;)
 28 LABORERS PENSION TRUST FUND FOR)
 NORTHERN CALIFORNIA; and LABORERS)

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Stipulated Request to Modify the Pretrial Order; [Proposed] Order, Case No. C 10-01492 EDL (Consolidated Cases)

1 TRAINING AND RETRAINING TRUST)
FUND FOR NORTHERN CALIFORNIA,)
2)
Plaintiffs,)
3)
v.)
4)
PAUL T. BECK CONTRACTORS, INC., A)
California Corporation; JAMES RAY BECK,)
5 individually and doing business as J R B)
GRADING & PAVING, as successor in interest)
6 to PAUL T. BECK CONTRACTORS, INC.;)
7 and J R B GRADING & PAVING, as successor)
in interest to PAUL T. BECK)
8 CONTRACTORS, INC.,)
Defendants.)

10 THE BOARD OF TRUSTEES, in their)
capacities as Trustees of the CEMENT)
11 MASONS HEALTH AND WELFARE TRUST)
FUND FOR NORTHERN CALIFORNIA;)
12 CEMENT MASONS PENSION TRUST FUND)
FOR NORTHERN CALIFORNIA; CEMENT)
13 MASONS VACATION/HOLIDAY TRUST)
FUND FOR NORTHERN CALIFORNIA; and)
14 CEMENT MASONS APPRENTICESHIP AND)
15 TRAINING TRUST FUND FOR NORTHERN)
CALIFORNIA,)
16)
Plaintiffs,)
17)
v.)
18)
JAMES RAY BECK, individually and doing)
19 business as J R B GRADING & PAVING; and J)
R B GRADING & PAVING,)
20)
Defendants.)

22 THE BOARD OF TRUSTEES, in their)
capacities as Trustees of the LABORERS)
23 HEALTH AND WELFARE TRUST FUND)
FOR NORTHERN CALIFORNIA;)
24 LABORERS VACATION-HOLIDAY TRUST)
FUND FOR NORTHERN CALIFORNIA;)
25 LABORERS PENSION TRUST FUND FOR)
NORTHERN CALIFORNIA; and LABORERS)
26 TRAINING AND RETRAINING TRUST)
FUND FOR NORTHERN CALIFORNIA,)
27)
Plaintiffs,)
28)

No. C 10-05539 EDL

No. C10-05540 EDL

1 v.)
2)
3 JAMES RAY BECK, individually and doing)
business as J R B GRADING & PAVING; and)
4 J R B GRADING & PAVING,)
Defendants.)
5)

6 Pursuant to Local Rule 7-12, Plaintiffs, the Board of Trustees, in their capacities as
7 Trustees of the Cement Masons Health and Welfare Trust Fund for Northern California, Cement
8 Masons Pension Trust Fund for Northern California, Cement Masons Vacation-Holiday Trust Fund
9 for Northern California, and Cement Masons Apprenticeship and Training Trust Fund for Northern
10 California and Plaintiffs (referred to as “Cement Masons’ Trust Funds”); and the Board of
11 Trustees, in their capacities as Trustees of the Laborers Health and Welfare Trust Fund for
12 Northern California, Laborers Vacation-Holiday Trust Fund for Northern California, Laborers
13 Pension Trust Fund for Northern California, and Laborers Training and Retraining Trust Fund for
14 Northern California (referred to as “Laborers’ Trust Funds”) (the Laborers’ Trust Funds and the
15 Cement Masons’ Trust Funds will be referred to collectively herein as “Plaintiffs”) and Defendant
16 Paul T. Beck Contractors, Inc. A California Corporation (hereinafter “Defendant”), by and through
17 the undersigned counsel, hereby stipulate and request that the Court issue an Order to modify
18 Pretrial Order for Court Trial (Document No. 55 in Case No. 10-1492) (hereinafter “Pretrial
19 Order”) for cases 10-01492, 10-01493, 10-05539, and 10-05540 by adding an additional 90 days to
20 all of the deadlines/dates therein, including the trial date, pursuant to F.R.C.P. 16(b)(4).

21 In accordance with F.R.C.P. 16(b), the Court may modify or amend a scheduling order
22 upon a showing of “good cause”. As the Ninth Circuit has stated, this “good cause” standard
23 “primarily considers the diligence of the party seeking the amendment.” The district court may
24 modify the pretrial schedule if the schedule cannot reasonably be met despite the diligence of the
25 party seeking the extension. F.R.C.P. 16(b); *Claudine Johnson v. Mammoth Recreations, Inc.*, 975
26 F.2d 604 (9th Cir. 1992); *Jackson v. Laureate, Inc.*, 186 F.R.D. 605 (E.D. CA 1999).

27 In this case, both parties seek the amendment of the Pretrial Order. Under the current
28 Pretrial Order, the discovery cut-off in these actions is November 28, 2011, the deadline to

1 complete mediation is January 26, 2012, and the deadline for a hearing on any dispositive motions
2 is January 30, 2012.

3 On December 9, 2011, James Ray Beck filed a Petition for Chapter 7 Bankruptcy in the
4 Northern District. As a result, Plaintiffs will be filing a Notice of Bankruptcy in the consolidated
5 cases involving the following parties: Defendant James Ray Beck, individually and doing business
6 as J R B Grading & Paving; Defendant J R B Grading & Paving; Defendant James Ray Beck,
7 individually and doing business as J R B Grading & Paving, as successor in interest to Paul T.
8 Beck Contractors, Inc.; and Defendant J R B Grading & Paving, as successor in interest to Paul T.
9 Beck Contractors, Inc.

10 In addition, the remaining Defendant in this case, Paul T. Beck Contractors, Inc., is in the
11 process of assessing whether it will also be filing a Petition for Bankruptcy. Plaintiffs and
12 Defendant have completed most of the discovery in these cases and have been negotiating the
13 possibility of settling this matter through a Stipulated Judgment, but the parties require additional
14 time to complete this process to determine whether they can settle this case, dispose of the case
15 through the filing of dispositive motions or for the remaining Defendant to determine whether it
16 will file for Bankruptcy protection. Therefore, under the circumstances of this case, an extension
17 of the discovery period and corresponding trial deadlines is warranted.

18 Because this Stipulated Request to Modify the Pretrial Order is supported by good cause,
19 the parties hereby respectfully request that the Court modify the Pretrial Order by adding an
20 additional 90 days to all of the deadlines/dates therein, as follows:

21	February 27, 2012	Discovery cut-off
22	February 27, 2012	Expert discovery cut-off
23	April 25, 2012	Last day to complete mediation pursuant to Court Order.
24	May 1, 2012 April 30, 2012	Last day to hear dispositive motions
25	July 5, 2012	Last day to meet and confer prior to the pretrial conference
26	July 16, 2012	Last day to file joint pretrial statement including pretrial disclosures; serve and file trial briefs and motions in limine; serve and file an exhibit list and exchange exhibits

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July 24, 2012 Last day to file objections to exhibits and witnesses or oppositions to motions in limine
~~August 6, 2012~~
August 7, 2012 Pretrial conference and hearing on motions in limine
September 4, 2012
~~August 27, 2012~~ Court trial

Additionally, the parties hereby stipulate that if and only if the Court declines to grant the Stipulated Request to Modify the Pretrial Order, each party will not oppose the other party's right to take said party's deposition after the close of discovery.

Dated: December 21, 2011

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: /s/ Kristina M. Zinnen
KRISTINA M. ZINNEN
Attorneys for Plaintiffs

Dated: December 21, 2011

BOHNEN, ROSENTHAL & KREEFT

By: /s/ Sergio H. Parra
SERGIO H. PARRA
Attorneys for Defendant

~~PROPOSED~~ ORDER

Pursuant to the Stipulation of the Parties, IT IS SO ORDERED., AS MODIFIED.

Dated: December 22, 2011

HONORABLE ELIZABETH D. LAPORTE

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