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8 UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 F.G. CROSTHWAITE and RUSSELL E.
 BURNS, in their respective capacities as
 11 Trustees, of the OPERATING ENGINEERS’
 HEALTH AND WELFARE TRUST FUND
 12 FOR NORTHERN CALIFORNIA;

13 Plaintiffs,

14 v.

15 KROEKER, INC., a California corporation,

16 Defendant.

Case No.: C11-4002 CRB

**STIPULATION TO EXTEND TIME TO
 FILE DEFENDANT’S RESPONSE TO THE
 COMPLAINT AND TO CONTINUE THE
 CASE MANAGEMENT CONFERENCE
 PURSUANT TO CIVIL LOCAL RULES 6-1
 AND 6-2**

18 The parties, by and through their respective counsel, hereby stipulate as follows:

19 Pursuant to Civil L.R. 6-1 and 6-2, the Parties hereby stipulate to an extension of
 20 sixty (60) days for the filing of Defendant’s response to Plaintiffs’ Complaint. The original
 21 response date for the filing of Defendant’s response was September 8, 2011. However, due to
 22 immediate good faith negotiations between the parties to resolve the matter by settlement,
 23 Plaintiffs’ counsel granted a number of extensions of time for the filing of Defendant’s response to
 24 the Complaint, up to and including, November 18, 2011. Pursuant to this Stipulation, the parties
 25 stipulate to an extension of time for the filing of Defendant’s response to the Complaint until
 26 January 17, 2011 so that the matter may be resolved by way of written settlement agreement.

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1 The parties further stipulate to the continuance of the Case Management
2 Conference currently scheduled for December 2, 2011, to January 27, 2012 or on a date
3 convenient to the Court.

4 This request for an enlargement of time pursuant to Local Rule 6-1(b) is being filed
5 14 days before the scheduled Case Management Conference.

6

7 **Reasons For The Enlargement Of Time**

8 The Parties have reached an agreement in substance which will resolve the dispute
9 without the need for litigation. The parties wish to conserve the limited resources of the parties
10 and prefer to expend funds in the resolution of the dispute rather than in the incurrence of
11 attorneys' fees.

12 The dispute relates to the payments due by Defendant of contributions to the
13 Plaintiff Trust Funds for May through July 2011. Defendant is the victim of embezzlement by a
14 long term trusted employee. Defendant also has been a victim of the current recession which has
15 significantly impacted the construction industry. Nevertheless, Defendant is current with its
16 payment of contributions for August through October, 2011 to Plaintiff Trust Funds, and the
17 parties have reached agreement concerning a payment schedule in settlement of Plaintiffs' claims.
18 The parties are not yet in agreement concerning the form of the settlement agreement and need
19 additional time to reduce the terms of the agreement to writing.

20

21 **Previous Time Modifications**

22 Other than Plaintiffs' extensions of time to Defendant to respond to the Complaint,
23 there have been no other time modifications by stipulation or court order.

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25 **Effect Of Requested Time Modification On Case Schedule**

26 This Stipulation to extend the time for Defendant to respond to the Complaint and
27 continue the Case Management Conference is unlikely to have any effect on the scheduling of this
28 case.

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Based upon the foregoing, the parties respectfully submit there is good cause for the continuance of the Case Management Conference and the Court's approval of the extension of time for the Defendant to respond to the Complaint.

IT IS SO STIPULATED

Dated: November 18, 2011 **SALTZMAN & JOHNSON LAW CORPORATION**

_____/s/
By: Muriel B. Kaplan, Esq.
Attorney for Plaintiffs

Dated: November 17, 2011 **LAW OFFICE OF GREGORY J. SMITH**

_____/s/
By: Gregory J. Smith, Esq.
Attorney for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED

Dated: _____ November 21, 2011

UNITED STATES DISTRICT COURT JUDGE

