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7
 8 UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 BAY AREA PAINTERS AND TAPERS
 PENSION TRUST FUND, et al.

Case No.: C11-4188 CRB

11 Plaintiffs,

**PLAINTIFFS’ CASE MANAGEMENT
 STATEMENT and;
 REQUEST TO CONTINUE CASE
 MANAGEMENT CONFERENCE; ORDER
 THEREON**

12 v.

13 MGM DRYWALL, INC., a California
 14 Corporation, and MIGUEL GUILLEN
 RAMIREZ *aka* MIGUEL RAMIREZ
 15 GUILLEN, an individual,

Date: June 14, 2013
 Time: 8:30 a.m.
 Ctrm: 8, 19th Floor, San Francisco
 Judge: Honorable Charles R. Breyer

16 Defendants.

17
 18 Plaintiffs herein respectfully submit their Case Management Statement, requesting that the
 19 Case Management Conference, currently on calendar for June 14, 2013, be continued for
 20 approximately 60-90 days. Good cause exists for the continuance, as follows:

21 1. As the Court’s records will reflect, this action was filed on August 24, 2011.
 22 Service on Defendants was effectuated on November 17, 2011, and A Proof of Service of
 23 Summons on was filed with the Court on November 21, 2011. Defendants failed to plead or
 24 otherwise respond to the lawsuit, and the Clerk entered default as to both Defendants on December
 25 16, 2011.

26 2. The parties have been in continuous contact to discuss resolution of this matter.
 27 Plaintiffs offered Defendants a payment plan (at their request) for what was due, but ultimately
 28 Defendants elected not to utilize the plan and to pay all contributions, interest, and fees and costs

1 owed. Defendant asked that liquidated damages be waived.

2 3. Plaintiffs allowed Defendants a conditional waiver of the liquidated damages that
3 remained due, on the condition that Defendants remain current in payment of contributions
4 through May 2013 hours worked. Unfortunately, Defendants immediately became delinquent
5 again, not meeting the waiver requirement. Accordingly, liquidated damages assessed through
6 October 2011 hours worked are due and owing.

7 4. Defendants have additionally submitted delinquent contribution payments for the
8 months of August through October 2012 and December 2012, and delinquent partial payments for
9 January and February 2013. Defendants have failed to pay any portion of March and April 2013
10 contributions. Additional liquidated damages and interest are therefore due for the months of
11 August through October 2012 and December 2012 through April 2013.

12 5. As permitted by the Collective Bargaining and Trust Agreements, Plaintiffs
13 conducted an audit of Defendants' payroll records for the time period December 1, 2010 through
14 the date of inspection, which took place on August 7-8, 2012. Defendants contested the audit and
15 provided documentation in support of their position. Plaintiffs' auditors reviewed said
16 documentation and made minor adjustments to the audit. On or about December 20, 2012,
17 Plaintiffs' counsel sent the revised audit to Defendants for payment and Defendants again
18 contested it, detailing their objections. On or about December 28, 2012, Plaintiffs' counsel
19 received a letter from an attorney who advised that he had recently been retained to represent
20 Defendants, but was hopeful of resolving this matter without an appearance and/or further
21 litigation. On or about March 19, 2013, Plaintiffs' counsel sent the final audit report and a detailed
22 letter to Defendants' counsel today providing the total amount due to Plaintiffs from Defendants
23 for the audit, current delinquencies, and attorneys' fees and costs. The parties discussed resolution
24 of this matter by way of a lump sum payment or Stipulated Judgment providing for a payment
25 plan and Defendants' requested additional time to evaluate payment options.

26 6. Since the Court continued the previous Case Management Conference, Defendants
27 again contested one specific issue on the audit. Plaintiffs' counsel and auditors considered
28 Defendants' position and again determined that no further adjustments could be made to the audit.

1 Plaintiffs' counsel sent a letter to Defendants' counsel on May 7, 2013 explaining Plaintiffs'
2 position and offering Defendants a payment plan. To date, Defendants' counsel has not responded,
3 and Defendant have failed to submit payment.

4 7. Based on the foregoing, Plaintiffs respectfully request that the Case Management
5 Conference, currently scheduled for June 14, 2013, be continued for 60 days to allow time for
6 Plaintiffs to prepare a motion for default judgment.

7 I declare under penalty of perjury that I am the attorney for the Plaintiffs in the above
8 entitled action, and that the foregoing is true of my own knowledge.

9 Executed this 6th day of June, 2013, at San Francisco, California.

10 SALTZMAN & JOHNSON
11 LAW CORPORATION

12 By: _____ /S/
13 Michele R. Stafford
14 Attorneys for Plaintiffs

15 IT IS SO ORDERED.

16 The currently set Case Management Conference is hereby continued to August 16, 2013 at
17 8:30 a.m., and all previously set deadlines and dates related to this case are continued accordingly.

18 Date: June 11, 2013

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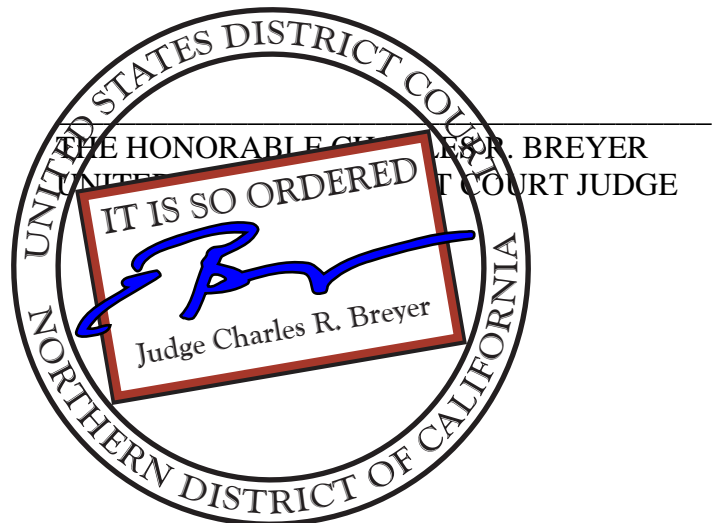
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1 **PROOF OF SERVICE**

2 I, the undersigned, declare:

3 1. I am a citizen of the United States and am employed in the County of San
4 Francisco, State of California. My business address is 44 Montgomery Street, Suite 2110, San
5 Francisco, California 94104.

6 2. I am over the age of eighteen and not a party to this action.

7 3. On **June 6, 2013**, I served the following document(s):

8 **PLAINTIFFS' CASE MANAGEMENT STATEMENT and; REQUEST TO CONTINUE**
9 **CASE MANAGEMENT CONFERENCE; [PROPOSED] ORDER THEREON**

10 on the interested parties in said action by enclosing a true and exact copy of each document in a
11 sealed envelope and placing the envelope for collection and First Class mailing following our
12 ordinary business practices. I am readily familiar with this business' practice for collecting and
13 processing correspondence for mailing. On the same day that correspondence is placed for
14 collection and mailing, it is deposited in the ordinary course of business with the United States
15 Postal Service in a sealed envelope with postage fully prepaid.

16 4. The envelopes were addressed and mailed as follows:

17 Miguel Guillen Ramirez
18 MGM Drywall, Inc.
19 1165 Peach Street
20 San Jose, CA 95116

21 Roger F. Liu
22 Leonidou & Rosin
23 777 Cuesta Drive, Ste. 200
24 Mountain View, CA 94040

25 I declare under penalty of perjury that the foregoing is true and correct and that this
26 declaration was executed on **June 6, 2013**, at San Francisco, California.

27 _____/S/
28 Elise Thurman
Paralegal