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11 Attorneys for Plaintiff

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA DIVISION

14 THE BOARD OF TRUSTEES, in their capacities
 15 as Trustees of the LABORERS HEALTH AND
 16 WELFARE TRUST FUND FOR NORTHERN
 17 CALIFORNIA; LABORERS VACATION-
 18 HOLIDAY TRUST FUND FOR NORTHERN
 19 CALIFORNIA; LABORERS PENSION TRUST
 20 FUND FOR NORTHERN CALIFORNIA; and
 21 LABORERS TRAINING AND RETRAINING
 22 TRUST FUND FOR NORTHERN
 23 CALIFORNIA,

24 Plaintiff,

25 v.

26 PROTECH SERVICES, INC., a California
 27 corporation, individually and doing business as
 28 PROTECH GENERAL CONTRACTING
 SERVICES

Defendant.

No. 12-cv-1047 MEJ

**EX PARTE APPLICATION FOR
 CONTINUANCE OF CASE
 MANAGEMENT CONFERENCE;
~~(PROPOSED)~~ ORDER**

**TO: THE CLERK OF THE COURT AND DEFENDANT PENINSULA BUILDERS, INC.,
 A California Corporation:**

Pursuant to Civil Local Rule 7-10, Plaintiffs hereby request that the initial Case
 Management Conference scheduled for April 18, 2013 at 10:00 a.m. be continued for ninety days

1 to allow Plaintiffs additional time to prepare and serve a Motion for Default Judgment on
2 Defendant.

3 Plaintiffs filed its Complaint in this matter on February 23, 2012. Defendant was served
4 on June 8, 2012. On June 14, 2012, Plaintiffs' counsel was contacted by Defendant's counsel,
5 Michael M. Noble, who stated that he would be filing an answer. Plaintiffs awaited the filing of
6 the answer, which never came. On July 2, 2012, Plaintiffs' counsel received an Answer by mail
7 that had not been filed with the Court. Plaintiffs' counsel made several phone calls to Mr.
8 Noble's office to notify him of this fact and did not receive a response. On August 6, 2012,
9 Plaintiff's counsel sent Mr. Noble correspondence letting him know that the Answer had not been
10 filed and requesting confirmation that Mr. Noble continued to represent the Defendant in this
11 matter. Mr. Noble did not respond.

12 On October 2, 2012, Plaintiffs requested that the Court enter Defendant's Default. Default
13 was entered on October 4, 2012.

14 On or around November 16, Plaintiffs' counsel was contacted by telephone by a new
15 attorney representing Defendant, David. S. Barrett. Plaintiffs attempted on various occasions to
16 settle this matter with Defendant via Mr. Barrett, as well as to seek payment of the delinquent
17 amounts from general contractors, with whom Defendant worked.

18 Given that Defendant has stopped responding to Plaintiffs demands for payment or
19 settlement, Plaintiffs will be filing a Motion for Default Judgment.

20 Given these facts, Plaintiffs request that Case Management Conference be continued for
21 ninety days in order to allow Plaintiffs additional time to prepare and file this motion.

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1 The above stated facts are set forth in the accompanying Declaration of Concepción E.
2 Lozano-Batista in Support of Ex Parte Application to Continue Case Management Conference,
3 filed herewith.

4 Dated: April 12, 2013

5 WEINBERG, ROGER & ROSENFELD
6 A Professional Corporation

7 By: /s/ Concepción E. Lozano-Batista
8 CONCEPCIÓN E. LOZANO-BATISTA
9 Attorneys for Plaintiffs

10 **ORDER CONTINUING CASE MANAGEMENT CONFERENCE**

11 Based upon the foregoing Ex Parte Application for Continuance of Case Management
12 Order and Declaration of Concepción E. Lozano-Batista in Support of Ex Parte Application to
13 Continue Case Management Conference, the Court orders a continuance of the Case Management
14 Conference for ⁶⁰ ~~90~~ days, ~~or as soon thereafter as a court date is available.~~ until June 13, 2013 at 10:00 a.m. In addition, the Court
15 orders: that counsel serve defendant and/or his counsel with a copy
16 of this Order.

17 Dated: April 15, 2013


18 HONORABLE MARIA ELENA JAMES
19 United States District Court Judge

20 130385/712155