

1 RICHARD C. JOHNSON (SBN 40881)
 SHAAMINI A. BABU (SBN 230704)
 2 JULIE A. OSTIL (SBN 215202)
 SALTZMAN & JOHNSON LAW CORPORATION
 3 44 Montgomery Street, Suite 2110
 San Francisco, CA 94104
 4 (415) 882-7900
 (415) 882-9287 – Facsimile
 5 djohnson@sjlawcorp.com
 sbabu@sjlawcorp.com
 6 jostil@sjlawcorp.com

7 Attorneys for Plaintiffs

8 UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 PENSION TRUST FUND FOR OPERATING
 ENGINEERS; F.G. CROSTHWAITE and
 11 RUSSELL E. BURNS, as Trustees,

12 Plaintiffs,

13 vs.

14 TRACTOR EQUIPMENT SALES, INC., a
 California corporation, J.L. WHITE
 15 INTERNATIONAL, INC., a California
 corporation, TES ASSET MANAGEMENT
 16 AND CONSULTING GROUP, a California
 joint venture, and DOES 1-20

17 Defendants.
18

Case No.: C 12-01056 JSW

**REQUEST TO CONTINUE CASE
 MANAGEMENT CONFERENCE AND
 ALL RELATED DEADLINES;
 [PROPOSED] ORDER THEREON**

Date: August 24, 2012
 Time: 1:30 p.m.
 Courtroom 11, 19th Floor
 Judge: The Honorable Jeffrey S. White

19
 20 Plaintiffs herein respectfully request that the Case Management Conference currently on
 21 calendar for August 24, 2012, 1:30 p.m., and all related deadlines, including ADR deadlines, be
 22 continued for 90 days, to coincide with plaintiffs’ Motion for Default as to defendant TES Asset
 23 Management and Consulting Group, a California joint venture and to coincide with plaintiffs
 24 amending the complaint to name new defendants.

25 1. Good Cause exists for the request: This action arises under the Employee
 26 Retirement Income Security Act of 1974 (“ERISA”), as amended by the Multiemployer Pension
 27 Plan Amendments Act of 1980 (29 U.S.C §§1001-1461 (1982)), to recover withdrawal liability
 28

1 amounts owed by Tractor Equipment Sales, Inc. and its controlled group members to plaintiffs
2 Pension Trust Fund for Operating Engineers, F.G. Crosthwaite, and Russell E. Burns
3 (“Plaintiffs”).

4 2. On March 1, 2012, plaintiffs filed a Complaint in this matter.

5 3. Service was effectuated on defendants Tractor Equipment Sales, Inc., a California
6 corporation, J.L. White International, Inc., a California corporation, and TES Asset Management
7 and Consulting Group, a California joint venture, by personal service on Jim White, authorized
8 agent and/or officer for each defendant on April 9, 2012. A proof of service was filed on April 19,
9 2012. (Dkt. # 10)

10 4. Defendant Tractor Equipment Sales, a California corporation, filed a Chapter 7
11 Bankruptcy in the U.S. Bankruptcy Court, Northern District of California, on May 14, 2012. On
12 June 7, 2012, plaintiffs filed a Notice of Automatic Stay Under 11 U.S.C. Section 362 as to
13 defendant Tractor Equipment Sales, Inc. only. (Dkt. #15) Further, plaintiffs’ counsel made an
14 appearance at the Meeting of Creditors wherein plaintiffs’ counsel conferred with counsel for
15 defendant Tractor Equipment Sales, a California corporation and the Bankruptcy Trustee.
16 Plaintiffs’ counsel anticipates conducting a Federal Rules of Bankruptcy Procedure §2004 Exam
17 of principal Steven Van Tuyl to determine whether or not plaintiffs will be adding defendants to
18 this instant action.

19 5. On May 29, 2012, plaintiffs requested that the Case Management Conference
20 scheduled on June 22, 2012, and all of its associated deadlines, be continued for 60 days in
21 anticipation of plaintiffs filing a Request for Entry of Default against Defendant and/or amending
22 the complaint to add new defendants. (Dkt. 12)

23 6. On May 30, 2012, the Motion to Continue Case Management was granted by the
24 Court and the Case Management Conference was continued to August 24, 2012 at 1:30 pm. (Dkt.
25 #13)

26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. On June 19, 2012, plaintiffs filed a Notice of Voluntary Dismissal of Defendant J.L. White International, Inc. only. (Dkt. 16) Plaintiffs' counsel was contacted by Jim White, the authorized agent for the named defendants, regarding the lawsuit, and provided information that lead to Defendant J.L. White International, Inc. dismissal.

8. On July 25, 2012, plaintiffs filed a Request for Default of TES Asset Management and Consulting Group, a California joint venture, only. (Dkt. # 17)

9. As of the date of the filing of this request, defendant TES Asset Management and Consulting Group has failed to file a Response to the Complaint and the time to do so has expired.

10. Since no defendants have appeared in the action, there is no need to hold a Case Management Conference or elect an ADR procedure.

11. Therefore, plaintiffs respectfully request that the Case Management Conference currently scheduled for August 24, 2012, and all of its associated deadlines, be continued for 90 days in anticipation of Plaintiffs conducting discovery in the bankruptcy proceeding and/or amending the complaint to add new defendants and to coincide with the Motion for Default Judgment of TES Asset Management and Consulting Group.

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

Executed this 30th day of July, 2012, at San Francisco, California.

SALTZMAN & JOHNSON LAW CORPORATION

By: _____ /S/
Julie A. Ostil
Attorneys for Plaintiffs

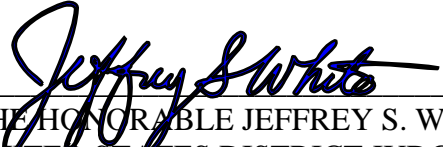
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS SO ORDERED.

Based on the foregoing, and GOOD CAUSE APPEARING, the currently set Case Management Conference is hereby continued to December 7, 2012 at 1:30 p.m. All related deadlines, including ADR deadlines, are extended accordingly.

Date: August 1, 2012 _____



THE HONORABLE JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE