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7 Attorneys for Plaintiff

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

11 THE BOARD OF TRUSTEES, in their
 capacities as Trustees of the LABORERS
 12 HEALTH AND WELFARE TRUST FUND
 FOR NORTHERN CALIFORNIA;
 13 LABORERS VACATION-HOLIDAY TRUST
 FUND FOR NORTHERN CALIFORNIA;
 14 LABORERS PENSION TRUST FUND FOR
 NORTHERN CALIFORNIA; LABORERS
 15 ANNUITY TRUST FUND FOR NORTHERN
 CALIFORNIA and LABORERS TRAINING
 16 AND RETRAINING TRUST FUND FOR
 NORTHERN CALIFORNIA,

18 Plaintiff,

19 v.

21 SIERRA EQUIPMENT RENTAL, INC., a
 California Corporation,

22 Defendant.

No. 12-cv-1085 MEJ

**PLAINTIFFS' EX PARTE
 APPLICATION TO CONTINUE CASE
 MANAGEMENT CONFERENCE;
 23 ~~PROPOSED~~ ORDER**

Date: December 27, 2012
 Time: 10:00 a.m.
 Room: B, 15th Floor
 Judge: Hon. Maria-Elena James

24 Pursuant to Civil Local Rule 7-10, Plaintiffs hereby request that the Case Management
 25 Conference scheduled for December 27, 2012 at 10:00 a.m. be continued for ninety (90) days to
 26 allow Plaintiffs to either amend the complaint or to file a Motion for Default Judgment.

27 Plaintiffs filed the complaint in this case on March 5, 2012. Defendant Sierra Equipment
 28 Rental, Inc., a California Corporation ("Defendant") was served by substituted service, which was

1 deemed complete April 28, 2012. Plaintiffs are currently seeking relief through Defendant's
2 payment bond. Plaintiffs believe they are entitled to recovery from this bond, and will amend the
3 complaint to name the bond company as an additional defendant if they are not able to voluntarily
4 resolve the bond claim. Therefore, although Defendant is in default, Plaintiffs have not yet
5 requested an entry of Default.

6 Plaintiffs will either amend the complaint to name the insurance company, or will seek an
7 entry of default against Defendant, and then move for default judgment. Accordingly, Plaintiffs
8 respectfully request that the Court continue the Case Management Conference set for December
9 27, 2012 for ninety (90) days, to allow time for amendment or for a Motion for Default Judgment
10 to be heard.

11 The above stated facts are set forth in the accompanying declaration of Daniel S. Brome in
12 Support of Ex Parte Application to Continue Case Management Conference, filed herewith.

13 Dated: December 20, 2012

Weinberg, Roger & Rosenfeld
A professional corporation

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15 By: /S/ Daniel S. Brome
16 DANIEL S. BROME

17 Attorneys for Plaintiff
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~~**PROPOSED**~~ ORDER

Based upon the foregoing Ex Parte Application to Continue Case Management Conference and Declaration of Daniel S. Brome in support thereof, the Court orders the continuance of the case management conference for ninety (90) days, or as soon thereafter as a court date is available. In addition, the Court Orders:

Dated: December 21, 2012



HONORABLE MARIA ELENA JAMES
UNITED STATES MAGISTRATE JUDGE

130517/66753597459

1 **PROOF OF SERVICE**
2 **(CCP §1013)**

3 I am a citizen of the United States and resident of the State of California. I am employed
4 in the County of Alameda, State of California, in the office of a member of the bar of this Court,
5 at whose direction the service was made. I am over the age of eighteen years and not a party to
6 the within action.

7 On December 20, 2012, I served the following documents in the manner described below:

8 **EX PARTE APPLICATION TO CONTINUE CMC; [PROPOSED] ORDER**
9 **DECLARATION OF DANIEL BROME IN SUPPORT OF EX PARTE APPLICATION**
10 **TO CONTINUE CMC**

- 11 (BY U.S. MAIL) I am personally and readily familiar with the business practice of
12 Weinberg, Roger & Rosenfeld for collection and processing of correspondence for
13 mailing with the United States Parcel Service, and I caused such envelope(s) with
14 postage thereon fully prepaid to be placed in the United States Postal Service at
15 Alameda, California.
- 16 (BY MESSENGER SERVICE) by consigning the document(s) to an authorized courier
17 and/or process server for hand delivery on this date.
- 18 (BY FACSIMILE) I am personally and readily familiar with the business practice of
19 Weinberg, Roger & Rosenfeld for collection and processing of document(s) to be
20 transmitted by facsimile and I caused such document(s) on this date to be transmitted by
21 facsimile to the offices of addressee(s) at the numbers listed below.
- 22 (BY OVERNIGHT MAIL) I am personally and readily familiar with the business
23 practice of Weinberg, Roger & Rosenfeld for collection and processing of
24 correspondence for overnight delivery, and I caused such document(s) described herein
25 to be deposited for delivery to a facility regularly maintained by United Parcel Service
26 for overnight delivery.

27 On the following part(ies) in this action:

28 Karrie Kendall
Sierra Equipment Rental, Inc.
8175 Country Road 44
Glenn, CA 95943

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on December 20, 2012, at Alameda, California.

/s/ Karen Scott
Karen Scott