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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.: C13-1782 SC

11 Plaintiffs,
 12 v.

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

13 SPECTRUM PAINTING & DECORATING,
 INC., a California corporation, *aka*
 14 SPECTRUM PAINTING; and DAVID MIN
 HANG CHAN, individually,

Date: October 25, 2013
 Time: 10:00 a.m.
 Dept.: 1, 17th Floor, San Francisco, CA
 Judge: The Honorable Samuel Conti

15 Defendants.
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18 Plaintiffs herein respectfully submit their Case Management Statement, requesting that the
 19 Case Management Conference, currently on calendar for October 25, 2013 be continued for 90
 20 days. Good cause exists for the continuance, as follows:

21 1. As the Court’s records will reflect, this action was filed on April 19, 2013 to collect
 22 unpaid contributions owed to Plaintiffs for work performed by Defendants’ employees. The
 23 Defendants were served on May 10, 2013, and a Proof of Service of Summons was filed with the
 24 Court on May 20, 2013 (Dkt. #11). Defendants failed to plead or otherwise respond to the lawsuit,
 25 and the Clerk entered default as to both Defendants on July 8, 2013 (Dkt. #16).

26 2. Some payments were made, however Defendants failed to provide contribution
 27 reports for additional months. Furthermore, while Defendants submitted contribution reports
 28 stating that they had “no employees” during the time period December 2012 through May 2013,

1 one of Defendants' employees submitted paystubs to Plaintiffs Trust Funds' administrator
2 indicating that contributions are owed for hours worked during December 2012, contrary to
3 Defendant's report of no employees.

4 3. Plaintiffs have, therefore, requested an audit of Defendants' payroll records in order
5 to confirm proper reporting and payment of contributions. (*See Complaint*, ¶18 and *Complaint*,
6 *Prayer ¶2*.)

7 4. The initial audit of Defendants' payroll records took place on September 17, 2013,
8 however the audit could not be completed as additional documentation was needed from
9 Defendants.

10 5. Plaintiffs' auditor has advised that they requested the remaining necessary
11 documentation from Defendants on September 23, 2013 but have received no response.
12 Defendants have not yet provided the documents necessary to complete the audit of their payroll
13 records. Plaintiffs will, therefore, file a Motion for Default Judgment for any amounts known or
14 estimated to be due according to Plaintiffs Trust Funds' procedures, for any amounts found due on
15 audit according to proof, and for an Order that Defendants comply with the audit procedure
16 according to the terms of its Collective Bargaining Agreement and the Trust Agreements
17 incorporated therein.

18 6. Based on the foregoing, Plaintiffs respectfully request that the Case Management
19 Conference, currently scheduled for October 25, 2013, be continued for 90 days to allow time for
20 Plaintiffs to file their Motion for Default Judgment or, if Defendants provide the requested
21 documentation, for the audit to be completed and finalized and an audit report issued, for the
22 parties to discuss the audit report, and for Plaintiffs to obtain payment of any amounts due.

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