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7 Attorneys for Plaintiffs

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN FRANCISCO DIVISION

11 BOARD OF TRUSTEES OF THE  
 LABORERS HEALTH AND WELFARE  
 12 TRUST FUND FOR NORTHERN  
 CALIFORNIA; BOARD OF TRUSTEES OF  
 13 THE LABORERS VACATION-HOLIDAY  
 TRUST FUND FOR NORTHERN  
 14 CALIFORNIA; BOARD OF TRUSTEES OF  
 THE LABORERS PENSION TRUST FUND  
 15 FOR NORTHERN CALIFORNIA; and  
 BOARD OF TRUSTEES OF THE  
 16 LABORERS TRAINING AND RETRAINING  
 TRUST FUND FOR NORTHERN  
 17 CALIFORNIA,

18 Plaintiff,

19 vs.

20 INDUSTRIAL COMMERCIAL CONCRETE  
 CONSTRUCTION, INC., a California  
 21 corporation; and JEFFREY J. HUSTON, an  
 individual,

22 Defendants.

Case No.: C 14-02061 JSC

**CASE MANAGEMENT CONFERENCE  
STATEMENT; ORDER THEREON**

**Date:** December 18, 2014  
**Time:** 1:30 p.m.  
**Ctroom:** F, 15<sup>th</sup> Floor  
 Hon. Jacqueline Scott Corley

24 BOARD OF TRUSTEES OF THE CEMENT  
 MASONS HEALTH AND WELFARE TRUST  
 25 FUND FOR NORTHERN CALIFORNIA;  
 BOARD OF TRUSTEES OF THE CEMENT  
 26 MASONS VACATION-HOLIDAY TRUST  
 FUND FOR NORTHERN CALIFORNIA;  
 27 BOARD OF TRUSTEES OF THE CEMENT  
 MASONS PENSION TRUST FUND FOR  
 28 NORTHERN CALIFORNIA; AND BOARD  
 OF TRUSTEES OF THE CEMENT MASONS

Case No.: C 14-02064 JSC

1 TRAINING TRUST FUND FOR NORTHERN  
2 CALIFORNIA,

3 Plaintiffs,

4 vs.

5 INDUSTRIAL COMMERCIAL CONCRETE  
6 CONSTRUCTION, INC., a California  
corporation; and JEFFREY J. HUSTON, an  
individual,

7 Defendants.

8  
9 Plaintiffs Laborers Trust Funds provide this updated case management statement.

10 On May 6, 2014, Plaintiffs Laborers Trust Funds filed their Complaint for Damages for  
11 Breach of Collective Bargaining Agreement, To Recover Unpaid Trust Fund Contributions, For  
12 Breach of Fiduciary Duty and for a Mandatory Injunction (“Complaint”) before this Court.  
13 Plaintiffs seek to recover fringe benefit contributions due and owing on behalf of Industrial  
14 Commercial Concrete Construction, Inc.’s covered employees.

15 On May 6, 2014, the Cement Masons Trust Funds filed their Complaint for Damages for  
16 Breach of Collective Bargaining Agreement, To Recover Unpaid Trust Fund Contributions, For  
17 Breach of Fiduciary Duty and for a Mandatory Injunction (“Complaint”) in Case No. C 14-  
18 02064 DMR. Plaintiffs Cement Masons Trust Funds seek to recover fringe benefit  
19 contributions due and owing on behalf of Industrial Commercial Concrete Construction, Inc.’s  
20 covered employees.

21 On August 21, 2014, the Administrative Motion to Relate Cases was granted and these  
22 two cases were assigned to this Court.

23 Since filing both Complaints, Plaintiffs made several attempts to locate and serve  
24 Defendants:

- 25 • May 9, 2014;
- 26 • May 10, 2014;
- 27 • May 11, 2014; and
- 28 • August 21, 2014.

1 On September 24, 2014, Plaintiffs brought their Motion to Serve Defendants by  
2 Publication. Hearing was set for November 6, 2014. On November 5, 2014 this Court issued an  
3 Order denying the motion, without prejudice. The Order directed Plaintiffs to make additional  
4 reasonable efforts to serve Defendants and to exhaust all other available remedies prior to  
5 making a further motion to serve Defendants by publication. This Court further noted that  
6 service of Defendant Industrial Commercial Concrete Construction, Inc. would be more suitable  
7 for service through the Secretary of State rather than via Publication (assuming further efforts at  
8 service were unproductive).

9 After the Court issued its November 5, 2014 Order, Plaintiffs attempted to once again  
10 serve Defendants at 1531 N. Mitchell Canyon Road, Clayton, CA 94517, the last known  
11 residential address of Defendant Jeffrey J. Huston, the President/CEO of Industrial Commercial  
12 Concrete Construction, Inc. Service was attempted on the following dates:

- 13 • December 1, 2014;
- 14 • December 2, 2014 (two attempts on this date); and
- 15 • December 3, 2014.

16 Prior to making further attempts at service, Plaintiffs were able to verify that the  
17 1531 N. Mitchell Canyon Road address is the current residence of Defendant Huston. A  
18 representative of Plaintiffs is familiar with the address, has visited the residence and was  
19 positively able to identify the residence with a recent photograph of the residence. In addition,  
20 this representative is able to verify the white pick-up truck at the residence belonging to  
21 Defendant Huston. According to Plaintiffs' process server, the residence is occupied, lights are  
22 on, the blinds are closed, and a dog barks when the process server rang the doorbell.

23 Plaintiffs' representative has also met Defendant Huston and is familiar with his physical  
24 description. Defendant Huston's physical description matches the physical description of the  
25 person who was contacted at the residence on August 21, 2014 by Plaintiffs' process server and  
26 denied to the process server that he was Defendant Huston and knew nothing about Industrial  
27 Commercial Concrete Construction.

28 ///

1 Plaintiffs are making further attempts to serve Defendants during the next thirty days. If  
2 these attempts are not successful, Plaintiffs will bring a motion to serve Defendant Industrial  
3 Commercial Concrete Construction via the Secretary of State and to serve Defendant Huston via  
4 publication.

5 Based on the above, Plaintiffs Laborers Trust Funds respectfully request that this Court  
6 continue the December 18, 2014 Case Management Conference for an additional thirty days. If  
7 Plaintiffs are unable to effectuate service within the next thirty days, Plaintiffs will file their  
8 motions to serve Defendant Industrial Commercial Concrete Construction via the Secretary of  
9 State and to serve Defendant Huston via publication.

10 DATED: December 11, 2014

11 BULLIVANT HOUSER BAILEY PC

12  
13 By /s/ Ronald L. Richman  
14 Ronald L. Richman

15 Attorneys for Plaintiffs

16  
17 **ORDER**

18 Based on the Plaintiffs' request to continue the case management conference and good  
19 cause appearing,

20 IT IS HEREBY ORDERED that the December 18, 2014 case management conference  
21 be continued to February 5, 2015 at 1:30 p.m., Courtroom F, 15<sup>th</sup> Floor. Plaintiffs  
22 shall file an updated case management conference statement no later than seven (7) days prior to  
23 the continued case management conference.

24 DATED: Dec. 12, 2014

25  
26 By: Jacqueline Scott Corley  
27 HON JACQUELINE SCOTT CORLEY  
28 UNITED STATES MAGISTRATE JUDGE