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6 Attorneys for Plaintiffs  
 Laborers Trust Funds

7  
 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 Plaintiffs,

19 vs.

20 KURT ALBIN ERNST

21 Defendant.

Case No.: C 08 CV 00355 PJH

**JOINT CASE MANAGEMENT  
 CONFERENCE STATEMENT; ORDER  
 THEREON**

Date: December 18, 2008  
 Time: 2:30 p.m.  
 Ctroom: 3, 17<sup>th</sup> Floor  
 Hon. Phyllis J. Hamilton

22  
 23 Plaintiffs Laborers Trust Funds and Defendant Kurt Albin Ernst provide this Court with  
 24 the following Joint Case Management Statement.

25 **1. Background**

26 Plaintiffs allege that Defendant was doing business as Ernst Mechanical and that he  
 27 signed a memorandum agreement pursuant to which he became bound to a written collective  
 28

1 bargaining agreement with the Northern California District Council of Laborers entitled the  
2 Laborers' Master Agreement For Northern California ("Master Agreement").

3 Plaintiffs allege that pursuant to the Master Agreement, defendant was bound and  
4 subject to all provisions and conditions of the written trust agreements which established the  
5 trust funds<sup>1</sup>. Further, plaintiffs allege that pursuant to the Master Agreement and trust  
6 agreements, defendant was bound to pay to the Trust Funds employee fringe benefit  
7 contributions into each Trust Fund on behalf of his covered employees. Plaintiffs allege that  
8 Ernst failed to report and therefore failed to pay employee fringe benefit contributions on behalf  
9 of his covered workers.

10 Defendant contends that he has made all payments required of him under any and all of  
11 the agreements he has made with Plaintiffs, or any of them.

## 12 **2. Procedural Status**

13 At the last case management conference on September 25, 2008, the parties advised this  
14 Court that they would engage in informal discovery and settlement discussions. Defendant  
15 provided Plaintiffs with additional information and documentation regarding the alleged  
16 employee fringe benefit contributions due and owing. On November 19, 2008 Plaintiffs  
17 forwarded to Defendant a revised audit showing the amount allegedly due and owing pursuant  
18 to the revisions to the audit: \$34,639.43 in principal contributions; \$3,150 in liquidated  
19 damages; and \$28,991.54 in interest.

20 Defendant disputes the existence and/or amount of the balance due. Defendant has  
21 requested an additional 60 days to review the revised audit and attempt to resolve any further  
22 issues regarding the audit. Plaintiffs have no objection to allowing Defendant an additional 60  
23 days to review and provide the Plaintiffs with additional information and documentation in an  
24 attempt to resolve this case prior to further litigation.

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<sup>1</sup> Each of the trust funds identified in the caption, above, was created by a Trust Agreement.

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**3. Request To Stay Action For 60 Days**

Defendant requests and Plaintiffs do not object to an additional 60-day stay of this action so that the parties may spend additional, and hopefully productive, time in trying to resolve any further issues regarding the revised audit.

If this case is not resolved within 60 days, the parties will prepare and submit a formal case management conference statement with proposed pre-trial and trial dates and further, will schedule an evaluation before Harlan Richter, the ENE assigned to this case by this Court.

DATED: December 8, 2008

BULLIVANT HOUSER BAILEY PC

By \_\_\_\_\_ /s/  
Ronald L. Richman  
Susan J. Olson

Attorneys for Plaintiffs Laborers Trust Funds

DATED: December 8, 2008

By \_\_\_\_\_ /s/  
Kenneth D. Robin

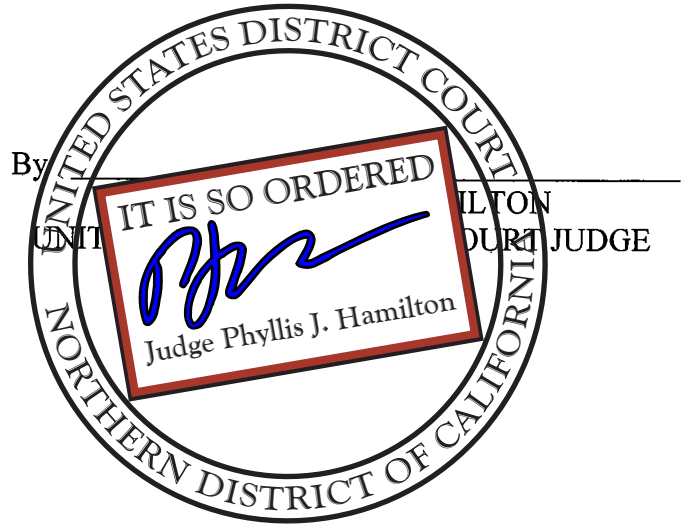
Attorneys for Defendant Kurt Albin Ernst

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**ORDER**

Good cause appearing, it is so ORDERED that the Case Management Conference currently set for December 18, 2008 at 2:30 p.m. is continued to February 5, 2009, at 2:30 p.m. in Courtroom 3, 17<sup>th</sup> Floor.

DATED: December 10, 2008



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