

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
28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIATRUSTEES OF UA LOCAL 159
HEALTH AND WELFARE TRUST
FUND, et al.,

Plaintiffs,

No. C 09-2397 PJH

v.

ORDERRUIZ BROTHERS PREFERRED
PLUMBING, INC., et al.,Defendants.
/

Defendants' motion for judgment on the pleadings, motion for leave to file a third-party complaint, and motion for leave to file an amended answer came on for hearing before this court on January 12, 2011. Plaintiffs appeared by their counsel John J. Davis, Jr. and Adam J. Zapala, and defendants appeared by their counsel Daniel J. Muller. Having read the parties' papers and carefully considered their arguments and the relevant legal authorities, and good cause appearing, the court hereby rules as follows for the reasons stated at the hearing.

1. The motion for judgment on the pleadings is GRANTED as to the allegations against the individual defendants in the first cause of action, and DENIED as to the second cause of action. In addition, plaintiffs are ORDERED to provide a more definite statement. Specifically, plaintiffs must amend the second cause of action for breach of fiduciary duty to clarify which sections of ERISA are alleged to have been violated, and what facts support the alleged violations. The amended complaint (which shall also eliminate the allegations

1 against the individual defendants in the first cause of action) shall be filed no later than
2 February 9, 2011.

3 2. The motion for leave to file a third-party complaint is GRANTED. The third-
4 party complaint shall be filed no later than February 9, 2011.

5 3. The motion for leave to amend the answer to add a defense of fraud in the
6 execution is DENIED.

7

8 **IT IS SO ORDERED.**

9 Dated: January 13, 2011



PHYLLIS J. HAMILTON
United States District Judge

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28