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 FLUOR CONSTRUCTORS INTERNATIONAL, INC.
 8 and GENE ARCENEUX

9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**

12 LINDA TERRELL

13 Plaintiff,

14 v.

15 HARDER MECHANICAL
 CONTRACTORS INC, a corporation,
 16 FLOUR CONSTRUCTION, an
 corporation, and GENE ARCENEUX, an
 17 individual,

18 Defendants.

Case No. CV 10-1080 CW (DMR)

**ORDER GRANTING *EX PARTE*
 APPLICATION MOVING HEARING
 DATE FOR DEFENDANTS'
 MOTIONS FOR SUMMARY
 JUDGMENT AND CASE
 MANAGEMENT CONFERENCE
 FROM JUNE 9, 2011 TO JUNE 23,
 2011 (DOCKET NO. 122)**

Complaint Filed: March 12, 2010
 Trial Date: July 11, 2011
 Judge: Hon. Claudia Wilken
 (Ctrm. 2, 4th Floor, Oakland)

1 Defendants Fluor Constructors International, Inc. (“FCII”) and Gene Arceneaux
2 (collectively, “Defendants”), hereby apply to the Court *ex parte* for an Order moving the
3 hearing date for all pending motions and the case management conference currently set to
4 be heard on June 9, 2011 to June 23, 2011. All parties are available on June 23, 2011 and
5 there is **no opposition** to Defendants’ request to move the date of the hearing.

6 Defendants are not requesting any changes to the briefing schedule for any of the motions
7 or the date of filing of the case management conference statement. Defendants are only
8 requesting a change of the hearing date due to conflicts which do not permit Defendants’
9 counsel to attend the hearing on June 9, 2011.

10 The relief requested by this application is appropriately sought on an *ex parte*
11 basis pursuant to Federal Rules of Civil Procedure, Rule 6(b)(1). The undersigned
12 counsel has advised counsel for all other parties in this action that such an *ex parte*
13 request will be made to this Court due to scheduling conflicts by counsel for Defendants.
14 Defendants are not available for the hearing on June 9, 2011. both lead counsel have
15 scheduling conflicts. Lori Bowman will be out of the state and Leslie Wallis must be in
16 Los Angeles on that date. (See Declaration of Leslie E. Wallis (“Wallis Dec.”) ¶ 3)

17 On May 6, 2011, the Court moved the hearing date on the three motions for
18 summary judgment filed against Plaintiff from June 2, 2011 to June 9, 2011. (Dkt. 119)
19 On the morning of May 9, 2011, the Court issued an order moving the hearing on the
20 remaining motion for partial summary judgment filed by Defendants against Defendant
21 Harder Mechanical and moved the Case Management Conference to June 9, 2011 as
22 well. (Dkt 121)

23 Upon receipt of the court’s orders, Counsel for Defendants checked the court’s
24 calendar in light of Counsels’ unavailability on the new hearing date. The court’s on-line
25 calendar showed the first available date for hearing the summary judgment motion after
26 June 9 was June 23 (Wallis Dec. ¶ 4) Therefore, on May 9, 2011, counsel for
27 Defendants notified counsel for Plaintiff and counsel for Harder of the calendaring

1 conflicts and the need to continue the hearing date and asked whether they were available
2 on June 23, advising them that this date was available on the court's on-line calendar.

3 Both counsel responded that they were available on June 23, 2011. (Wallis Dec. ¶¶ 4-5)

4 Counsel for Defendants Harder Mechanical Contractors, Inc. is available on June
5 23, 2011 and is not opposed to this application. (Wallis Dec. ¶ 5) Counsel for Plaintiff
6 Linda Terrell ("Plaintiff") is also available on June 23, 2011 and has stated that they will
7 not oppose this application. Id. However, Plaintiff's counsel has requested that
8 Defendants file this *ex parte* application as they are not willing to sign a stipulation
9 moving the hearing date. Id. Therefore, all parties are available on the proposed hearing
10 date and no party opposes this request to move the hearing date on all pending motions
11 and the case management conference from the current date of June 9, 2011 at 2:00 p.m.
12 to June 23, 2011 at 2:00 p.m. Based on the foregoing, the court has good cause to move
13 the hearing date to June 23, 2011 at 2:00 p.m. as requested herein.

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16 DATED: May 10, 2011

OGLETREE, DEAKINS, NASH, SMOAK
& STEWART, P.C.

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19 By: /s/ Leslie E. Wallis
20 Lori A. Bowman
21 Leslie E. Wallis
22 Attorneys for Defendants FLUOR
23 CONSTRUCTORS
24 INTERNATIONAL, INC. and GENE
25 ARCENEUX
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ORDER

Having considered the *ex parte* application of Defendants Fluor Constructors International, Inc. and Gene Arceneaux for an order moving all pending motions and the case management conference currently set for hearing on June 9, 2011 to June 23, 2011, and finding good cause therefore,

IT IS HEREBY ORDERED that all pending motions for summary judgment or partial summary judgment currently set to be heard on June 9, 2011 and the case management conference will now be heard on June 23, 2011 at 2:00 p.m. This order does not change the briefing schedule set by the Court in its May 6, 2011 Order. Docket No. 119.

Dated: May 10, 2011



Judge Claudia A. Wilken