

1 Muriel B. Kaplan, Esq. (SBN 124607)  
 Erica J. Russell, Esq. (SBN 274494)  
 2 SALTZMAN & JOHNSON LAW CORPORATION  
 44 Montgomery Street, Suite 2110  
 3 San Francisco, CA 94104  
 (415) 882-7900  
 4 (415) 882-9287 – Facsimile  
[mkaplan@sjlawcorp.com](mailto:mkaplan@sjlawcorp.com)  
 5 [erussell@sjlawcorp.com](mailto:erussell@sjlawcorp.com)

6 Attorneys for Plaintiffs

7  
 8 UNITED STATES DISTRICT COURT  
 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 10

11 BRICKLAYERS LOCAL NO. 3 PENSION  
 TRUST, et al.,

12 Plaintiffs,

13 v.

14 DONGHUA XU, individually and dba UNITED  
 15 TILE & MARBLE CO.,

16 Defendant.

Case No.: C13-4593 JSW

**PLAINTIFFS' REQUEST TO  
 CONTINUE CASE MANAGEMENT  
 CONFERENCE; [~~PROPOSED~~] ORDER  
 THEREON**

Date: June 27, 2014  
 Time: 11:00 a.m.  
 Location: 450 Golden Gate Avenue, San  
 Francisco, CA  
 Courtroom: 11, 19<sup>th</sup> Floor  
 Judge: Honorable Jeffrey S. White

18 Plaintiffs herein respectfully submit this Request to Continue the Case Management  
 19 Conference, currently scheduled for June 27, 2014, for approximately sixty (60) days. Good cause  
 20 exists for the granting of the continuance as follows:

21 1. As the Court's records will reflect, this action was filed on October 4, 2013 to  
 22 compel Defendant to comply with the terms of his Collective Bargaining Agreement.

23 2. Plaintiffs served the Complaint, Summons, and related court documents on  
 24 Defendant on November 4, 2013. Defendant failed to file an Answer to the Complaint and  
 25 Plaintiffs requested Entry of Default, which was entered by the court on December 12, 2013.  
 26  
 27  
 28

1           3.       An audit of Defendant's payroll records for the time period from October 1, 2008  
2 through March 31, 2013 showed that Defendant failed to report and pay required contributions for  
3 several of his employees in the years 2008 and 2009.

4           4.       The amount Defendant owed on the audit was revised after Plaintiffs received  
5 documentation from Defendant, namely W-2 forms, which showed that a portion of the hours due  
6 on the audit had been paid. The amount owed on the audit was further revised after Plaintiffs  
7 received declarations from two (2) of Defendant's employees, which stated that the hours worked  
8 in 2009 were spent performing home remodel work on Defendant's personal residence and did not  
9 involve any work covered by the Collective Bargaining Agreement. Therefore, the employees  
10 agreed that they would not pursue any fringe benefit contributions or pension credit for the hours  
11 worked in 2009 on the home remodel.

12           5.       Thereafter, Plaintiffs sent Defendant several letters advising him of the total  
13 amount owed to Plaintiffs, including the amount remaining due on the audit, plus attorneys' fees  
14 and costs incurred in this action.

15           6.       Defendant continues to dispute the amount remaining due on the audit and that he  
16 is liable for the attorneys' fees and costs incurred in this action.

17           7.       Plaintiffs will make a final attempt to resolve this matter informally with Defendant  
18 for the remaining amounts owed to Plaintiffs. Should the parties fail to reach an informal  
19 resolution of this matter, Plaintiffs anticipate filing a Motion for Default Judgment against  
20 Defendant.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 8. Based on the above, there are no issues that need to be addressed by the parties at  
2 the currently scheduled Case Management Conference. In the interest of conserving costs as well  
3 as the Court's time and resources, Plaintiffs respectfully request that the currently scheduled Case  
4 Management Conference be continued for approximately sixty (60) days to allow sufficient time  
5 for the parties to reach an informal resolution of this matter.

6 I declare under penalty of perjury that I am the attorney for the Plaintiffs in the above  
7 entitled action, and that the foregoing is true of my own knowledge.

8 Executed this 17th day of June, 2014, at San Francisco, California.

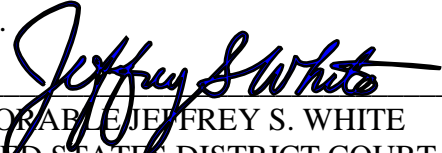
9 SALTZMAN & JOHNSON  
10 LAW CORPORATION

11 By: \_\_\_\_\_/S/\_\_\_\_\_  
12 Erica J. Russell  
Attorneys for Plaintiffs

13 IT IS SO ORDERED.

14 The currently set initial Case Management Conference is hereby continued to  
15 August 29, 2014 at 11:00 a.m., and all previously set deadlines and  
16 dates related to this case are continued accordingly.

17 Date: June 19, 2014

18   
HONORABLE JEFFREY S. WHITE  
19 UNITED STATES DISTRICT COURT JUDGE  
20  
21  
22  
23  
24  
25  
26  
27  
28