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 8 UNITED STATES DISTRICT COURT
 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 BRICKLAYERS LOCAL NO. 3 PENSION TRUST, et al.,

12 Plaintiffs,

13 v.

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

15 Defendant.
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Case No.: C13-4593 JSW

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

Date: August 29, 2014
 Time: 11:00 a.m.
 Location: 450 Golden Gate Avenue, San Francisco, CA
 Courtroom: 11, 19th Floor
 Judge: Honorable Jeffrey S. White

18 Plaintiffs herein respectfully submit this Request to Continue the Case Management
19 Conference, currently scheduled for August 29, 2014, for approximately sixty (60) days. Good
20 cause 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 3. An audit of Defendant’s payroll records for the time period from October 1, 2008
27 through March 31, 2013 showed that Defendant failed to report and pay required contributions for
28 several of his employees in the years 2008 and 2009.

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

9 5. Thereafter, Plaintiffs sent Defendant several letters advising him of the total
10 amount owed to Plaintiffs, including the amount remaining due on the audit, plus attorneys' fees
11 and costs incurred in this action, which Defendant is required to pay pursuant to the Collective
12 Bargaining Agreement.

13 6. Defendant failed and refused to pay the amounts due to Plaintiffs.

14 7. On June 20, 2014, the Court granted Plaintiffs' Request for a Continuance of the
15 Case Management Conference to allow sufficient time for Plaintiffs to make a final attempt to
16 resolve this matter informally with Defendant. The Case Management Conference was
17 rescheduled to August 29, 2014.

18 8. Plaintiffs sent a final demand letter to Defendant requesting payment of amounts
19 due to Plaintiffs. Defendant failed and refused to pay the amounts owed to Plaintiffs. Therefore,
20 Plaintiffs will prepare and file a Motion for Default Judgment against Defendant.

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9. Based on the above, there are no issues that need to be addressed by the parties at the currently scheduled Case Management Conference. In the interest of conserving costs as well as the Court's time and resources, Plaintiffs respectfully request that the currently scheduled Case Management Conference be continued for approximately sixty (60) days to allow sufficient time for Plaintiffs to prepare and file a Motion for Default Judgment against Defendant.

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

Executed this 22nd day of August 2014, at San Francisco, California.


SALTZMAN & JOHNSON
LAW CORPORATION

By: _____/S/_____
Erica J. Russell
Attorneys for Plaintiffs

IT IS SO ORDERED.

The currently set initial Case Management Conference is hereby continued to October 31, 2014 at 11:00 a.m., and all previously set deadlines and dates related to this case are continued accordingly.

Date: August 25, 2014



HONORABLE JEFFREY S. WHITE
UNITED STATES DISTRICT COURT JUDGE