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8 UNITED STATES DISTRICT COURT  
 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 10 (San Francisco Division)

11 SAN MATEO ELECTRICAL WORKERS  
 12 HEALTH CARE TRUST; INTERNATIONAL  
 13 BROTHERHOOD OF ELECTRICAL  
 14 WORKERS, LOCAL UNION 617; SAN  
 MATEO COUNTY ELECTRICAL  
 15 CONSTRUCTION INDUSTRY  
 RETIREMENT TRUST; SAN MATEO  
 16 COUNTY ELECTRICAL APPRENTICESHIP  
 TRAINING TRUST; Dominic Nolan, as  
 17 Trustee of the above TRUSTS; and  
 NATIONAL ELECTRICAL CONTRACTORS  
 18 ASSOCIATION, SAN MATEO CHAPTER,

Case No. 14-cv-00142-PJH

**PLAINTIFFS' CASE MANAGEMENT  
 STATEMENT; [PROPOSED] ORDER  
 CONTINUING CASE MANAGEMENT  
 CONFERENCE**

[Local Rule 16-9]

Date: April 10, 2014  
 Time: 2:00 p.m.  
 Courtroom: 3 - 3rd Floor  
 Location: 1301 Clay Street  
 Oakland, CA 94612  
 Judge: Hon. Phyllis J. Hamilton

19 Plaintiffs,

20 vs.

21 MICHAEL BIRKELAND, an individual,

22 Defendant.  
 23

INTRODUCTION

1  
2 This is an ERISA collections case. Plaintiffs SAN MATEO ELECTRICAL WORKERS  
3 HEALTH CARE TRUST; INTERNATIONAL BROTHERHOOD OF ELECTRICAL  
4 WORKERS, LOCAL UNION 617; SAN MATEO COUNTY ELECTRICAL CONSTRUCTION  
5 INDUSTRY RETIREMENT TRUST; SAN MATEO COUNTY ELECTRICAL  
6 APPRENTICESHIP TRAINING TRUST; Dominic Nolan, as Trustee of the above TRUSTS; and  
7 NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION, SAN MATEO CHAPTER  
8 (hereafter "Plaintiffs") allege that Defendant MICHAEL BIRKELAND (hereafter "Defendant")  
9 failed to pay fringe benefit contributions due, resulting in liquidated damages and interest, as well  
10 as attorneys' fees and costs.  
11

12 Defendant's deadline to answer the Complaint was on or about March 6, 2014. Defendant  
13 failed to file an answer or other responsive pleading on or before March 6, 2014, however.  
14 Accordingly, on March 25, 2014, Plaintiffs filed their request for entry of default. (See, Dckt. No.  
15 11.) On March 26, 2014, this Court entered default as to Defendant. (See, Dckt. No. 13.) Plaintiffs  
16 therefore respectfully request that the Case Management Conference presently scheduled for April  
17 10, 2014 at 2:00 p.m. before the Honorable Phyllis J. Hamilton be continued to a later date to  
18 afford Plaintiffs the opportunity to file their Motion for Default Judgment.  
19  
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21 1. Jurisdiction and Service: This is an ERISA collection action, and as such, this  
22 Court has jurisdiction pursuant to 29 U.S.C. §§ 1132 and 1145. Defendant was personally served  
23 on February 13, 2014. (See, Dckt. No. 5.)

24 2. Facts: This case concerns the underpayment and nonpayment of mandatory fringe  
25 benefit contributions by Defendant to Plaintiffs. Plaintiffs allege Defendant's actions constitute a  
26 failure to make contributions to a multi-employer plan, as well as a breach of fiduciary duty,  
27

1 pursuant to 29 U.S.C. § 1145.

2 3. Legal Issues: The principal legal issue in this case is whether Defendant is liable for the  
3 unpaid fringe benefit contributions and resulting liquidated damages, interest, attorneys' fees and  
4 costs.

5 4. Motions: Plaintiffs anticipate filing a Motion for Default Judgment. Plaintiffs are not  
6 aware of any other potential motions at this time.  
7

8 5. Amendment of Pleadings: Plaintiffs do not anticipate any amendment of pleadings at  
9 this time.

10 6. Evidence Preservation: As Defendant failed has failed to appear in this case, the parties  
11 have not discussed any necessary steps to preserve relevant evidence.

12 7. Disclosures: As Defendant failed has failed to appear in this case, the parties have not  
13 exchanged initial disclosures.  
14

15 8. Discovery: No discovery has been conducted. Pursuant to Fed. R. Civ. P. 26(f), the  
16 parties' discovery plan, including the Plaintiffs' views and proposals thereon, is as follows:

17 (a) Plaintiffs do not propose any changes should be made in the timing, form,  
18 or requirement for disclosures under Rule 26(a).

19 (b) Plaintiffs are unaware at this time of the subjects on which discovery may  
20 be needed. Plaintiffs believe that since the requisite discovery, if any, in this case will be minimal,  
21 discovery should be completed quickly and should not be conducted in phases or be limited to or  
22 focused on particular issues.  
23

24 (c) Plaintiffs do not foresee any issues about disclosure or discovery of  
25 electronically stored information.

26 (d) Plaintiffs are unaware at this time of any issues about claims of privilege or  
27

1 of protection as trial-preparation materials.

2 (e) Plaintiffs do not propose any changes be made in the limitations on  
3 discovery imposed under these rules or by local rule.

4 9. Class Actions: This case is not a class action.

5 10. Related Cases: A previous case – *San Mateo Electrical Workers Health Care Trust, et*  
6 *al. v. F. Connolly Co.*, Case No. 12-cv-6452 SI – is arguably related to the present action.

7 11. Relief: Plaintiffs seek money damages for unpaid and underpaid fringe benefit  
8 contributions owed pursuant to a collective bargaining agreement, plus liquidated damages,  
9 interest, attorneys’ fees and costs.

10 12. Settlement and ADR: As Defendant failed has failed to appear in this case, the parties  
11 have not agreed to an ADR process.

12 13. Consent to Magistrate Judge For All Purposes: Plaintiffs do not consent to a magistrate  
13 judge to conduct further proceedings.

14 14. Other References: Plaintiffs do not believe this case is suitable for reference to binding  
15 arbitration, a special master or multi-district litigation.

16 15. Narrowing of Issues: As Defendant failed has failed to appear in this case, there has  
17 been no discussion between the parties regarding issues which can be narrowed.

18 16. Expedited Schedule: Plaintiffs do not believe there is a need for this case to proceed  
19 on an expedited basis. Plaintiffs expect the case will be resolved via a Motion for Default  
20 Judgment.

21 17. Scheduling: As Defendant failed has failed to appear in this case, Plaintiffs believe  
22 setting pre-trial dates is premature. Further, Plaintiffs believe the case will be resolved via a  
23 Motion for Default Judgment and, as such, there is no need for a pre-trial schedule.

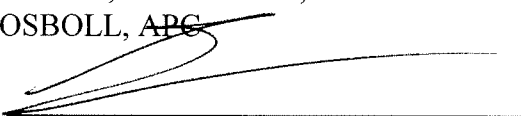
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18. Trial: Plaintiffs believe the case will be resolved via a Motion for Default Judgment and, as such, trial will not be necessary.

19. Disclosure of Non-party Interested Entities or Persons: Plaintiffs are not aware of any other interested entities or persons other than the named parties.

20. Plaintiffs believe that the above statement addresses all matters so as to facilitate the just, speedy and inexpensive disposition of this matter.

Dated: April 4, 2014

Respectfully submitted,  
  
NEYHART, ANDERSON, FLYNN &  
GROSBOLL, APC  
  
By:   
Eileen M. Bissen  
Attorneys for Plaintiffs

[PROPOSED] ORDER

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Having read and considered Plaintiffs' Case Management Conference Statement, and good cause appearing therefore,

IT IS HEREBY ORDERED that the Case Management Conference currently scheduled for April 10, 2014 at 2:00 p.m. shall hereby be continued to June 12, 2014 at 2:00 ~~a.m.~~ p.m. The case management conference will be vacated if the motion for default judgment is filed by June 5, 2014.

Dated: April 7, 2014

HONORABLE PHYLLIS J. HAMILTON  
United States District Judge



**PROOF OF SERVICE BY MAIL**

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I, the undersigned, declare:

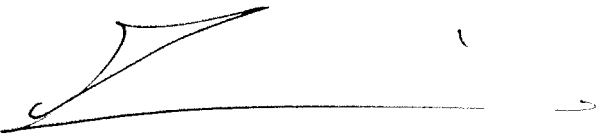
I am employed in the City and County of San Francisco, State of California. I am over the age of 18 years and not a party to the within action. My business address is 369 Pine Street, Suite 800, San Francisco, California 94104. On April 4, 2014 I served the within:

**PLAINTIFFS' CASE MANAGEMENT STATEMENT; [PROPOSED] ORDER  
CONTINUING CASE MANAGEMENT CONFERENCE**

on the parties in said cause following our business practice, with which I am readily familiar. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I placed a true copy of the within document enclosed in a sealed envelope with first class postage thereon fully prepaid for collection and deposit on the date shown below in the United States mail at San Francisco, California addressed as follows:

Michael Birkeland  
41 W. Summit Drive  
Emerald Hills, CA 94062

I declare under the penalty of perjury that the foregoing is true and correct, and that this declaration was executed on April 4, 2014, at San Francisco, California.

  
\_\_\_\_\_  
Eileen M. Bissen