

1 PHILIP M. MILLER (SBN 87877)  
 ANNE M. BEVINGTON (SBN 111320)  
 2 SALTZMAN & JOHNSON LAW CORPORATION  
 44 Montgomery Street, Suite 2110  
 3 San Francisco, CA 94104  
 4 (415) 882-7900  
 (415) 882-9287 – Facsimile  
 5 [pmiller@sjlawcorp.com](mailto:pmiller@sjlawcorp.com)  
[abevington@sjlawcorp.com](mailto:abevington@sjlawcorp.com)

6  
 7 Attorneys for Plaintiffs

8 UNITED STATES DISTRICT COURT  
 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 10 (OAKLAND DIVISION)

11 AUTOMOTIVE INDUSTRIES PENSION TRUST  
 FUND, AUTOMOTIVE INDUSTRIES WELFARE  
 12 TRUST FUND, JAMES H. BENO, Trustee,  
 13 STEPHEN J. MACK, Trustee, DON CROSATTO,  
 Trustee, DOUGLAS CORNFORD, Trustee, JOHN  
 14 DI BERNARDO, Trustee, JOSE SANTANA,  
 Trustee, JAMES SCHWANTZ, Trustee, and SCOTT  
 15 PAGTER, Trustee,

16 Plaintiffs,

17 vs.

18 FIRST STUDENT, INC., a Delaware corporation,

19 Defendant.

CASE NO.: CV 15-04773 JSW

STIPULATION AND JOINT REQUEST  
 TO CONTINUE INITIAL CASE  
 MANAGEMENT CONFERENCE AND  
 RELATED DEADLINES; [~~PROPOSED~~]  
 ORDER

Date: February 12, 2016

Time: 11:00 a.m.

Courtroom: 5, Second Floor

Hon. Jeffrey S. White

20  
 21  
 22 The parties stipulate to, and jointly request, a 120-day continuance of the Initial Case  
 23 Management Conference currently set for February 12, 2016 at 11:00 a.m. in Courtroom 5, Second  
 24 Floor of the United States District Court located at 1301 Clay Street, Oakland, CA 94612, and the  
 25 related deadlines for filing their Case Management Conference Statement and Rule 26(f) report,  
 26 and completing initial disclosures. Good cause exists for the requested continuance for the  
 27 following reasons.

28 - 1 -

STIPULATION AND JOINT REQUEST TO CONTINUE INITIAL CMC  
 AND RELATED DEADLINES; [~~PROPOSED~~] ORDER; CASE NO. CV 15-4773 LB

1           Procedural History

2           This action arises under the Employee Retirement Income Security Act of 1974  
3 (“ERISA”), as amended by the Multiemployer Pension Plan Amendments Act of 1980 (29 U.S.C  
4 §§1001-1461 (1982)), for an order requiring Defendant to allow the Automotive Industries Trust  
5 Funds’ representative access to those business records necessary to conduct an audit for the period  
6 February 1, 2009 through the present, and to recover unpaid contributions found in the audit, as  
7 well as interest, liquidated damages, and reasonable attorneys’ fees and costs.

8           On October 5, 2015, Plaintiffs filed their Complaint in this matter. (Dkt. #1). The case  
9 was assigned to the Magistrate Judge Laurel Beeler.

10           On October 20, 2015, Plaintiffs filed their consent to the jurisdiction of Magistrate Judge  
11 Laurel Beeler. (Dkt. #7).

12           Defendant was served with the Summons and Complaint, related case filings and  
13 mandatory court documents on November 2, 2015 and a Proof of Service was filed with the Court  
14 on November 3, 2015. (Dkt. #8).

15           On November 18, 2015, the parties stipulated to extend the time for the Defendant to  
16 answer or otherwise respond to the Complaint an additional 30 days to December 23, 2015. (Dkt.  
17 #9). Defendant thereafter filed its Answer to the Complaint on December 23, 2015. (Dkt. #13).

18           On December 23, 2015, the parties filed a Notice of Need for ADR Phone Conference.  
19 (Dkt. #12), and the ADR Clerk set an ADR Phone Conference to occur on January 8, 2016. (Dkt.  
20 #14). Due to counsels’ subsequent unavailability on that date, the ADR Clerk continued the ADR  
21 Phone Conference to February 9, 2016 at 10:00 a.m.

22           On December 29, 2015, Defendant filed a Declination to Proceed Before a Magistrate  
23 Judge (Dkt. #15), and this matter was reassigned to the Honorable Jeffrey S. White on January 4,  
24 2016 (Dkt. #17).

25           By the Court’s Order entered January 6, 2016 (Dkt. #18), the Initial Case Management  
26 Conference was set for February 12, 2016.

27           The parties now request that the Initial Case Management Conference be continued 120

28

1 days, to on or after May 13, 2016, with the parties to file their Rule 26(f) Report, complete initial  
2 disclosures or state objection in Rule 26(f) Report and file their Case Management Statement ten  
3 court days before the date of the continued Case Management Conference.

4 Reasons for Requested Continuance

5 The reasons for the requested continuance are as follows:

6 1. The Complaint was filed in this matter to enforce Defendant's obligation to  
7 cooperate in the conducting of an audit by the Automotive Industries Trust Funds, through their  
8 independent auditor, Lindquist LLP ("the Auditor"). Since the complaint was filed, personnel of  
9 the Defendant have been in communication with the Auditor to provide the documents necessary to  
10 complete the audit

11 2. At the date of this filing, January 29, 2016, Defendant has provided many of the  
12 documents requested by the Auditor. Defendant believes it has provided all documents that are  
13 necessary to complete the audit. However, the Auditor has requested additional documentation.  
14 The parties wish to have an opportunity to resolve any questions about whether additional  
15 information is needed and move forward with completion of the audit.

16 3. Upon final completion of the audit, the parties may be in a position to resolve any  
17 contribution underpayments found to be due.

18 4. The parties anticipate that they will participate in an ADR session if necessary to  
19 resolve the dispute, once the audit has been completed.

20 5. A continuance of the Initial Case Management Conference would permit the parties  
21 to complete the audit and attempt to resolve the matter either informally or through the ADR  
22 process if necessary, before making initial disclosures and setting a pretrial and trial schedule for  
23 the case.

24 The changes will not affect any other deadline on the Court's calendar.

25 The undersigned declare under penalty of perjury that the foregoing is true and correct.

26 **IT IS SO STIPULATED.**

27 **\*\* SIGNATURES ON FOLLOWING PAGE \*\***

1 DATED: January 29, 2016

Saltzman & Johnson Law Corporation

2

/S/ Anne M. Bevington

3

By: Anne M. Bevington  
Attorneys for Plaintiffs

4 DATED: January 29, 2016

Little Mendelson, P.C.

5

/S/ Richard N. Hill

6

By: Richard N. Hill  
Attorneys for Defendant

7

8

CERTIFICATION RE: SIGNATURES

9

I attest that concurrence in the filing of this document has been obtained from Richard N.

10

Hill.

11

Dated: January 29, 2016

/S/ Anne M. Bevington

12

ANNE M. BEVINGTON

13

14

15

**ORDER**

16

Pursuant to the foregoing stipulation of the parties, the Initial Case Management

17

Conference now set for February 12, 2016, is continued to July 8 \_\_\_\_, 2016. On or before

18

July 1 \_\_\_\_, 2016, the parties shall file their Rule 26(f) Report, complete initial disclosures or

19

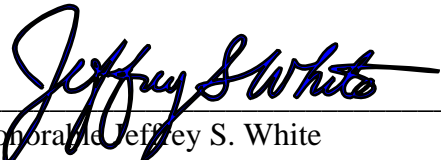
state objection in Rule 26(f) Report and file their Case Management Statement.

20

**IT IS SO ORDERED.**

21

Dated: February 1, 2016

  
\_\_\_\_\_  
Honorable Jeffrey S. White  
United States District Judge

22

23

24

25

26

27

28