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12 Attorney for Defendant Central Valley Construction, Inc.

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15

16 OPERATING ENGINEERS' HEALTH AND  
 WELFARE TRUST FUND FOR NORTHERN  
 17 CALIFORNIA, et al.,

18 Plaintiffs,

19 v.

20 CENTRAL VALLEY CONSTRUCTION, INC., a  
 California corporation;

22 Defendant.  
 23  
 24

Case No.: 17-cv-02365-KAW

**JOINT REQUEST TO CONTINUE CASE  
 MANAGEMENT CONFERENCE OR, IN  
 THE ALTERNATIVE, REQUEST FOR  
 TELEPHONIC APPEARANCE;  
 [PROPOSED] ORDER THEREON**

AS MODIFIED

Date: Tuesday, March 6, 2018

Time: 1:30 p.m.

Ctrm: 4, Third Floor

1301 Clay Street

Oakland, California

Judge: Hon. Magistrate Judge

Kandis A. Westmore

25 Plaintiffs Operating Engineers' Health and Wealth Trust Fund, et al. and Defendant Central  
 26 Valley Construction, Inc. (collectively, "the Parties") respectfully request that the Case Management  
 27 Conference, currently on calendar for March 6, 2018, be continued for approximately sixty to ninety  
 28

1 (60-90) days. Good cause exists for the granting of the continuance, as follows:

2 1. As the Court's records will reflect, this action was filed on April 26, 2017 (Dkt. #1).  
3 Defendant was personally served on May 4, 2017, and a Proof of Service of Summons was filed with the  
4 Court on May 25, 2017 (Dkt. #9). Defendant has retained counsel and counsel for Defendant filed an  
5 Answer to Complaint (Dkt. #8).

6 2. Defendant's counsel has contacted Plaintiffs' counsel and the parties are currently  
7 working to resolve this matter without the need for further litigation. The parties filed an ADR  
8 stipulation agreeing to proceed to mediation. (Dkt. #13).

9 3. On July 17, 2017, the Court issued an Order ("Order") referring this matter to mediation  
10 (Dkt. #14).

11 4. On August 15, 2017, the Court issued a Notice appointing Geoffrey White as mediator  
12 (Dkt. #17).

13 5. On August 28, 2017, the parties participated in a pre-mediation conference call with Mr.  
14 White whereby the participants concluded that a mediation date would be set after the parties had a  
15 further opportunity to meet and confer.

16 6. The parties' efforts were successful as Defendant contacted Plaintiffs' auditors and  
17 scheduled an audit appointment for October 26, 2017. The employer thereafter complied by having the  
18 audit appointment and providing the auditors with documentation necessary to proceed with the audit.

19 7. The parties have been in continued communication throughout the audit process.  
20 However, Plaintiffs have been informed by the auditors that to date additional documents remain  
21 outstanding and the parties are meeting and conferring regarding their production. Compliance by  
22 Defendants is anticipated. Upon receipt of said documents, the auditors will require additional time to  
23 review the information and incorporated it into their audit report.

24 8. There are no issues that need to be addressed by the parties at the currently scheduled  
25 Case Management Conference. In the interest of conserving costs, as well as the Court's time and  
26 resources, the Parties respectfully request that the upcoming Case Management Conference be continued  
27 for approximately sixty to ninety (60-90) days, or until after the mediation has taken place (Dkt. #21), to  
28

1 allow sufficient time to informally attempt to resolve the matter; if Plaintiffs cannot obtain the  
2 outstanding documents, they will reinitiate the mediation process if the matter cannot be informally  
3 resolved.

4 9. In the alternative, Plaintiffs request that they may appear at the hearing telephonically. As  
5 attorneys' fees and costs are "out of pocket," Plaintiffs are attempting to keep fees (and thus the Trust  
6 Funds' loss) at a minimum.

7 Executed this 27th day of February 2018 at San Francisco, California.

8  
9 SALTZMAN & JOHNSON LAW CORPORATION

10 By:

11 \_\_\_\_\_ /S/

12 George R. Nemiroff  
13 Attorneys for Plaintiffs, Operating Engineers' Health  
14 and Welfare Trust Fund For Northern California, et  
15 al.

16 DAVID C. JOHNSTON, ATTORNEY AT LAW

17 \_\_\_\_\_ /S/

18 David C. Johnston  
19 Attorney for Defendant, Central Valley Construction

20 IT IS SO ORDERED.

21 The currently set Case Management Conference is hereby continued to  
22 June 5, 2018 at 1:30 p.m., and all previously set deadlines and dates

23 related to this case are continued accordingly, ~~or, alternatively, Plaintiffs may appear at the Case~~  
24 ~~Management Conference by telephone.~~ The joint case management statement is due by 5/29/18.

25 DATED: 2/27, 2018

26   
27 \_\_\_\_\_  
28 UNITED STATES MAGISTRATE JUDGE

1 **ATTESTATION CERTIFICATE**

2 In accord with the Northern District of California’s Civil Local Rule 5-1, I attest that  
3 concurrence in the filing of this document has been obtained from each of the other signatories who are  
4 listed on the signature page.

5 Dated: February 27, 2018

6  
7 By: \_\_\_\_\_ /S/  
8 George R. Nemiroff  
9 Attorneys for Plaintiffs  
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