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12 AB Landscaping, Inc. and Victor Arellano

13 UNITED STATES FEDERAL COURT
14 NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

15 LUIS SANDOVAL, ISRAEL RODRIGUEZ,
AND RICARDO JIMENEZ, in behalf of
16 themselves and similarly situated,

17 Plaintiffs,

18 vs.

19 AB LANDSCAPING, INC. AND VICTOR
20 ARELLANO,

21 Defendants

Case No.: 09-04969 HRL

STIPULATION TO CONTINUE INITIAL
CASE MANAGEMENT CONFERENCE

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23 Parties by and through their respective counsel, stipulate to continue the initial case
24 management conference for 60 days as follows:
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STIPULATION TO CONTINUE CASE MANAGEMENT CONFERENCE

1 1. Plaintiffs filed this case on October 19, 2009, alleging unpaid overtime and other
2 violations under both California Labor Code and Fair Labor Standards Act. The Summons and
3 Complaint were served on January 25, 2010.

4 2. Pursuant to California Labor Code Private Attorney General’s Act § 2699(c),
5 Plaintiffs sent a notice to California Labor and Workforce Development Agency (“LWDA”) of
6 the overtime violation, intending to bring the action to recover unpaid overtime on behalf of all
7 employees former and current under Labor Code § 558.

8 3. Attempting to avail themselves of the provision of Labor Code (“PAGA”) §
9 2699(c)(2)(A), Defendants took actions allegedly to cure the violation, by conducting an audit
10 and issuing payment to all employees the amount Defendants claim to be owing in unpaid
11 overtime. Plaintiffs claim that the Defendants’ methodology in audit is flawed, and not all
12 overtime hours worked have been accounted for. As such, Plaintiffs plan to dispute that
13 Defendants have cured the overtime violations according to the procedure provided for under
14 Labor Code § 2699(c)(2)(B).

15 4. Until LWDA makes its decision whether or not the overtime violations have been
16 fully cured, Plaintiffs may not proceed to file the cause of action under PAGA to recover the
17 overtime owed on behalf of all employees.

18 5. As such, parties stipulate to request a 60-day continuance for Initial Case
19 Management Conference currently set for March 2, 2010 and ask that the corresponding
20 discovery deadlines to be continued accordingly.

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STIPULATION TO CONTINUE CASE MANAGEMENT CONFERENCE

1 6. Regardless of the outcome of the LWDA determination, Plaintiffs expect to file a
 2 First Amended Complaint to add another Plaintiff and potentially amend one or more of the
 3 causes of action therein. For this reason, Plaintiffs and Defendants stipulate and agree that
 4 Defendants' response to the Complaint be extended until 20 days after a First Amended
 5 Complaint is served.

6 Respectfully submitted,

7 Dated: February 23, 2010

8 By: /s/ Adam Wang
 ADAM WANG
 Attorney for Plaintiffs

10 Dated: February 23, 2010

9 By: /s/ Caitlin E. Kaufman
 11 CAITLIN E. KAUFMAN
 12 SWEENEY, MASON, WILSON &
 BOSOMWORTH
 Attorneys for Defendants.

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 14 ~~PROPOSED~~ ORDER

15 Pursuant to the parties' stipulation, GOOD CAUSE APPEARING, IT IS HEREBY
 16 ORDERED the Initial Case Management Conference be continued to May 4, 2010.
 17 The ADR Certification is due on April 13, 2010. The Stipulation and Order
 18 Selecting ADR Process is due on April 13, 2010. The Rule 26(f) Report, Initial
 19 Disclosures, and Joint Case Management Statement are due on April 27, 2010.

20 Dated: February 25, 2010

21 By: 
 22 Howard L. Lloyd
 US Magistrate Judge