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10 UNITED STATES DISTRICT COURT
 11 FOR NORTHERN DISTRICT OF CALIFORNIA
 12 SAN JOSE DIVISION

13 PEDRO SIORDIA HUERTA

Case No.: 5:12-cv-04731-PSG

14 Plaintiff,

15 v.

16 PERMA-GREEN HYDROSEEDING, INC.;
 17 MITCHELL DONALD CHUCK

18 Defendants.

**SECOND STIPULATION TO
 CONTINUE INITIAL CASE
 MANAGEMENT CONFERENCE AND
 EXTEND INITIAL DEADLINES**

19 Plaintiff PEDRO SIORDIA HUERTA and Defendants PERMA-GREEN
 20 HYDROSEEDING, INC. and MITCHELL DONALD CHUCK through their attorneys' of
 21 record, hereby stipulate as follows:

- 22 1. The initial Case Management Conference was continued from November 6, 2012 to
 23 January 8, 2013. The parties are seeking a second continuance of 75 days to
 24 hopefully resolve the matter or if not have the pleadings settled including a magistrate
 25

1 consent which still has not been filed by Defendants. The length of the continuance is
2 requested so that Defendants can execute a Notice and Acknowledgment, now that
3 the Complaint has been amended, and have the Summons returned. A continuance
4 will also aid the parties in continuing to try to settle this matter.

5 2. Based on the initial continuance, the parties resolved the Stop Notice cause of action
6 during a settlement meeting. As a result, two Defendants have been dismissed.

7 Defendant also tendered wages to Plaintiff that made up the Stop Notice amounts.

8 This was done with Defendants' ability to preserve the argument that they tendered
9 the wages prior to a lawsuit being filed and as such Plaintiff's attorneys' fees are not
10 reasonable.

11 3. Subsequent to this, Plaintiff made an offer to fully resolve the balance of the case and
12 the remaining Defendants made a counter offer. Plaintiff rejected the counter offer
13 and Plaintiff's counsel is trying to meet with Plaintiff to make a counter offer.

14 4. Because the parties have been focused on resolving the case, a Notice and
15 Acknowledgment was not signed. Moreover, the Complaint was amended.

16 Defendants are executing a New Notice and Acknowledgment today.

17 5. The parties have addressed all Rule 26 issues and exchanged documents. Both sides
18 have been actively trying to investigate and resolve this matter and a continuance will
19 allow the parties to continue to do so. In the below continued dates, the election to go
20 to ADR and to have Magistrate Consents is made in roughly 30 days to move the case
21 along in anticipation of the continued CMC date.

22 SO STIPULATED

23 FOR PLAINTIFF

DAL BON & MARGAIN

24 DATED: January 7, 2013

25 By: /s/ Tomas Margain
Tomas E. Margain
For Plaintiff

1
2
3 DATED: January 7, 2013

By: /s/ Robert Fried
Robert Freid
For Defendants

5 **ORDER**

6 Based on GOOD CAUSE shown, the initial Case Management Conference and Rule 26
7 Deadlines are continued as follows:

8 **February 19, 2013**

- 9
- 10 • Last Day to file a Magistrate Consent or Declination.
 - 11 • Last Day to Meet and Confer Regarding Initial Discloses, ADR process election and
12 discovery plan.
 - 13 • Last Day to file ADR Certificate signed by Parties and Counsel.
 - 14 • Last Day to either file a stipulation to ARD Process or Notice of Need for ADR Phone
15 Conference

16 **March 5, 2013, 2013**

- 17
- 18 • Last Day to File Rule 26(f) Report, complete initial disclosures and file Joint Case
19 Management Statement

20 **March 19, 2013**

- 21
- 22 • Initial Case Management Conference in Courtroom 5,4^h Floor, San Jose Courthouse at
23 2:00 p.m.

IT IS SO ORDERED

24 DATED: January 8, 2013

By: Paul S. Grewal
PAUL S. GREWAL
Magistrate Judge of the United States
District Court