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15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA

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18 JOSE RAMIREZ, LUIS GOMEZ, and
 19 MARCK MENA ORTEGA on behalf of
 themselves and all persons similarly
 20 situated,

21 Plaintiffs,

22 v.

23 GHILOTTI BROS., INC., a corporation;
 and DOES 1 to 50, inclusive,

24 Defendants.

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Case No. C-12-4590-CRB

**[PROPOSED] ORDER GRANTING
 UNOPPOSED MOTION FOR
 PRELIMINARY APPROVAL OF
 CLASS ACTION SETTLEMENT AND
 INJUNCTIVE RELIEF**

Judge: Hon. Charles R. Breyer

Date: September 27, 2013

Time: 10:00 a.m.

Crtrm.: 6, 17th Floor

1 Upon consideration of the Plaintiffs’ unopposed Motion for Preliminary Approval
 2 of Class Action Settlement, and upon the Court’s review of the Stipulation to Class Action
 3 Settlement attached as Exhibit 1 to the Joint Declaration of Gay Crosthwait Grunfeld and
 4 Wendy E. Musell in Support of Plaintiffs’ Unopposed Motion for Preliminary Approval of
 5 Class Action Settlement and Injunctive Relief (“Joint Declaration”) and the exhibits
 6 thereto, IT IS HEREBY ORDERED AS FOLLOWS:

7 1. A court should preliminarily approve a class action settlement if it “appears
 8 to be the product of serious, informed, non-collusive negotiations, has no obvious
 9 deficiencies, does not improperly grant preferential treatment to class representatives or
 10 segments of the class, and falls within the range of possible approval.” *In re Tableware*
 11 *Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007). The Court finds that this
 12 standard is met in this case, and thus preliminarily approves the Stipulation to Class Action
 13 Settlement, subject to the right of Class Members to challenge the fairness, reasonableness
 14 or adequacy of the Stipulation to Class Action Settlement and to show cause, if any exists,
 15 why a final judgment dismissing this case and all released claims and awarding attorneys’
 16 fees and costs to Class Counsel should not be entered following a Final Fairness Hearing.
 17 As set forth in the Stipulation to Class Action Settlement, the total amount that GBI shall
 18 be required to pay under this settlement shall not exceed \$950,000, plus interest as
 19 described therein.

20 2. The Court certifies the following (together the “Settlement Class”) for
 21 settlement purposes only, pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3):

22 **General Class:** All present and former non-exempt employees
 23 of Ghilotti Bros., Inc. (“GBI”) who have worked at a
 24 construction site, yard, or loading area as a Laborer at any time
 25 from June 27, 2008 through the date of this Order.

26 **Driving Laborer Sub-Class:** All members of the “General
 27 Class” who were assigned to drive a vehicle for GBI at any
 28 time from June 27, 2008 through the date of this Order.

29 3. With respect to both the General Class and the Driving Laborer Sub-Class,
 the Court finds, for settlement purposes only, that the proposed class and sub-class meet

1 the requirements of numerosity, commonality and typicality to justify certification, and
2 that there is adequate and fair representation. The Court's findings are for purposes of
3 conditionally certifying a Settlement Class and will not have any claim or issue or
4 evidentiary preclusion or estoppel effect in any other action against GBI, or in this Action
5 if the Settlement is not finally approved.

6 4. Pursuant to Rule 23(g) of the Federal Rules of Civil Procedure, the Court
7 appoints Gay Crosthwait Grunfeld of Rosen Bien Galvan & Grunfeld LLP and Wendy E.
8 Musell of Stewart & Musell, LLP as Class Counsel to represent the Settlement Class for
9 purposes of the Settlement. The Court also appoints Jose Ramirez, Luis Gomez, and
10 Marck Mena Ortega as Settlement Class Representatives.

11 5. Pursuant to Federal Rule of Civil Procedure 23(e)(1), the Court hereby
12 approves the substance, form and manner of the Notice of Proposed Class Action
13 Settlement (the "Notice") and the Request for Exclusion, attached as Exhibits A and B
14 (respectively) to the Stipulation to Class Action Settlement, and finds that the proposed
15 method of disseminating the Class Notice meets all due process and other legal
16 requirements and is the best notice practicable under the circumstances. The Settlement
17 Administrator for this action is directed to promptly prepare a final version of the Notice
18 and Request for Exclusion, incorporating the dates set forth in this Order. GBI is directed
19 to supply Class Member information to the Settlement Administrator within five (5) Court
20 days of the date of this Order. The Settlement Administrator is then directed to mail the
21 Notice and Request for Exclusion in the manner set forth in the Stipulation to Class Action
22 Settlement no later than fifteen (15) calendar days after entry of this Order, to the extent
23 practicable.

24 6. Simpluris is hereby appointed Settlement Administrator, and its fees for
25 administration of the Settlement are hereby capped at \$25,000.

26 7. Notice in the form of Exhibit 3 to the Joint Declaration will also be published
27 via work site posters and notices in or on Univision, the San Francisco Chronicle, the
28 Contra Costa Times, and the websites of Plaintiffs' counsel.

1 8. Class Members shall be bound by the judgment in this case unless they
2 exclude themselves from the Settlement by following the procedure set forth in the Notice
3 and Request for Exclusion. A settlement Class Member wishing to request exclusion shall
4 do so by sending a completed Request for Exclusion, postmarked no later than forty-five
5 (45) days after Notice is first mailed by the Settlement Administrator, to the Settlement
6 Administrator at the address designated in the Notice and Request for Exclusion. The
7 Request for Exclusion must be personally signed by the settlement Class Member who
8 seeks to opt out. The Request for Exclusion shall not be effective unless it is fully
9 executed and returned within the time stated above.

10 9. Based on the terms of the Stipulation to Class Action Settlement, each Class
11 Member shall be eligible to receive a monetary award so long as the Class Member does
12 not timely submit any Request for Exclusion to the Settlement Administrator.

13 10. A Final Fairness Hearing shall take place at 10:00 a.m. on December 27,
14 2013 at the United States District Court for the Northern District of California, United
15 States Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102, before the
16 Honorable Charles R. Breyer, to determine whether the proposed settlement of this action
17 on the terms and conditions provided for in the Stipulation to Class Action Settlement is
18 fair, reasonable, and adequate and should be finally approved by the Court, and whether
19 this action should be dismissed pursuant to the settlement. Plaintiffs shall file their motion
20 for final settlement approval, approval of Class Representative incentive payments, and
21 attorneys' fees and costs, and the parties shall file any responses to any objections properly
22 submitted by any Class Members (as outlined in Paragraph (11) herein), no later than
23 December 13, 2013. Any opposition to Plaintiffs' motions for final settlement approval,
24 approval of Class Representative incentive payments, and/or attorneys' fees and costs,
25 shall be filed no later than December 20, 2013.

26 11. The Court will consider objections to the Settlement if such written
27 objections are submitted to the Settlement Administrator postmarked (if mailed), no later
28 than forty-five (45) days after Notice is first mailed by the Settlement Administrator. A

1 written objection must contain the objecting person's full name and current address, must
2 include all objections and the reasons therefore, must include any and all supporting papers
3 (including, without limitation, all briefs, written evidence, and declarations), must indicate
4 whether the Class Member intends to appear and be heard at the Fairness Hearing, and
5 must be signed by the Class Member or an attorney acting on the Class Member's behalf.
6 A Class Member who desires to object but who fails to comply with the objection
7 procedure and timeline set forth herein shall be deemed to have not objected and the
8 objection shall not be heard or considered at the Fairness Hearing. A Class Member who
9 desires to be heard at the Fairness Hearing but who fails to indicate that desire in his or her
10 objection shall not be permitted to be heard at the Fairness Hearing; only Class Members
11 who specify in their objections that they intend to present objections orally at the Fairness
12 Hearing shall have the right to be heard at the Fairness Hearing.

13 12. GBI shall issue a memorandum to its managers, officers, directors and HR
14 personnel which shall direct these persons that if approached by a class member
15 concerning the settlement, he/she shall inform the class member only that they should
16 consult the class notice for further information and will not express an opinion on the
17 wisdom or validity of participating or not participating in the settlement.

18 13. GBI is hereby preliminarily ordered, pursuant to the Stipulation to Class
19 Action Settlement, to set up a procedure on or before January 1, 2014 pursuant to which
20 each Laborer can make a record of the time he or she starts and ends work (*e.g.*, picking up
21 a truck or arriving on site, *etc.*). This tracking shall be done by any method whereby the
22 Laborers, and not the managers or supervisors, record their own start and ending times.

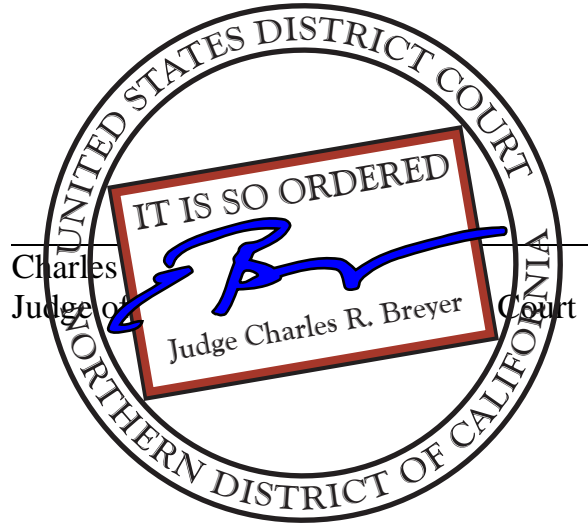
23 14. GBI is hereby further preliminarily ordered, pursuant to Plaintiffs' motion, to
24 comply with IWC Order 16-2001 for all purposes and in all respects, except to the extent
25 GBI's obligations may be modified by the parties' Master Labor Agreement pursuant to
26 the California Labor Code. Any injunction shall be considered fully discharged on the
27 date of the last payment by GBI under the Stipulation to Class Action Settlement (in
28 December 2016).

1 15. The Court adopts the parties’ Stipulation to Class Action Settlement as an
2 order of the Court, and hereby directs the parties to abide by the terms of the Stipulation
3 for Class Action Settlement.

4 16. As of the date hereof, all proceedings in this case are stayed until further
5 order of this Court, except as may be necessary to implement the Stipulation to Class
6 Action Settlement.

7 IT IS SO ORDERED.

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9 DATED: October 3 , 2013



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