

1 Matthew J. Piers (admitted pro hac vice)  
MPiers@hsplegal.com  
2 Joshua Karsh (admitted pro hac vice)  
jkarsh@hsplegal.com  
3 HUGHES, SOCOL, PIERS, RESNICK &  
DYM, LLP  
4 Three First National Plaza  
70 West Madison Street, Suite 2200  
5 Chicago, IL 60602  
(312) 580-0100  
6 (312) 580-1994 (fax)

7 Morris J. Baller (CA Bar No. 48928)  
mballer@gdblegal.com  
8 Laura L. Ho (CA Bar No. 173179)  
lho@gdblegal.com  
9 Joseph Jaramillo, CA Bar No. 178566)  
jjaramillo@gdblegal.com  
10 GOLDSTEIN, DEMCHAK BALLER  
BORGEN & DARDARIAN  
11 300 Lakeside Drive, Suite 1000  
Oakland, CA 94612  
12 (510) 763-9800  
(510) 835-1417 (fax)

13 Attorneys for Plaintiffs

Jonathan I. Blackman  
Jblackman@cgsh.com  
CLEARY GOTTLIEB STEEN  
& HAMILTON, LLP  
One Liberty Plaza  
New York, NY 10006  
(212) 225-2490  
(212) 225-3999 (fax)

David C. Brownstein  
David.brownstein@hellerehrman.com  
HELLER EHRMAN, LLP  
333 Bush Street  
San Francisco, CA 94104-2878  
(415) 772-6356  
(415) 772-6368 (fax)

Attorneys for Defendants

14  
15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA

17 SENORINO RAMIREZ CRUZ; LEOCADIO de la  
ROSA; LIBORIO SANTIAGO PEREZ; FELIPE  
18 NAVA; IGNACIO MACIAS; and RAFAEL  
NAVA on behalf of themselves and all others  
19 similarly situated,

20 Plaintiffs,

21 vs.

22 UNITED STATES OF AMERICA; ESTADOS  
UNIDOS MEXICANOS; WELLS FARGO  
23 BANK; BANCO de MEXICO; BANCO  
NACIONAL de CREDITO RURAL, S.N.C., as  
24 successor in interest to the BANCO de CREDITO  
AGRICOLA, S.A.; and PATRONATO del  
25 AHORRO NACIONAL as successor in interest to  
the BANCO del AHORRO NACIONAL, S.A.,

26 Defendants.

**CLASS ACTION**

Case No. 01-0892-CRB

**~~PROPOSED~~ ORDER GRANTING MOTION  
FOR PRELIMINARY APPROVAL OF  
SETTLEMENT AGREEMENT;  
PROVISIONAL CERTIFICATION OF  
SETTLEMENT CLASS, CLASS  
REPRESENTATIVES AND CLASS  
COUNSEL; NOTICE TO CLASS  
MEMBERS AND SETTING OF FINAL  
APPROVAL HEARING**

1 Plaintiffs have alleged in this action that that they and a class of similarly situated individuals,  
2 referred to as *braceros*, worked in the United States during and after World War II pursuant to  
3 agreements between the United States and Mexican governments; that a portion of the wages paid to  
4 braceros was withheld from them pursuant to a “savings fund” program created by those agreements,  
5 that the “savings fund” monies withheld from braceros’ wages were transferred to Mexican state-  
6 owned banks to be refunded to the braceros upon their return to Mexico; but as a result of actions and  
7 inaction by the Mexican Defendants, plaintiffs and other similarly situated braceros ere never refunded  
8 their portions of those savings funds in breach of both California state and united States federal law.  
9 The remaining defendants in this action, Estados Unidos de Mexico, Banco de Mexico, Banco  
10 Nacional de Credito Rural, S.N.C., as successors in interest to the Banco de Credito Agricola, S.A.,  
11 and Patronato del Ahorro Nacional (“Mexican Defendants”) deny these allegations.

12 Plaintiffs Cruz, de la Rosa, Perez, and Nava filed this action on March 2, 2001 against the  
13 United States, Wells Fargo Bank, and the Mexican Defendants. Defendants moved to dismiss all  
14 claims alleged in the Second Amended Complaint in January 2002, raising numerous defenses and  
15 arguments.

16 On August 23, 2002, this Court issued an order dismissing all claims. This Court also granted  
17 Plaintiffs leave to amend their complaint to give them the opportunity to plead facts which, if shown,  
18 would entitle them to equitable tolling of the statute of limitations for their claims against the United  
19 States.

20 On June 24, 2003, the Court denied in part and granted in part Plaintiffs’ motion for  
21 reconsideration of the Court’s August 23, 2002 order, permitting Plaintiffs, *inter alia*, to amend their  
22 complaint to plead such facts as would entitle them to equitable tolling of the statute of limitations.  
23 The Court also denied reconsideration of the dismissal of all claims against the Mexican Defendants.  
24 Plaintiffs filed their Third Amended Complaint, which is the operative complaint in this action, on  
25 August 15, 2003.

26 ///

27 ///

28 28339-4

1 On August 27, 2004, the Court granted a motion for reconsideration in light of the Supreme  
2 Court's decision in *Republic of Austria v. Altmann*, 541 U.S. 677 (2004), which had the effect of  
3 reinstating Plaintiffs' claims against the Mexican Defendants.

4 On March 30, 2005, the Court granted the Mexican Defendants' motion to dismiss, concluding  
5 that the statute of limitations under Mexican law applied, and that Plaintiffs' claims were time-barred  
6 under that statute. Having dismissed all causes of action in the complaint, the Court entered judgment  
7 in favor of defendants and against Plaintiffs.

8 Plaintiffs subsequently filed a motion to alter judgment, which the Court granted on June 16,  
9 2005, denying the Mexican Defendants' motion to dismiss, concluding that (1) the California statute of  
10 limitations applies to Plaintiffs' claims, (2) Plaintiffs' claims are not time-barred under CCP § 354.7,  
11 and (3) Mexican law applies to the case. The Court also entered an Order Vacating Judgment on that  
12 same day consistent with its order denying the motion to dismiss.

13 On July 14, 2005, the Mexican Defendants simultaneously filed a motion to amend the Court's  
14 June 16, 2005 Order to certify issues for appeal and noticed its appeal. After full briefing, the Court  
15 amended its June 16, 2005 Order to certify for appeal the Court's conclusions in the Order regarding  
16 Plaintiffs' remaining claims against the Mexican Defendants, personal jurisdiction, and the statute of  
17 limitations. *See* Order Amending June 16, 2005 Order (Sept. 9, 2005). Those Defendants filed their  
18 appeal with the Ninth Circuit, but briefing has been postponed pending the outcome of settlement  
19 negotiations. Those negotiations have now resulted in a proposed Settlement before the Court for  
20 preliminary approval.

21 Plaintiffs have moved this Court for (1) preliminary approval of the Stipulation and Agreement  
22 of Compromise and Settlement between them and defendants Estados Unidos de Mexico, Banco de  
23 Mexico, Banco Nacional de Credito Rural, S.N.C., as successors in interest to the Banco de Credito  
24 Agricola, S.A., and Patronato del Ahorro Nacional (collectively "Defendants") dated September 29,  
25 2008 ("Settlement Agreement" or "Agreement"); (2) provisional certification for purposes of  
26 settlement of this case as a class action, with the class defined as specified in the Settlement Agreement  
27

1 at paragraph 1.1 and set forth at page 8 below; (3) provisional certification of Plaintiffs as  
2 representatives of the class and Plaintiffs' attorneys as Class Counsel; (4) approval of the form of  
3 notice to class members and the manner of giving notice to the class; including an order for the  
4 payment by Defendants of the cost of giving such notice, as proposed herein; and (5) setting a date for  
5 the Final Approval hearing.

6 Defendants do not oppose Plaintiffs' motion, which came for hearing before the Court on Oct. 10  
7 2008 at 10 a.m./p.m.<sup>1</sup> Counsel for all parties were present at the hearing.

8 This Court having fully received and considered the Plaintiffs' Notice of Motion, Supporting  
9 Memorandum of Points and Authorities and Declarations of Morris J. Baller, Matthew Piers, Kelly  
10 Dermody, and Bill Lann Lee; the Settlement Agreement; the proposed Class Notice; the oral argument  
11 presented to the Court; and the entire record in this case; and in recognition of the Court's duty to  
12 make a preliminary determination as to the reasonableness of any proposed class action settlement, and  
13 to conduct a fairness hearing as to good faith, fairness, adequacy, and reasonableness of any proposed  
14 settlement, **IT IS HEREBY ORDERED and DETERMINED** as follows:

15 **PRELIMINARY APPROVAL OF THE SETTLEMENT AGREEMENT**

16 The Court has reviewed the Settlement Agreement (attached hereto as Exhibit 1) and the  
17 proposed Class Notice Program, which is attached hereto as Exhibit A to the Settlement Agreement,  
18 and they are incorporated herein by reference. The Settlement Agreement provides priority rights to  
19 class members in obtaining funds from the Braceros Social Relief Fund, a financial and administrative  
20 entity created by the government of Mexico for the benefit of braceros. The Fund will preserve at least  
21 150,000,000 pesos<sup>2</sup> for claims by Class members in this case. To recover monies from the Fund,  
22 eligible class members must submit certain documentation of their, or their antecedent bracero's,  
23 participation in the bracero program in the time period covered by this case, 1942-1946 and of  
24 Mexican citizenship, nationality or dual nationality, which may be conclusively established by a  
25 Mexican passport. Class members who meet these requirements will recover either 38,000 pesos or

26 \_\_\_\_\_  
27 <sup>1</sup> Requested date: October 1, 2008 in the afternoon.

28 <sup>2</sup> Approximately \$14,556,160 million at current exchange rates.

1 United States dollars in the greater of \$3,455 or the then-current interbank exchange-rate dollar  
 2 equivalent of 38,000 pesos. The Court finds, on a preliminary basis, that the Settlement Agreement  
 3 falls within the range of reasonableness of a settlement that could ultimately be given final approval by  
 4 this Court. The Court also finds, on a preliminary basis, that the Settlement Agreement appears to be  
 5 the product of intensive, non-collusive, arms' length negotiations between parties represented by well-  
 6 informed counsel, assisted by an experienced mediator, and thus presumptively valid. It appears to the  
 7 Court on a preliminary basis that the Fund amount of 150,000,000 pesos is fair and reasonable to all  
 8 potential Settlement Class members when balanced against the risks and delay inherent in further  
 9 litigation relating to liability and damages issues. It further finds that the request for Class Counsel's  
 10 litigation costs and attorneys' fees in the total amount of \$2,800,000, which Defendants have agreed to  
 11 pay, is reasonable, as demonstrated both by the protracted nature of this litigation and a lodestar cross-  
 12 check, which shows that the amount requested is less than the amount of fees actually incurred by  
 13 Class Counsel at 2008 rates. It further appears that extensive and costly investigation, discovery,  
 14 research, and settlement discussions have been conducted such that the parties' counsel were at the  
 15 time of settlement able to reasonably evaluate their respective positions. It further appears that  
 16 settlement at this time will avoid additional substantial costs which have already been incurred by both  
 17 parties, as well as avoid the delay and risks that would be presented by the further prosecution of the  
 18 litigation.

19 The Court therefore preliminarily and conditionally approves the Settlement Agreement,  
 20 including: (1) the proposed attorneys' fees and costs payments of \$2,800,000; (2) the class notice plan,  
 21 including the payment by Defendants of up to \$500,000 or the costs of giving notice.

22 **ORDER CONDITIONALLY CERTIFYING A SETTLEMENT CLASS AND**  
 23 **APPOINTMENT OF CLASS REPRESENTATIVES**  
 24 **AND CLASS COUNSEL**

25 The Court finds that certification of this case as a class action for settlement purposes is  
 26 appropriate under Fed. R. Civ. P. 23(b)(3). The Settlement Class is certified (solely for the purpose of  
 27 implementing this Settlement) pursuant to Fed. R. Civ. P. 23(b)(3) as:

28 All current U.S. residents who (a) worked as braceros during the period January  
 1, 1942 through December 31, 1946, (b) have not previously registered in the



1 claims procedures, in Spanish and English, through the Mexican Embassy and consular websites; (5)  
 2 and radio advertising, including Spanish language stations.

3 This Court finds the proposed Class Notice Program, which is attached to the Settlement  
 4 Agreement as Exhibit A, comports with Federal Rule of Civil Procedure 23 by fairly and adequately  
 5 advising the potential class members of the terms of the proposed settlement and the claims process for  
 6 the class members to obtain the benefits available thereunder, as well as the right of class members to  
 7 opt out of the class, to object to the proposed settlement, and to appear at the Fairness Hearing to be  
 8 conducted on the date set forth below. The Court further finds that the Class Notice Program comports  
 9 with all constitutional and other requirements including those of due process, and is the best notice  
 10 practicable under the circumstances.

11 Accordingly, the Court approves the Class Notice Program and sets the following notice,  
 12 submission/filing and hearing dates, consistent with provisions of the Settlement Agreement:

13	Within 5 days of Preliminary Approval	Defendants to post and make available Notice to Class Members, claims forms and explanations of claims and claims procedures, in Spanish and in English, at the Mexican Embassy and at all Mexican consulates in the U.S. (Settlement §3.1.)
14	Within 20 days of Preliminary Approval	Plaintiffs to provide Notice to Class Members pursuant to the Notice Plan. (Settlement § 3.)
15	December 23, 2008	Deadline for submission of claims by Class members. (Settlement § 7.)
16	December 23, 2008	Defendants may remove Notice to Class Members through all Mexican Embassy and all consulates in the U.S. (Settlement at pp. 5-6, § 3.1.)
17	December 23, 2008	Last day for objections and comments in favor of the settlement.
18	December 23, 2008	Last day for Class Members to opt out of the Settlement. (Settlement at p. 7, § 6.)
19	15 days before Final Approval hearing	Deadline for Motion for Final Settlement Approval.
20	<del>January 6, 2009</del> <sup>4</sup> February 6, 2009	Final Approval Hearing.
21		
22		
23		
24		
25		
26		
27		
28		

<sup>4</sup> To be set for a date not earlier than January 23, 2009.

**FINAL APPROVAL FAIRNESS HEARING**

The Court hereby grants Plaintiffs' motion to set a hearing for final approval of the Settlement Agreement on ~~January~~ <sup>February</sup> ~~06~~ <sup>06</sup>, 2009, at ~~10 a.m./p.m.~~ in Courtroom 8. Members of the Settlement Class who object to the proposed settlement may appear and present objections to the Court at the Fairness Hearing in person or by counsel, provided that any objecting Settlement Class members submit a written statement containing the name and address of the objecting Settlement Class member and the basis of that person's objections, which must be postmarked no later than December 23, 2008. No person shall be heard, and no briefs or papers shall be received or considered, unless the foregoing documents have been filed and served as provided in this Order, except as this Court may permit for good cause shown. All opt out requests must be postmarked by December 23, 2008 and all objections must be postmarked by December 23, 2008 to be deemed timely and to be considered by the Court.

Class Counsel shall file a Memorandum of Points and Authorities in support of the Motion for Final Approval of the Settlement Agreement and their request for final approval of the agreed upon attorneys' fees and litigation expenses no later than fifteen (15) days before the Final Approval Hearing. Counsel for Defendants may also file a memorandum of points and authorities on the motion of Class Counsel for final approval of the Settlement Agreement no later than the same date.

**IT IS FURTHER ORDERED** that, if for any reason the Court does not grant final approval of the Agreement, all evidence and proceedings held in connection therewith shall be without prejudice to the status quo and the rights of the parties to the litigation as more specifically set forth in the Settlement Agreement.

**IT IS SO ORDERED**, this 10th day of October, 2008.



UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SENORINO RAMIREZ CRUZ; LEOCADIO de la ROSA; )  
LIBORIO SANTIAGO PEREZ; FELIPE NAVA; )  
IGNACIO MACIAS; and RAFAEL NAVA on behalf of )  
themselves and all others similarly situated, )

Case No. 01-0892-CRB

Plaintiff. )

v. )

UNITED STATES OF AMERICA; ESTADOS UNIDOS )  
MEXICANOS; WELLS FARGO BANK; BANCO de )  
MEXICO; BANCO NACIONAL de CREDITO RURAL, )  
S.N.C., en liquidación, as successor in interest to the )  
BANCO de CREDITO AGRICOLA, S.A.; and )  
PATRONATO del AHORRO NACIONAL, as successor in )  
interest to the BANCO del AHORRO NACIONAL, S.A., )

Defendants. )

**STIPULATION AND AGREEMENT  
OF COMPROMISE AND SETTLEMENT**

This Stipulation and Agreement of Compromise and Settlement (the “Settlement” or “Settlement Agreement”) has been voluntarily entered into between Plaintiffs on behalf of themselves and all other members of the Settlement Class (as defined below) in the above-captioned action, and Defendants, Estados Unidos Mexicanos (“Mexico”) and three Mexican state-owned banks, Banco de Mexico, Banco Nacional de Credito Rural, S.N.C., en liquidación, as successors in interest to the Banco de Credito Agricola, S.A., and Patronato del Ahorro Nacional (collectively, the “Mexican Defendants”), for the purpose of finally resolving the ligation between them.

**WHEREAS:**

A. On March 2, 2001, a complaint entitled *Senorino Ramirez Cruz, et. al. v. United States, et al.*, (No. 01-0892) was filed in the United States District Court for the Northern District of California, naming as defendants, among others, the Estados Unidos Mexicanos (“Mexico”), the Central Bank of the Mexican State, Banco de México, and two Mexican state-owned banks, specifically, Banco Nacional de Credito Rural, S.N.C., en liquidación, as successor in interest to the Banco de Credito Agricola, S.A., and Patronato del Ahorro Nacional (collectively, the “Mexican Defendants” or “Defendants”).

B. Plaintiffs’ Third Amended complaint alleges (and the Mexican Defendants dispute) *inter alia* (1) that they and a class of similarly situated individuals, referred to as *braceros*, worked in the United States during and after World War II pursuant to agreements between the United States and Mexican governments; (2) that a portion of the wages paid to braceros was withheld from them pursuant to a “savings fund” program created by those agreements, that the “savings fund” monies withheld from braceros’ wages were transferred to Mexican state-owned banks to be refunded to the braceros upon their return to Mexico; but (3) that as a result of actions and culpable inaction by the Mexican Defendants, plaintiffs and other similarly situated braceros were never refunded their portions of those savings funds in breach of both California state and United States federal law.

C. Both before and since the filing of the first complaint, plaintiffs’ counsel have conducted an extensive factual investigation, which has involved seeking, obtaining, reviewing and analyzing tens of thousands of pages of documents, as well as interviewing hundreds of braceros.

D. The Mexican Defendants have vigorously defended the above-captioned matter, resisting discovery and, through several rounds of motions to dismiss, claiming

sovereign immunity, denying that a United States court has jurisdiction over them, asserting the statute of limitations and contending that plaintiffs' claims are also barred by the act of state doctrine and principles of international comity, and deny the allegations in Recital B and any legal liability for Plaintiffs' claims.

E. On June 16, 2005, the United States District Court for the Northern District of California, Judge Charles R. Breyer, ruled against the Mexican Defendants with respect to several threshold defenses, including sovereign immunity, lack of jurisdiction and the statute of limitations. Shortly thereafter, the Mexican Defendants filed an interlocutory appeal with respect to the District Court's denial of sovereign immunity. The District Court certified additional issues for interlocutory appeal pursuant to 28 U.S.C. § 1292(b), and the case is presently on appeal before the United States Court of Appeals for the Ninth Circuit (appeal No. 05-16375).

F. As the appeal has been pending, plaintiffs' counsel and counsel for the Mexican Defendants have engaged in extended and intensive arm's-length settlement negotiations with a view to providing substantial benefits for plaintiffs and other similarly situated individuals while avoiding the cost, delay and uncertainty of further litigation, trial and appellate review.

G. As a consequence of these negotiations, Plaintiffs, Defendants and their Counsel have determined to enter into this Stipulation and Agreement of Compromise and Settlement (the "Settlement" or "Agreement"), as set forth in this document, which the Defendants intend will be consistent with the terms and regulations governing the Mexican Social Relief Fund for the Former Mexican Migrant Workers (the "Braceros Social Relief Fund"), believing the Settlement to be fair, reasonable, adequate and in the best interests of Plaintiffs and the other members of the proposed Class.

**NOW, THEREFORE, SUBJECT TO THE APPROVAL OF THE COURT PURSUANT TO RULE 23(e), FEDERAL RULES OF CIVIL PROCEDURES, IT IS HEREBY STIPULATED AND AGREED** that the Mexican Defendants will dismiss their pending appeal with prejudice, and that all plaintiffs on behalf of themselves and all members of the Settlement Class, as defined herein, will dismiss the above-captioned action against the Mexican Defendants with prejudice, subject to the terms, conditions and exceptions below:

1. **Class Certification.** For purposes of this Settlement only, this Action will be certified, pursuant to Fed. R. Civ. Proc. 23(a) and 23(b)(3), as a class action on behalf of a settlement class (“the Settlement Class”) consisting of:

1.1 All current U.S. residents who (a) worked as braceros during the period January 1, 1942 through December 31, 1946, (b) have not previously registered in the braceros registry compiled by the *Secretaria de Gobernacion* and (c) are Mexican citizens as evidenced by a Mexican passport, Mexican voting card, or Mexican military service card, or are the surviving spouses or children of such braceros now deceased who are or become Mexican nationals and/or dual nationals.

2. **Motion for Preliminary and Final Approval.** Upon execution of this Settlement Agreement, plaintiffs and the Mexican Defendants will promptly and jointly file a motion in the District Court seeking: (a) class certification; (b) appointment of class counsel; (c) preliminary and final approval of this Agreement; (d) approval of forms and methods of notice to the class of the pendency of this action and this proposed settlement of this action on the terms set forth in this Agreement; (e) approval of a Claim Form and Explanation of Claims Procedure to be disseminated with notice to the class; (f) a finding that the notice program set forth in this Agreement meets the requirements of Rule 23 and due process and

constitutes the best practicable notice under the circumstances; (g) approval of procedures establishing procedures for objections and opt-outs; and (h) a date for Final Approval pursuant to Rule 23(e).

3. **Notice of Proposed Settlement.** Within 20 days of certification by the District Court of the Settlement Class defined in Paragraph 1, approval of notice, claim procedures and appointment of class counsel, Plaintiffs will provide notice of the pendency of this Action, the proposed settlement of this Action, the right of members of the Settlement Class to object to this Settlement or opt out of the Action and a Claims Form. The costs of Notice and Settlement Administration will be paid by the Mexican Defendants at the time incurred using funds specified for this purpose. Upon Final Approval pursuant to Paragraph 13 below, all payments made by the Mexican Defendants pursuant to this paragraph shall be counted toward payment of Costs of Notice and Administration pursuant to Paragraph 15.1 this Agreement. The parties shall agree on the content of the Notice (“Notice of Proposed Settlement”) and the Claims Forms, which will be disseminated as described in the Plan of Notice attached hereto as Exhibit A.

3.1. **Defendants’ Posted Notice.** Within five (5) days of the court’s entry of a class certification order, Defendants will post and make available notice, claims forms and explanations of claims procedures, in Spanish and English, in a form to be agreed upon in a visible, accessible location at the Embassy of Mexico and at all Mexican consulates in the United States, and as conspicuous links on the internet home page of the Embassy of Mexico, <http://www.embassyofmexico.org>, and on the home (or front) pages of those Mexican consulates in the United States that have web pages, for a period ending on the last date of the period for submission of claims set forth in paragraph 7 of this Settlement. Printed notice, claims forms and explanations of claims procedures, in a form to be agreed

upon, will also be simultaneously provided by Mexican consulates to hometown associations to be identified by plaintiffs' counsel.

4. **Final Approval.** The parties will jointly request that, following the dissemination of notice, claim forms and an explanation of claim procedures, as provided in Paragraph 3, the Court hold a Final Approval hearing to determine whether this Settlement should be finally approved as fair, reasonable and adequate pursuant to Rule 23(e), whether a judgment incorporating this Settlement should be entered and, if so, to consider an application by Plaintiffs for an award of reasonable attorneys' fees and reimbursement of their reasonable expenses, including expenses of notice and administration of this Settlement.

5. **Objections to the Settlement.** Any member of the Settlement Class may object to the proposed Settlement by filing a written objection with the Clerk of the court, postmarked no later than fourteen (14) days before the Scheduled Final Approval Hearing, with a copy of the written objection also mailed to

Class Counsel  
Matthew J. Piers, Esq.  
Joshua Karsh, Esq.  
Braceros Settlement  
P.O. Box 641610  
Chicago, IL 60664-1610

Counsel for the Mexican Defendants  
Jonathan I. Blackman, Esq.  
Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, NY 10006

All written objections must be specific as to the aspect(s) of the Settlement being objected to and the basis or bases for the objection(s) and must include: (a) the full name and current address of the objector; (b) all supporting documents on which the objector relies; (c) if the objector is a U.S. resident who worked as a bracero during the period January 1, 1942 through December 31, 1946, the dates and locations employment as a bracero and all available documentation specified in Paragraphs 8.1 and 8.2 of this Agreement; and (d) if the objector is a surviving spouse or child of such a bracero, the dates and locations of the

bracero's employment, the relationship to the deceased bracero, and all available documentation specified in Paragraph 8.1, 8.2 and 8.3 of this Agreement. Plaintiffs and Defendants will agree on the form and required language, if any, for such objections.

6. **Requests for Exclusion.** Settlement Class Members may elect to opt out of the Action by filing a written, signed request for exclusion ("Request for Exclusion") with the Clerk of the Court, at least fourteen (14) days prior to the scheduled Final Approval hearing, with a copy mailed to counsel listed in Paragraph 5 above, and containing the class member's name, address and the following statement:

I understand that I am requesting to be excluded from the class monetary settlement and that I will receive no money from the settlement.

7. **Claims Filing Period.** After the commencement of the notice of the claims process described in Paragraph 3, Class members shall have until December 23, 2008 to submit claims for a social relief award as set forth in paragraphs 8 and 9, running in accordance with the period for submission of claims established by the terms and regulations of the Braceros Social Relief Fund ("the Claims Filing Period"). Any claims submitted by personal delivery after December 23, 2008 shall be presumptively untimely and invalid.

8. **Proof of Claims.** To qualify for a social relief award under this Settlement, the following original documentation (which may include a certified replacement issued by the authority that first issued such document) must be presented, in person, by a class member or by class counsel or their authorized representative on behalf of the class member(s) at the Mexican Embassy, or at any Mexican consulate in the United States acting solely for the purpose of transmitting the documentation to the Mexican governmental agency entrusted with administering the Braceros Social Relief Fund:

8.1. Proof that, pursuant to paragraph 1.1 above, the class member is a U.S. resident who (a) worked as a bracero during the period January 1, 1942 through December 31, 1946; and (b) is a Mexican citizen as evidenced by a Mexican passport, Mexican voting card, or Mexican military service card, or the spouse or child of such a bracero now deceased who is or becomes a Mexican national and/or dual national; and

8.2. One or more of the following original documents demonstrating employment as a bracero in the United States during the period January 1, 1942 through December 31, 1946 (“Eligible Bracero”): (a) an individual work contract, issued by a U.S. employer, indicating work by the class member, or his or her spouse or parent, as part of the braceros program, between 1942 and 1946; (b) proof of payment of wages by a U.S. employer to the class member, or his or her spouse or parent, for work performed as part of the braceros program, between 1942 and 1946; (c) social security records showing payments derived from work in the braceros program between 1942 and 1946 by the class member or his or her spouse or parent, all duly apostilled; or (d) a consular Identification Card (mica café).

8.3. When documentation is presented by or on behalf of a surviving spouse or son or daughter of a bracero, the following additional documents must also be presented:

8.3.1. For surviving spouses: (a) Official Identification; (b) Marriage certificate; (c) Death certificate of the bracero (if issued outside of Mexico, it must be translated into Spanish by a certified translator and duly apostilled).

8.3.2. For surviving children: (a) Official Identification; (b) Birth Certificate; (c) Death certificates of the bracero and of his/her spouse (if issued outside of Mexico, such certificates must be translated into Spanish by a certified translator and duly

apostilled); (d) Legal documentation issued by a Court of the child's status as executor or administrator of the bracero's estate or a notarized letter of agreement by all siblings designating him as the sole sibling authorized to file a claim under this Agreement, or a document issued by a Court certifying the existence of Estate proceedings of the deceased bracero before it.

8.4. The Mexican Consulate at which claims are presented will provide the claimant and plaintiffs' counsel with an acknowledgement of receipt of claims and copies of the documentation presented. Passports, official identification and other proofs of citizenship will be copied at the time they are presented to the Mexican Consulate and the originals immediately returned to the persons presenting them. Other required documents (birth certificates, marriage certificates, death certificates and the documents set forth in paragraph 8.2) will be forwarded to the Mexican Government agency entrusted with administering the Braceros Social Relief Fund and will be returned at the claimants' request when the claim is paid or denied.

9. **Recovery by Class Members.** Provided class members present the documentation described in Paragraph 8, or such documentation is presented on their behalf by class counsel ("Eligible Class Members") during the Claims Filing Period, they shall receive a social relief award (an "award") pursuant to Paragraphs 9.1 and 9.2 below of either (a) 38,000 Mexican pesos or (b) United States dollars in the greater of \$3,455 (38,000 pesos at 11 pesos to the dollar) or the then-current interbank exchange-rate equivalent of 38,000 pesos as published by Banco de Mexico on the date of final approval of this Settlement, per Eligible Bracero, as described in Paragraph 8.2. If the award is made in Mexican pesos, the Mexican Defendants will assist the Eligible Class Members in converting the award to United States dollars, if they wish to do so, in a cost effective manner. Subject to Paragraph

9.2 below, the Mexican Defendants shall use best efforts so that these awards are made within 180 days of the end of the claims-filing period under Paragraph 7 above.

9.1. **Source of Funds.** Funds for awards shall be drawn from the Braceros Social Relief Fund. Defendants may also, in their discretion, provide additional funds through later appropriations to the Braceros Social Relief Fund in accordance with the relevant Mexican legislation and subject to Paragraph 9.2.1 of this Agreement.

9.2. **Availability of Funds.** Defendants warrant and represent that: (a) the Braceros Social Relief Fund currently has at least 150,000,000 pesos in it, and will preserve funds in the Social Relief Fund to make 38,000 peso awards to each of the members of the Settlement Class who present the required documentation personally or through class counsel pursuant to Paragraph 8 above, except to the extent that supervening circumstances beyond their control make it impossible; and (b) that in the event that insufficient funds exist to make awards to all Eligible Class Members, the Executive Branch of the government of Mexico, acting through the Ministry of Foreign Affairs, will take reasonable steps to ask the Mexican Congress at its discretion to enact legislation for additional funds for appropriation to the Braceros Social Relief Fund, and the Executive Branch of the government of Mexico will support such legislation.

9.2.1. **Priority of Payment.** The priority of payment will be as follows: braceros who worked between January 1, 1942 and December 31, 1946, in order of date of birth, oldest first; followed by surviving spouses of braceros who worked between those dates, in order of date of birth, oldest first; followed by surviving children of braceros who worked between those dates, in order of date of birth, oldest first.

10. **Binding Effect and Right to Request Exclusion.** If this Settlement Agreement is given Final Approval by the court, all Settlement Class members will be bound

by the relief provisions of this Settlement Agreement, and the Settlement Agreement will operate as a full, complete and final release of all claims that have or could have been asserted by Settlement Class Members arising from or related to their (or, in the case of a surviving spouse or child, their spouse's or parent's) employment as a bracero ("the Released Claims").

11. **Best Efforts.** Plaintiffs and Defendants will use their best efforts to obtain entry of the orders of the court contemplated herein, final Court approval of the Settlement, dismissal of the Action, and entry of an Order and Final Judgment incorporating the terms of this Agreement, and will defend the Settlement against any objections or collateral attacks by third parties.

12. **Order and Final Judgment.** If the Settlement is finally approved by the Court following the Final approval Hearing, the parties will jointly request that the Court enter an Order and Final Judgment pursuant to Fed. R. Civ. P. 23(e) as follows:

12.1. Certifying the class for settlement purposes and finding that the requirements of Rule 23(a) and 23(b)(3) have been met;

12.2. Finding that notice has been accomplished as directed, met the requirements of Rule 23 and due process, and was the best notice practicable under the circumstances;

12.3. Finding that plaintiffs and class counsel have fairly and adequately represented and protected the interests of the Settlement Class;

12.4. Finally approving the Settlement Agreement and Settlement as fair, reasonable and adequate;

12.5. Dismissing the Action by plaintiffs and all members of the settlement class with prejudice against the Mexican Defendants;

12.6. Releasing and discharging the released parties from liability with respect to the Released Claims as provided in this agreement;

13. **Dismissal of pending Ninth Circuit Appeal.** Immediately upon entry of an Order and Final Judgment as referred to in Paragraph 12 above, the Mexican Defendants will dismiss their pending appeal before the United States Court of Appeals for the Ninth Circuit (appeal No. 05-163751).

14. **Failure to Obtain Final Approval.** In the event the Settlement does not receive Final Approval from the Court, or does not become effective for any reason other than the failure of any party to perform obligations under this Agreement, this Agreement shall become null and void.

15. **Costs of Notice and Settlement Administration, Attorneys' Fees and Expenses.**

15.1. **Costs of Notice and Settlement Administration.** Total costs of Notice and Settlement Administration shall not exceed \$500,000 and shall be paid by the Mexican Defendants. Notice and Settlement Administration will be arranged by class counsel.

15.2. **Attorneys' Fees and Expenses.** Within fourteen (14) days following entry of the Order and Final Judgment, pursuant to Paragraph 12, the Mexican Defendants shall pay Hughes Socol Piers Resnick & Dym, Ltd. the sum of \$2,800,000 (two million eight hundred thousand dollars) for attorneys' fees for work performed by and for litigation costs and expenses incurred by all plaintiffs' counsel, which, with the exception of the separate and additional payment of Costs of Notice and Settlement Administration provided for in Paragraph 15.1, shall constitute complete satisfaction of any and all claims for attorneys' fees, costs and expenses which plaintiffs, the Settlement Class or their counsel

have or may have against the Mexican Defendants arising out of *Senorino Ramirez Crux, et al. v. United States, et al.* (No. 01-0892). Hughes Socol Piers Resnick & Dym, Ltd. shall have responsibility to distribute attorneys' fees, expenses and costs to other plaintiffs' counsel; upon full payment of the sums provided in this paragraph and Paragraph 15.1 by the Mexican Defendants to Hughes Socol Piers Resnick & Dym, Ltd., no plaintiffs' counsel may assert any claim for such payments from the Mexican Defendants.

16. **Due Authority of Attorneys.** Each of the attorneys executing this Settlement Agreement on behalf of one of more parties warrants and represents that he or she has been duly authorized and empowered to execute this settlement agreement and bind such party or parties.

17. **Entire Agreement.** This Settlement Agreement is an integrated contract and constitutes the entire agreement among the parties with regard to the subject matter hereof and may not be modified or amended except in writing signed by all signatories or their successor(s) in interest.

18. **Execution in Counterparts.** This Settlement Agreement may be executed in any number of separate counterparts, each of which will be deemed an original and all of which together will be deemed to be part of this Agreement.

19. **Governing Law.** This settlement agreement shall be construed and enforced in accordance with the law of the state of California.

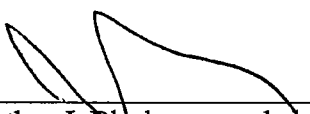
20. **Spanish and English.** This Agreement shall be executed in both English and Spanish language versions. In the event of conflict between the two texts, the English text will control.


21. **Notification of Completion of Settlement.** The parties will notify the Court in writing when the processes and payments required herein have been completed.

22. **Retention of Jurisdiction.** The parties will request that the Court retain jurisdiction for purposes of administering, implementing, interpreting and enforcing this Settlement until all notices and processes required herein have been completed, and all payments required hereunder have been made; and that upon certification of completion of these notices and processes, the Court dismiss this Action with prejudice.

Dated: October 8, 2008

Signatures:

  
\_\_\_\_\_  
Jonathan I. Blackman, on behalf  
of the Mexican Defendants

  
\_\_\_\_\_  
Matthew J. Piers, on behalf of  
Plaintiffs

# **EXHIBIT**

## **A**

## OVERVIEW:

The Mexican government has agreed to establish a settlement fund to compensate Mexican national *braceros* (or their surviving heirs) residing in the USA who may be eligible for collecting funds withheld from their U.S. employment earnings during the years 1942-1946.

Traditional methods used to give notice to class action beneficiaries have been by mail or published legal notices in news publications. The passage of time, the dispersal of the Spanish-speaking population throughout the USA, English literacy levels and the absence of a viable database of *braceros* from the specific time period make it doubtful these two time-tested methods used in typical class actions will yield the best results.

The goal of this media outreach plan is to reach as many of the affected *bracero* workers and/or their heirs and advise them of how to make a claim against the settlement fund in the designated window of time.

### I. Media Campaign

Based on ECG's extensive experience in communicating with the U.S. Hispanic Consumer Market (HCM) and Latino community advocacy groups, it is our professional opinion that the most cost-effective and efficient method to reach the greatest number of surviving *braceros* (or heirs) is Spanish-language media — in tandem with an informal “word of mouth” communication system used by Latino community-based organizations (CBOs).

Utilization of Spanish-language and bilingual newspapers in most Hispanic-populated communities (and their internet sites) and radio and television networks will allow us to reach targeted the greatest number of beneficiaries and inform them on how to make a claim to the *Bracero Refund Program*. Audience outreach will focus on Spanish-language and bilingual media in the following listed “critical mass” markets where Mexican nationals and their heirs represent a substantial percentage of the population. Those *primary* markets include:

- *Chicago, IL*
- *Houston, TX*
- *Los Angeles, CA*
- *San Francisco / San Jose (Bay Area), CA*

#### A. Editorial & Media Spokesperson:

An essential component of the media outreach program is newsworthiness of the program and media draw. For that reason ECG has conducted preliminary discussions with Leonardo Cuellar, the former Mexican national soccer star with *Club Universidad Nacional* — *Los Pumas* of the *Universidad Nacional Autónoma de México* (UNAM) — one of the more popular professional soccer teams in Mexico. It remains closely related to UNAM, the largest university in Mexico and therefore has fans throughout the country. Over the years the *Pumas* have been an important producer of young quality players for Mexico's National team.

Cuellar teamed with *Puma* teammate and international superstar Hugo Sanchez to star in the North American Soccer League (NASL) with “world-class” players Pelé, Franz Beckenbauer, Johann Cruyff, Karl-Heinz Granitza, *et al.* Cuellar is considered by soccer fans as one of the best playmakers in the history of the game and was an internationally acclaimed player in the 1960-1980 time period, which makes him familiar to many of the targeted *bracero* workers and their heirs. He is currently coaching the Mexican National Women Soccer team — making him a major draw among Spanish-language sports and news media in the U.S. and Mexico.

It is our intent to position Cuellar as a spokesperson for the *Bracero Refund Program* and have him conduct media interviews and “celebrity” visits to selected community-based organizations in the four primary media markets listed above. ECG will media train and prepare Cuellar to conduct interviews focusing on key media messages related to how qualifiable *bracero* workers and/or their heirs can initiate claims for refunds from the Mexican government settlement fund.

## **B. Print Media Campaign**

To ensure we reach the maximum number of the qualified *braceros* and/or heirs, ECG will utilize its national distribution resources to distribute pre-produced, camera-ready, public service announcements (PSA) display ads, news releases and media advisories to provide information to surviving *braceros* and/or their heirs, participating CBOs, and key stakeholders of the *Bracero Refund Program* by using Spanish-language and Hispanic oriented media throughout the U.S. The PSAs would incorporate likenesses of Leonardo Cuellar and information on how to apply for the funds within the timelines associated with the *Bracero Refund Program*. This print media component of the media campaign will constitute the following tasks:

1. *The identification and selection of Spanish-language and Hispanic oriented media to be used for the distribution of news releases from the attached list of media outlets.*
2. *The research, drafting, and review with clients, translation and distribution of three (3) news releases (pre-, during and post-campaign).*
3. *Write, design and produce four English- and Spanish-language TV and radio PSAs; and two (2) print-ready, black/white display ads in scalable versions for use in the variety of local community newspapers layouts and CBO collateral materials.*
4. *Discretionary “opportunistic” advertising media buys in selected publications in targeted markets to promote CBO events and local market visits where Leonardo Cuellar and the Bracero Refund Program would benefit from added exposure.*

## **C. Electronic Media Campaigns**

Due to the current controversy in the U.S. surrounding undocumented workers, and immigration in general, it is our plan to contact the major national Spanish-language television and radio news operations and offer them opportunities to interview Leonardo

Cuellar and provide coverage of the timely and socially relevant aspects of the *Bracero Refund Program*. Tasks related to this component of the program include:

1. *Plan and conduct four (4) overnight, staffed Media Tours and CBO market visits in the four designated markets during the initial media phase of the Bracero Refund Program, preceded by one (1) media training session with selected spokespersons.*
2. *Primary efforts will focus on Telemundo and Univision television networks and SBS and Univision radio networks, supplemented by pitching of local market, affiliated TV and radio stations in each of the designated primary markets.*
3. *ECG will seek to obtain coverage in the news segments of the two networks and local affiliated stations in the designated primary markets, with added emphasis in the placement of Leonardo Cuellar in the public affairs and “talk show” programs broadcast at the network and local station levels. ECG will also seek to have Cuellar do “in-studio” visits with the popular “drive time” radio DJs.*

## **II. Community-Based Organizations (CBO) Involvement**

The bulk of ECG’s public information campaign will focus on four primary media markets because of their high concentrations of native-born Latino and immigrant populations. Surviving *braceros* from the targeted years (or their heirs) are most apt to be living near or with immediate members of their nuclear or extended families. These traditional social relationships ensure one or more members of the nuclear and/or extended families in the U.S. are generally exposed to — or receiving services from — a variety of Latino CBOs.

ECG’s comprehensive information dissemination campaign will be augmented by a concerted effort to recruit support and involvement from the most renowned and respected CBOs in the four target markets. U.S. Latino advocacy and community development CBOs have a history of providing information to their constituent communities similar to that we are attempting to disseminate to the targeted *bracero* workers and/or their heirs. Our outreach plan calls for a presence at the following types of CBO functions and events:

1. *Identify and recruit national and/or local CBOs, their members, leaders and corporate supporters that can act as viable, non-profit PSA hosts and program advocates.*
2. *Provide periodic updates and information about the Bracero Refund Program to CBOs and Community leaders who can contribute to the success of the program.*
3. *Inasmuch as information related to the Bracero Refund Program will be available on the websites of Mexican consulate across the U.S. — and based on ECG’s past and relationships with Mexican Consuls related to the introduction of the “Matricula Consular” card as acceptable identification for opening bank accounts; if and when appropriate, we will coordinate and invite participation from the Mexican consular offices that will be processing Bracero Refund Program applications.*
4. *ECG will include the web site list of those Mexican Consular offices where they can obtain additional information.*