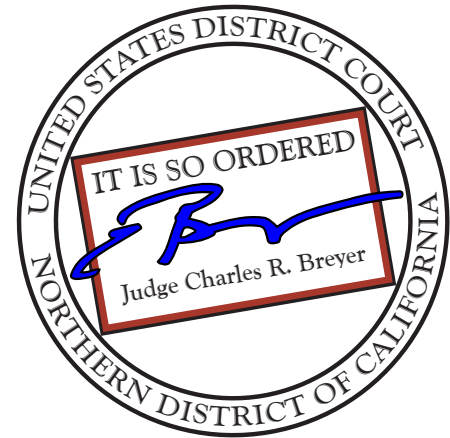


## LIEFF, CABRASER, HEIMANN &amp; BERNSTEIN, LLP

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October 23, 2009

**BY HAND DELIVERY AND ECF**Honorable Charles R. Breyer  
United States District Court  
Courtroom 8, 19th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102Re: *Cruz v. United States*, Case No. 01-0892

Dear Judge Breyer:

We write in our capacity as Class Counsel to update the Court on the status of implementation of the final approval order in this class action settlement. Specifically, Class Counsel are concerned with the Defendants' failure to make timely payments to Class Members of the promised Settlement benefits to Class Members, which were scheduled to have been distributed by July 4, 2009, and Defendants' inability to confirm when they will distribute the payments. Therefore, Class Counsel respectfully request that the Court schedule a case management conference on Friday, November 13, 2009, at 8:30 a.m., or as soon thereafter as the Court is able.

**Background**

On February 6, 2009, the Court issued an Order Granting Final Approval of Class Settlement directing that the parties' Settlement Agreement "is given final approval and shall be fully implemented by the parties pursuant to its terms." (Dkt. No. 323 at 4.) That Settlement Agreement required Defendants to pay at least \$3,455 to each Class Member who timely submitted required documentation by the January 5, 2009 claims deadline. Settlement Agreement, ¶ 9 (Dkt. No. 252, Exh. 1). The Settlement Agreement further mandated that "the Mexican Defendants shall use best efforts to see that these payments are made within 180 days of the end of the claims-filing period," *i.e.*, by July 4, 2009. *Id.* The Court retained jurisdiction "for purposes of administering, implementing, interpreting and enforcing this Settlement until . . . all payments required hereunder have been made." *Id.*, ¶ 22; Dkt. No. 323 at 4.

Honorable Charles R. Breyer

October 23, 2009

Page 2

Plaintiffs' counsel have repeatedly asked Defendants about the timeline for Settlement payments, including email inquiries on March 18, July 8, July 9, July 21, August 7, September 8, September 15, September 17, September 29, October 16, and October 21. Plaintiffs' counsel received repeated assurances that Defendants would send payments forthwith, including the following:

"I am reliably informed that class members' approved claims will be paid in the near future." (July 9, 2009).

"I believe they will be paid next month." (July 21, 2009)

"Payments are expected as in my last message." (August 7, 2009)

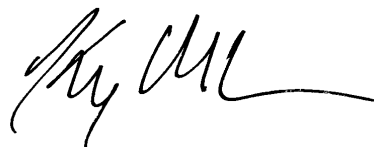
"I believe the payments will indeed be made by the end of this month." (September 16, 2009)

"My client is more than willing to make the payments to the eligible claimants, but they have to follow their rules." (October 21, 2009)

To date, however, Defendants have not paid any of the Settlement benefits to Class Members. Class Counsel are very concerned by the repeated delays and Defendants' refusal to commit to a date by which they will comply. Each week, Class Counsel field telephone inquiries from Class Members seeking information. Many Class Members are losing faith that Class Counsel and the Court will secure the Settlement benefits that Defendants are required to provide pursuant to this Court-approved Settlement Agreement. Some World War II era Braceros fear they will die before Defendants comply with the Settlement.

We seek full implementation and enforcement of the Settlement, and respectfully ask the Court to schedule a case management conference to facilitate it. Class Counsel have met and conferred with Defendants' counsel regarding the need for such a conference. Defendants oppose the request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kelly M. Dermody". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kelly M. Dermody

Lieff, Cabraser, Heimann & Bernstein, LLP

Honorable Charles R. Breyer  
October 23, 2009  
Page 3



Matthew J. Piers  
Hughes Socol Piers Resnick & Dym, Ltd.



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Goldstein Demchak Baller Borgen & Dardarian

cc: All counsel  
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