

1 ERSKINE & TULLEY
 A PROFESSIONAL CORPORATION
 2 MICHAEL J. CARROLL (ST. BAR #50246)
 3030 Bridgeway, Suite 121
 3 Sausalito, CA 94965
 Telephone: (415) 729-9006
 4 Facsimile: (415) 729-9023

5 ATTORNEYS FOR PLAINTIFFS

6

7

8

UNITED STATES DISTRICT COURT

9

NORTHERN DISTRICT OF CALIFORNIA

10

11	BOARD OF TRUSTEES OF THE SHEET METAL)	NO. C 10 2212 EMC
	WORKERS, et al.,)	
12)
	Plaintiffs,)	DECLARATION OF
13)
	vs.)	MICHAEL J. CARROLL
14)
	SUPERHALL MECHANICAL, etc.,)	IN SUPPORT OF DISMISSAL
15)
	Defendant.)	OF CERTAIN PLAINTIFFS
16)
		AND FOR ENTRY OF
		<u>JUDGMENT; ORDER</u>

17 I, MICHAEL J. CARROLL, declare:

18 1. I am one of the attorneys for all plaintiffs in this
 19 action. Plaintiffs' motion for default judgment was granted June 30,
 20 2011. An issue remains over the propriety of the named plaintiffs.
 21 It appears that proper service has not occurred of the First Amended
 22 Complaint, a pleading filed solely to correct the name of the Health
 23 and Welfare Trust Fund party to this case.

24 2. All trust funds named in the original complaint and the
 25 first amended complaint are signatories to the Joint Services
 26 Agreement, Exhibits 6 and 12. Please note that under that Agreement
 27 the Sheet Metal Workers Pension Trust for Northern California
 28 (hereinafter referred to as the "Nor Cal Pension Trust") is

1 responsible to bill for, and take all necessary steps to collect
2 contributions due under collective bargaining agreements, to the
3 various fringe benefit trust funds. Ex. 12 ¶ 1,3. This includes the
4 responsibility to file suit in the name of and for and on behalf of
5 the parties signatory to the Joint Services Agreement. The parties
6 have all agreed and authorized "...the trustees of the Nor Cal Pension
7 Trust to sue in its name and/or to enter into settlements of
8 delinquencies on its behalf." Ex. 12, ¶ 3, page 4.

9 3. Plaintiffs respectfully request that the Court enter an
10 order dismissing all named plaintiffs from both the original complaint
11 and the First Amended Complaint without prejudice, save and except for
12 one plaintiff named in the original complaint: Board of Trustees of
13 the Sheet Metal Workers Pension Trust of Northern California, and that
14 Judgment be entered in favor of that entity in the amounts set forth
15 in the Court's June 30, 2011 Order, to wit:

- 16 (1) \$118,079.29 in unpaid contributions
- 17 (2) \$23,615.86 in liquidated damages
- 18 (3) \$3,149.23 in interest, and
- 19 (4) \$2,905 in fees and costs.

20 The total damages awarded are \$144,844.37.

21 ////
22 ////
23 ////
24 ////
25 ////
26 ////
27 ////
28 ////

1 I declare under penalty of perjury that the foregoing is
2 true and correct.

3 Executed on October 4, 2011 at Sausalito, California.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

/s/ Michael J. Carroll
MICHAEL J. CARROLL

O R D E R

IT IS SO ORDERED.
10/6/11

Dated: _____

