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Crandall Bates, Reginald Chamberlain, C. William
Clark, Brian Miller, Travis Price and Chris Rutherford

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EAST BAY MUNICIPAL UTILITY
DISTRICT; SACRAMENTO COUNTY
WATER AGENCY; FREEPORT WATER
AUTHORITY; CITY OF SACRAMENTO;
CITY OF ROSEVILLE; and CITY OF RIO
VISTA,

ex rel. BILL HALEY; HARRY
ROTZ; and LEW LONG,

Plaintiffs,

v.

BALFOUR BEATTY
INFRASTRUCTURE, INC. and DOES 1
through 100,

Defendants.

CASE NO: 13-CV-02032 WHO

STIPULATION AND ORDER TO REMAND

Assigned to:
Hon. William H. Orrick, Courtroom 2

Complaint Filed: October 26, 2012
Trial Date: Not Set

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1 This stipulation is entered into between qui tam plaintiffs and relators Bill Haley, Harry
2 Rotz and Lew Long (collectively “Plaintiffs”) and defendants Balfour Beatty Infrastructure,
3 Inc., Crandall Bates, Reginald Chamberlain, C. William Clark, Brian Miller, Travis Price and
4 Chris Rutherford (collectively “Defendants”). Defendants and Plaintiffs stipulate through
5 counsel as follows:

6 1. In light of the Court’s ruling that the individual defendants named in the First
7 Amended Complaint will not be stricken, the parties agree that, while this action was removed
8 in good faith, there is no longer a basis for federal jurisdiction over it based on the allegations
9 in the First Amended Complaint.

10 2. There is no diversity jurisdiction, because at least some of the Defendants are,
11 and were when the action was filed, citizens of California, as are the Plaintiffs.

12 3. There is no federal-question jurisdiction, because the causes of action pleaded
13 on the face of the First Amended Complaint are based in state law, not federal law. Nor is
14 Section 301 of the Labor-Management Relations Act implicated based on the allegations in the
15 First Amended Complaint.

16 4. There is no other basis for federal jurisdiction over this action at this time based
17 on the allegations in the First Amended Complaint.

18 5. Pending completion of the remand and the other steps outlined in this
19 agreement, Plaintiffs will not request entry of Defendants’ defaults.

20 6. The parties stipulate that no later than 45 days after entry of the order to
21 remand, Plaintiffs will file a Second Amended Complaint that pleads the per-person ratio that
22 applied to the hiring of Laborer apprentices by virtue of variance letters issued by the Division
23 of Apprenticeship Standards, rather than the per-hour requirement. The Second Amended
24 Complaint will add no new causes of action or additional allegations other than those needed to
25 allege violations of the per-person ratio requirement. The parties will execute any stipulation
26 and proposed order needed for the Superior Court’s permission to file the Second Amended
27 Complaint.

1 7. The parties agree that, once Plaintiffs file the Second Amended Complaint, a
2 stay of the action is appropriate until the California First District Court of Appeal issues its
3 decision in Henson v. C. Overaa & Co. Accordingly, within 10 days of the filing of the
4 Second Amended Complaint, the parties agree to execute and file an appropriate stipulation
5 and proposed order to stay the action until the California First District Court of Appeal issues
6 its decision in Henson v. C. Overaa & Co. The parties agree to execute any stipulation and
7 proposed order needed for the Superior Court’s permission to stay the action until the
8 California First District Court of Appeal issues its decision in Henson v. C. Overaa & Co. The
9 stay will extend the time within which Defendants would otherwise be required to respond to
10 or address the Second Amended Complaint. The stay will be vacated once the Court of Appeal
11 issues its decision in Henson v. C. Overaa & Co.

12 8. Defendants will not respond to the Second Amended Complaint before the stay
13 takes effect. Defendants’ response(s) must be filed within 30 days after the stay is vacated.

14 9. This agreement does not constitute an admission by any party.

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10. In light of the lack of federal jurisdiction over this action at this time based on the allegations in the First Amended Complaint, the parties request that the Court REMAND the case back to Department 17 of the Alameda County Superior Court before Judge George C. Hernandez, Jr.

SO STIPULATED.

DATED: July 16, 2014

Respectfully submitted,

MARKS, FINCH, THORNTON & BAIRD, LLP

By: /s/ P. Randolph Finch Jr.
P. RANDOLPH FINCH JR.
DUSTIN R. JONES

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DATED: July 16, 2014

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ORDER

PURSUANT TO STIPULATION and based on the absence of federal jurisdiction over this action, this action is hereby REMANDED to Department 17 of the Alameda County Superior Court before Judge George C. Hernandez, Jr.

DATED: July 17, 2014



WILLIAM H. ORRICK
United States District Judge