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5 UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
7 OAKLAND DIVISION

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9 GHILOTTI BROS., INC.,

10 Plaintiff,

11 vs.

12 AMERICAN SAFETY INDEMNITY
13 COMPANY, a corporation, and DOES 1-50,
14 inclusive,

15 Defendants.

Case No: C 09-2735 SBA

DISMISSAL ORDER

16 On August 30, 2012, the Ninth Circuit reversed the judgment entered by Judge
17 Vaughn Walker in this action in favor of Plaintiff, and held that Defendant "has no duty to
18 defend [Plaintiff] in the underlying suit." Dkt. 69 at 5. In their Joint Supplemental Case
19 Management Conference Statement filed on December 7, 2012, the parties agree that "the
20 Ninth Circuit's decision resolves the issues raised by plaintiff's complaint for declaratory
21 relief." Dkt. 75 at 2. In light of the foregoing, the Court issued an Order to Show Cause
22 ("OSC") on March 8, 2013 directing the parties to show cause why the instant action should
23 not be dismissed with prejudice. Dkt. 76. The Court advised the parties that the failure to
24 file a memorandum in response to the OSC by March 15, 2013 shall be construed as a
25 consent to the dismissal of this action. To date, neither party has filed a response to the
26 OSC. Accordingly,

27 IT IS HEREBY ORDERED THAT

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1. This action is DISMISSED with prejudice.
 2. The Clerk shall close the file and terminate any pending matters.

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IT IS SO ORDERED.

Dated: 3/18/13



SAUNDRA BROWN ARMSTRONG
United States District Judge