

1 Mark R. Thierman, CBN 72913 NBN 8285
2 **THIERMAN LAW FIRM**
3 7287 Lakeside Drive
4 Reno NV 89511
5 Tel: (775) 284-1500
6 Fax: (775) 703-5027
7 Email: laborlawyer@pacbell.net

5 UNITED STATES DISTRICT COURT

6 EASTERN DISTRICT OF CALIFORNIA

7 SCOTT WOOD, CHARLES W. JUDSON,) Case No.: S-03-2592 DFL PAN
8 WILLIAM BATES, SYBILLE GROTE,)
9 MARTIN REEVES, ERNEST STEWART,) **[PROPOSED] ORDER PROVIDING FOR**
10 STEVE FORSYTHE, ROBERT BADILLA,) **NOTICE OF THE CLASS ACTION TO**
11 BRIAN THOMPSON, KARVIN TILANDER,) **CLASS MEMBERS AS REQUIRED BY**
12 CHARLES ("CHUCK") JENNINGS,) **FEDERAL RULES OF CIVIL**
13 LORENZO RAMIEREZ and MINDY) **PROCEDURE, RULE 23(C)(2)(B)**
14 GABRIEL on behalf of themselves and all)
15 others similarly situated,)
16)
17 Plaintiff,)
18 vs.)
19)
20 GRANITE CONSTRUCTION COMPANY)
21 and FEDERAL INSURANCE COMPANY)
22)
23 Defendants)
24)
25 SCOTT WOOD, CHARLES W. JUDSON,) Related Case No.: CIV S-03-02514 DFL PAN
26 WILLIAM BATES, SYBILLE GROTE,)
27 MARTIN REEVES, ERNEST STEWART,)
28 STEVE FORSYTHE, ROBERT BADILLA,)
29 BRIAN THOMPSON, KARVIN TILANDER)
30 and CHUCK JENNINGS, on behalf of)
31 themselves and all others similarly situated,)
32)
33 Plaintiff,)
34 vs.)
35)
36 VALENTINE SURFACING, TRAVELERS)
37 CASUALTY AND SURETY COMPANY OF)
38 AMERICA and UNITED PACIFIC)
39 INSURANCE COMPANY,)
40)
41 Defendants)
42)

The Motion of Scott Wood, et. al. for class certification came on regularly for hearing before this Court before the Honorable David F. Levi, Presiding, and Mark R. Thierman appeared as attorney for Plaintiff and Scott Oborne appeared as attorney for Defendants.

After full consideration of the evidence and on the separate statements of each party, and the authorities submitted by counsel, as well as counsel's oral argument, the Court finds that there is sufficient commonality, typicality, and numerosity to support class certification and orders Plaintiff's counsel to direct the following notice to the class:

PURSUANT TO THE FEDERAL RULES OF CIVIL PROCEDURE, RULE 23(c)(2)(B), ALL TRUCK DRIVERS EMPLOYED BY HARCO TRUCKING COMPANY WHO WERE ENTITLED TO, BUT WERE NOT PAID, THE PREVAILING WAGE RATE FOR WORK DONE ON GRANITE CONSTRUCTION'S PUBLIC WORKS PROJECTS IN CALIFORNIA AND NEVADA ARE HEREBY NOTIFIED:

DEFINITION OF THE CLASS

The above-captioned class action is pending in the United States District Court for the Eastern District of California. The class is defined as all individuals employed as truck drivers by Harco Trucking Company who were entitled to, but were not paid, the prevailing wage rate for work done on Granite Construction's public works projects in California and Nevada, from the period of December 18, 1999 to the present time of entry of judgment herein, and in Nevada from the period of December 18, 1997 to the time of entry of judgment herein.

You may be a member of the Plaintiff class in the above-captioned class action concerning the prevailing wage rate for work done on Granite Construction's public works projects in California and Nevada. In this class action, the representative Plaintiff are Scott Wood, Charles W. Judson, William Bates, Sybille Grote, Martin Reeves, Ernest Stewart, Steve Forsythe, Robert Badilla, Brian Thompson, Karvin Tilander, Charles ("Chuck") Jennings, Lorenzo Ramirez and Mindy Gabriel. Defendants include Granite Construction Company and Federal Insurance Company. Class counsel is Mark R. Thierman of the Thierman Law Firm of Reno, Nevada.

1 If you are a member of the Plaintiff class, you should read this notice because it will
2 affect your rights.

3 **THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE**
4 **COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES**
5 **ASSERTED BY EITHER SIDE IN THIS LITIGATION. THE SOLE**
6 **PURPOSE OF THIS NOTICE IS TO INFORM YOU OF THE LAWSUIT**
7 **SO THAT YOU CAN MAKE AN INFORMED DECISION AS TO**
8 **WHETHER YOU SHOULD REMAIN IN OR OPT OUT OF THIS CLASS**
9 **ACTION.**

10 **NATURE OF ACTION, CLAIMS, ISSUES AND DEFENSES**

11 Scott Wood, Charles W. Judson, William Bates, Sybille Grote, Martin Reeves, Ernest
12 Stewart, Steve Forsythe, Robert Badilla, Brian Thompson, Karvin Tilander, Charles ("Chuck")
13 Jennings, Lorenzo Ramierez and Mindy Gabriel filed this action on December 18, 2003 in the
14 United States District Court for the Eastern District of California. On March 11, 2005 the Court
15 granted class certification. Plaintiffs assert that they are entitled to, but did not receive, the
16 prevailing wage for work performed on Defendant Granite Construction's public works projects
17 in California and Nevada, attorneys' fees, and interest. Plaintiffs seek restitution and a
18 declaration that all class members are entitled to reimbursement for unpaid prevailing wage rates
19 in violation of California and Nevada law. Defendant denies liability on the ground that all or
20 most of the work performed did not fall under the prevailing wage laws. A full copy of the
21 Court's order in this case is available upon request from the clerk of the Court or you may
22 contact class counsel at the address listed below. A copy of this Order is being provided to you
23 by Plaintiff's counsel. A copy is also posted on class counsel's website at www.laborlawyer.net.

24 **THIS LITIGATION MAY AFFECT YOU SIGNIFICANTLY**

25 If you were or are employed by Harco Trucking Company as a truck driver on Granite
Construction projects in California at any time on or after December 18, 1999 and/or Granite
Construction projects in Nevada on or after December 15, 1997 you will be included in the class,
unless you request exclusion according to the procedures set forth herein. If you remain a
member of the class you will be bound by the judgment whether favorable or adverse to
Plaintiffs. If there is a recovery, you may be entitled to share in the proceeds less Plaintiffs'
costs, expenses, and attorneys' fees that the Court may allow to be reimbursed out of any such
recovery. You will not be responsible for any Court costs to the Defendants.

If you do not request exclusion, you may enter an appearance in the action personally or through your own counsel at your own expense. Otherwise, you will be represented by Plaintiffs' counsel and the named Plaintiffs Scott Wood, Charles W. Judson, William Bates, Sybille Grote, Martin Reeves, Ernest Stewart, Steve Forsythe, Robert Badilla, Brian Thompson, Karvin Tilander, Charles ("Chuck") Jennings, Lorenzo Ramierez and Mindy Gabriel. You will not incur liability for Plaintiffs' attorneys' fees or expenses if you remain a member of the class, except to the extent that the Court may award them to the attorneys to be paid out of the recovery, if any.

To request exclusion you must submit the form entitled "Election to be Excluded" enclosed herewith to the Clerk of the Court at the address listed below no later than December 30, 2005. If you do request exclusion, you will not be bound by the judgment, whether favorable or adverse to Plaintiffs, and if there is a recovery, you will not be entitled to share in the proceeds.

**THE BINDING EFFECT OF A CLASS JUDGMENT ON CLASS MEMBERS
UNDER RULE 23(c)(3)**

The judgment in an action maintained as a class action under subdivision (b)(3) of Federal Rules of Civil Procedure Rule 23, whether or not favorable to the class, shall include and specify or describe those to whom the notice provided in subdivision (c)(2) was directed, and who have not requested exclusion, and whom the court finds to be members of the class.

NOTICE OF ATTORNEYS OF RECORD

Copies of all documents filed with the clerk of the Court should be sent to the following counsel:

<u>Attorneys for PlaintiffS</u>	<u>Attorney for Defendants</u>
Mark R. Thierman THIERMAN LAW FIRM, PC 7287 Lakeside Dr Reno, NV 89511 Telephone: (775) 284-1500 Fax: (775) 703-5027 <u>Email: laborlawyer@pacbell.net</u> <u>www.laborlawyer.net</u>	Robert M. Pattison Scott Oborne JACKSON LEWIS, LLP 199 Freemont Street, 10 th Floor San Francisco, CA 94105 Telephone: 415-394-9400 Fax: 415-394-9401 <u>Email: OborneS@jacksonlewis.com</u>

CHANGE OF ADDRESS

Unless you elect to be excluded from the class, if you move after receiving this notice, you should supply your name and correct address to the attorneys listed above.

AVAILABILITY OF FILED PAPERS

The pleadings and other records of this litigation may be examined and copied any time during the regular office hours in the office of the Clerk at the following address:

United States District Court for the Eastern District of California
United States Courthouse
501 "I" Street, 4th Floor
Sacramento, California

Any inquiry you or your counsel wish to make concerning this Notice should be directed to any of the attorneys for Plaintiffs as follows:

Mark R. Thierman
THIERMAN LAW FIRM, PC
7287 Lakeside Dr
Reno, NV 89511
Telephone: (775) 284-1500
Fax: (775) 703-5027
Email: laborlawyer@pacbell.net

EXCEPT TO REQUEST EXCLUSION FROM THE CLASS OR FOR A COPY OF DOCUMENTS, PLEASE DO NOT CALL OR WRITE TO THE COURT OR THE CLERK OF THE COURT. ADDRESS ALL OTHER INQUIRIES IN WRITING TO THE ATTORNEYS FOR THE CLASS SET FORTH ABOVE.

IT IS SO ORDERED.

Dated this 2nd day of November, 2005

/s/ David F. Levi

Honorable David F. Levi