

1 William Turley, Esq. (122408)
David Mara, Esq. (230498)
2 Jamie Serb, Esq. (289601)
Tony Roberts, Esq. (315595)
3 THE TURLEY & MARA LAW FIRM, APLC
7428 Trade Street
4 San Diego, California 92121
Telephone: (619) 234-2833
5 Facsimile: (619) 234-4048

6 Attorneys for NATHANIEL HELTON,
on behalf of himself, all others similarly situated,
7 and on behalf of the general public.

8 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
9 Including Professional Corporations
SAMANTHA D. HARDY, Cal. Bar No. 199125
10 ASHLEY T. HIRANO, Cal. Bar No. 265282
DANIEL F. DE LA CRUZ, Cal. Bar No. 292537
11 501 West Broadway, 19th Floor
San Diego, California 92101-3598
12 Telephone: 619.338.6500
Facsimile: 619.234.3815
13 Email: shardy@sheppardmullin.com
ahirano@sheppardmullin.com
14 ddelacruz@sheppardmullin.com

15 Attorneys for Defendants PEPSI-COLA SALES AND
DISTRIBUTION, INC.; NEW BERN TRANSPORT
16 CORPORATION; AND PEPSICO, INC.

17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**

19 NATHANIEL HELTON, on behalf of
himself, all others similarly situated,
20 and on behalf of the general public,

21 Plaintiff,

22 v.

23 PEPSI-COLA SALES AND
DISTRIBUTION, INC.; NEW BERN
24 TRANSPORT CORPORATION;
PEPSICO, INC.; and DOES 1 through
25 100, inclusive,

26 Defendants.
27
28

Case No. 3:17-cv-01135-EMC

**ADDENDUM TO STIPULATION
AND SETTLEMENT OF CLASS
ACTION CLAIMS**

Date: July 30, 2018

Time: 1:30 p.m.

Judge: Edward M. Chen

Ctrm.: 5

Action Filed: January 25, 2017
FAC Filed: December 12, 2017
SAC Filed: June 6, 2018
Action Removed: March 6, 2017
Trial Date: Not set

1 **ADDENDUM TO STIPULATION AND SETTLEMENT AGREEMENT OF**
2 **CLASS ACTION CLAIMS**

3 Nathaniel Helton ("Named Plaintiff"), on behalf of himself and each of the
4 other Plaintiffs, and Defendants, Pepsi-Cola Sales and Distribution, Inc.; New Bern
5 Transport Corporation; Pepsico, Inc. and DOES 1-100 (collectively "Defendants" or
6 "New Bern"), in the action pending in the United States District Court for the
7 Northern District of California, Case No. 3-17-cv-01135 ("Class Action" or
8 "Lawsuit"), and subject to the approval of the Court, hereby enter into the following
9 Addendum to Stipulation and Settlement Agreement of Class Action Claims
10 ("Addendum"). This Addendum is made in accordance with Section IX.19 of the
11 Stipulation and Settlement Agreement of Class Action Claims ("Agreement").

12 **PROVISIONS**

13 1. Terms used in this Addendum are as defined in the Agreement.

14 2. Based on guidance from the Court, the Parties have met and conferred
15 and agree to the following modifications to the Agreement:

16 (a) The final paragraph of Section IX.8 of the Agreement shall be
17 revised to state the following: "Class Counsel agree to file their motion for the Class
18 Counsel Attorneys' Fees and Costs Payments at least twenty-one (21) days prior to
19 the deadline to file a written objection to the Settlement.

20 (b) The following phrase shall be deleted from Section IX.8 of the
21 Agreement: "pursuant to California Code of Civil Procedure section 384."

22 (c) The following phrase shall be deleted from Section IX.9.a of the
23 Agreement: "pursuant to California Code of Civil Procedure section 384."

24 (d) Section IX.9.e of the Agreement shall be revised to state the
25 following language in accordance with federal common law regarding *cy pres*
26 distributions, and at the Order of the Court: "Cause the Claims Administrator to
27 make any and all *cy pres* payments to the United Way. The United Way meets the
28

1 mandates of federal common law governing *cy pres* because it is an organization
2 that supports (1) the objectives of the underlying statutes; and (2) the interests of the
3 silent class members; and it is not too far removed from the plaintiff class. The
4 United Way of California is an umbrella organization, supporting multiple local
5 United Ways throughout the state that all serve the public by working towards
6 financial stability of the citizens they support. Many of these local United Ways
7 have specific programs aimed at promoting steady, gainful employment of
8 Californians, something that meets the objectives of a lawsuit brought with the aim
9 of enforcing employee rights, and supports silent class members through the variety
10 of programs offered. For example, the United Way Bay Area, the local program
11 covering the location in which Named Plaintiff worked, has programs such as
12 “SparkPoint”, which operates counseling centers throughout the Bay Area that offer
13 job coaching and training, career development, and business development, providing
14 Northern Californians with the skills needed to find and maintain a lifelong
15 career. The United Way Bay Area also offers programs like “Mayors Youth
16 Jobs+”, which helps young adults find employment through internships,
17 apprenticeships, trainings and other opportunities to allow future members of the
18 workforce to obtain employment and post-secondary opportunities. Beyond just
19 programs like these that support job seekers and employees in the Bay Area, the
20 United Way also advocates at the policy level for an increase to the State minimum
21 wage, something implicated explicitly in this lawsuit, and is in the interest of the
22 plaintiff class.

23 (e) The final sentence in the fourth paragraph of Section IX.12.d.2
24 of the Agreement shall be revised to state the following: “No less than fourteen (14)
25 days before the Final Approval Hearing, the Claims Administrator will prepare and
26 submit to Class Counsel and Counsel for Defendants for filing in support of the
27 motion any supplemental declaration as applicable.”
28

1 (f) The final paragraph of Section IX.12.e of the Agreement shall be
2 revised to state the following: "Checks paid to Class Members and Settlement Class
3 Members shall remain valid and negotiable for one hundred eighty (180) days from
4 the date of their issuance ("Check Stale Date") and may thereafter automatically be
5 canceled if not cashed by a Class Member or Settlement Class Member within that
6 time, at which time the Class Member or Settlement Class Member's claim will be
7 deemed void and of no further force and effect. The funds corresponding to voided
8 checks pursuant to this paragraph shall be distributed *cy pres*, as described further
9 herein."

10
11
12 NAMED PLAINTIFF

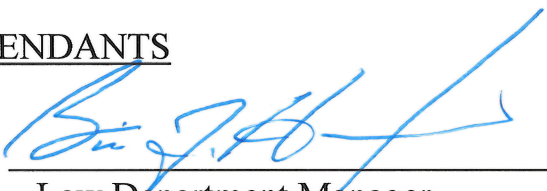
13
14 Date: _____
15 Nathaniel Helton

16
17 PLAINTIFFS' COUNSEL

18 **THE TURLEY & MARA LAW FIRM, APLC**

19
20 Date: _____ By: _____
21 William Turley
22 David Mara
23 Jamie Serb
24 Attorneys for Plaintiffs

25 DEFENDANTS

26
27 Date: 7/5/2018 By: 
28 Its: Law Department Manager

1
2
3
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

DEFENDANTS' COUNSEL

SHEPPARD MULLIN RICHTER &
HAMPTON LLP

Date: 7/5/18

By: S. Hardy

Samantha D. Hardy
Ashley T. Hirano
Attorneys for Defendants
PEPSI-COLA SALES AND
DISTRIBUTION, INC.; NEW BERN
TRANSPORT CORPORATION; AND
PEPSICO, INC.