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15 Attorneys for Plaintiff,

16 JEFFREY QUIMBY, and all others similarly situated

17 (Additional Counsel on Following Page)

18 **IN THE SUPERIOR COURT OF CALIFORNIA**

19 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

20 JEFFREY QUIMBY, on behalf of himself and
21 all others similarly situated, and as an
22 “aggrieved employee” on behalf of other
23 “aggrieved employees” under the Labor Code
24 Private Attorneys General Act of 2004,

25 *Plaintiff(s),*

26 vs.

27 RHB MANAGEMENT COMPANY, a
28 California corporation; THE ROBERTS
COMPANIES, a California limited partnership;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: BC661584

**FIRST AMENDED JOINT STIPULATION
OF CLASS ACTION SETTLEMENT AND
RELEASE OF CLAIMS**

Action filed: 10/02/2017

Department: SS-7, Hon. Amy D.
Hogue



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ATTORNEYS FOR DEFENDANTS

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1 This First Amended Joint Stipulation of Class Action Settlement and Release of Claims
2 (“Settlement Agreement” or “Agreement”) is made and entered into by and between Plaintiff
3 Jeffrey Quimby (“Plaintiff” or “Class Representative”), individually and on behalf of all putative
4 class members, on the one hand, and Defendants RHB Management Company, a California
5 corporation and The Roberts Companies, a California limited partnership (collectively
6 “Defendant”). Plaintiff and Defendant are collectively referred to herein as the “Parties.”

7 **I. DEFINITIONS.**

8 The following definitions are applicable to this Settlement Agreement, in addition to other
9 terms defined elsewhere in the Agreement:

10 **A. “Action”** shall mean: (1) the civil action commenced on May 17, 2017, by
11 Plaintiff against Defendant in the Superior Court of California, County of Los Angeles, Case No.
12 BC661584, entitled: “JEFFREY QUIMBY, on behalf of himself, and all others similarly situated,
13 and as an “aggrieved employee” on behalf of other “aggrieved employees” under the Labor Code
14 Private Attorneys General Act of 2004, *Plaintiff(s)*, vs. RHB MANAGEMENT COMPANY, a
15 California corporation; and DOES 1 through 50, inclusive, *Defendant(s)*” and (2) the demand for
16 arbitration filed with JAMS, Inc. on December 21, 2017, assigned JAMS, Inc. case number
17 1210034805, and entitled: “JEFFREY QUIMBY, *Claimant(s)*, vs. RHB MANAGEMENT
18 COMPANY, a California corporation; THE ROBERTS COMPANIES, a California limited
19 partnership; and DOES 1 through 50, inclusive, *Respondent(s)*.”

20 **B. “Class,” “Class Members,” or “Settlement Class”** shall mean all of
21 Defendant’s current and former resident manager employees who worked anytime during the
22 Class Period in California.

23 **C. “Class Counsel”** shall mean the attorneys representing Plaintiff in the Action:
24 David G. Spivak of The Spivak Law Firm and Walter Haines of the United Employees Law
25 Group.

26 **D. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses
27 Payment”** shall mean the amounts awarded to Class Counsel by the Court to compensate them
28 for, respectively, their fees and expenses in connection with the Action, including their pre-filing
investigation, their filing of the Action and all related litigation activities, this Settlement, and all
post-Settlement compliance procedures.

E. “Class Notice” shall mean the Notice of Proposed Settlement attached as **Exhibit**



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1 A and incorporated by reference into this Agreement.

2 F. "Class Period" shall mean the period of time from May 17, 2013 through the date
3 of a Court order granting preliminary approval to this Settlement.

4 G. "Class Representative Payment" shall mean the special payment made to
5 Plaintiff in his capacity as Class Representative to compensate him for initiating the Action,
6 performing work in support of the Action, and undertaking the risk of liability for attorneys' fees
7 and expenses in the event he was unsuccessful in the prosecution of the Action.

8 H. "Court" shall mean the Superior Court for the County of Los Angeles, Spring
9 Street Courthouse, located at 312 N. Spring Street, Los Angeles, CA, 90012.

10 I. "Defendant Released Parties" means RHB Management Company, Inc. and
11 The Roberts Company and all of their past, present and future agents, employees, servants,
12 officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys,
13 parents, subsidiaries, equity sponsors, related corporations, divisions, joint venturers, assigns,
14 predecessors, successors, service providers, insurers, consultants, subcontractors, joint
15 employers, employee benefit plans and fiduciaries thereof, affiliated organizations, and all
16 persons acting under, by, through or in concert with them.

17 J. "Defense Counsel" shall mean the attorneys representing Defendant in the
18 Action: Beth A. Schroeder and Allison S. Wallin of Raines Feldman LLP.

19 K. "Effective Date" shall mean the date by which this Agreement is approved by the
20 Court by entry of the Judgment and the Judgment becomes Final. The Judgment becomes "Final"
21 when the later of the following events occurs: (1) the period for filing any appeal, writ, or other
22 appellate proceeding opposing the Settlement has elapsed without any appeal, writ, or other
23 appellate proceeding having been filed; (2) any appeal, writ, or other appellate proceeding
24 opposing the Settlement has been dismissed finally and conclusively with no right by any
25 appellant or objector to pursue further remedies or relief; or (3) any appeal, writ, or other
26 appellate proceeding has upheld the Judgment with no right by any appellant or objector to pursue
27 further remedies or relief. In this regard, it is the intention of the Parties that the Settlement shall
28 not become effective until the Court's Judgment granting final approval of the Settlement is
completely final, and no further recourse exists by an appellant or objector who seeks to contest
the Settlement. The occurrence of the Effective Date is a prerequisite to any obligation of



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1 Defendant to pay any funds into the Settlement Account.

2 **L. “Final Approval Hearing”** shall mean the hearing to be conducted by the Court
3 to determine whether to approve finally and implement the terms of this Agreement.

4 **M. “Gross Settlement Amount”** shall mean the Gross Settlement Amount of Four
5 Hundred and Seventy-Five Thousand Dollars and No Cents (\$475,000.00) payable by Defendant
6 as provided by this Agreement, plus Defendant’s employer-side payroll taxes.

7 **N. “Judgment”** shall mean the Order of Final Judgment entered by the Court that
8 the Parties anticipate will be entered following a Final Approval Hearing on the Settlement in
9 this Action.

10 **O. “Net Settlement Amount”** shall mean \$475,000.00 payable by Defendant
11 pursuant to this Settlement, less:

- 12 1. the Class Representative Payment approved by the Court;
- 13 2. the Class Counsel Fees Payment (one-third or 33.333% of Gross
14 Settlement Amount) and the Class Counsel Litigation Expenses Payment (of not more than
15 \$25,000.00) approved by the Court;
- 16 3. the Settlement Administrator’s reasonable fees and expenses approved by
17 the Court (not to exceed \$10,000.00);
- 18 4. the amount of \$3,750 paid to the Labor Workforce Development Agency
19 of California for the PAGA claim; and
- 20 5. any other fees or expenses (other than attorneys’ fees and expenses)
21 incurred by Plaintiff in implementing the terms and conditions of this Agreement as approved by
22 the Court.

23 **P. “Participating Class”** or **“Participating Class Members”** shall mean all
24 Settlement Class members who do not submit a valid letter requesting to be excluded from the
25 Settlement, consistent with the terms set forth in this Settlement Agreement.

26 **Q. “Participating Class Member’s Released Claims”** means, wage and hour
27 claims, rights, demands, liabilities and causes of action, whether known or unknown, arising
28 during the Class Period, that were asserted or could have been asserted in the Action against
29 Defendant based on the facts alleged or ascertained during the pendency of this Action, under
30 state laws, including statutory, or common law claims for wages, penalties, liquidated damages,



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1 interest, attorneys' fees, litigation costs, restitution, equitable relief or other relief under Business
2 & Professions Code section 17200, et seq. based on the alleged Labor Code violations, including
3 the following categories: (a) any and all claims involving any alleged failure to pay the minimum
4 wages; (b) any and all claims involving any alleged failure to pay employees for all hours worked,
5 including but not limited to any claim for minimum, straight time, or overtime wages; (c) any
6 and all claims involving any alleged failure to pay overtime wages; (d) any claim involving
7 failure to include bonuses, other incentive pay, or compensation of any kind in the "regular rate"
8 of pay; (e) any and all claims arising under state law involving any alleged failure to properly
9 provide meal periods and/or authorize and permit rest periods, to pay premiums for missed, late,
10 short or interrupted meal and/or rest periods, or to pay such premiums as required by Labor Code
11 section 226.7; (f) any claim involving Defendant's workday or workweek; (g) any claim
12 involving travel time; (h) any and all claims arising under state law involving any alleged failure
13 to properly provide meal periods and/or authorize and permit rest periods, to pay premiums for
14 missed, late, short or interrupted meal and/or rest periods, or to pay such premiums as required
15 by Labor Code section 226.7; (i) any and all claims involving any alleged failure to keep accurate
16 records or to issue proper wage statements to employees; (j) any and all claims involving any
17 alleged failure to timely pay wages, including but not limited to any claim that Defendant violated
18 Labor Code sections 201 or 202, and any claim for waiting time penalties under Labor Code
19 section 203; (k) any and all claims for unfair business practices in violation of Business and
20 Professions Code sections 17200, et seq.; (l) any and all claims for necessary expenditures under
21 Labor Code section 2802; and (m) any and all penalties pursuant to the Private Attorneys General
22 Act ("PAGA") of 2004 arising out of any or all of the aforementioned claims. The Released
23 Claims include all such claims arising under the California Labor Code (including, but not limited
24 to, sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 225.5, 226, 226.3, 226.7, 227.3,
25 246, 256, 450, 510, 511, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.2, 1198,
26 1199, 2800, 2802, and 2698 et seq.); the Wage Orders of the California Industrial Welfare
27 Commission; California Business and Professions Code section 17200 et seq.; California Civil
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1 Code section 3336; the California common law of contract. This release excludes the release of
2 claims not permitted by law. The Class Representative's Released Claims exclude claims for
3 workers' compensation or unemployment insurance benefits.

4 **R. "Preliminary Approval of the Settlement"** shall mean the Court's preliminary
5 approval of the Settlement without material change.

6 **S. "Representative Plaintiff's Released Claims"** means all claims arising from or
7 related in any way to the claims and allegations asserted in the Action against Defendant,
8 including all claims that could have been stated based upon the claims or allegations asserted in
9 the action, under state or local laws, and/or ordinances, or tort or contract theories, whether
10 known or unknown, and whether anticipated or unanticipated, including without limitation
11 statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs,
12 penalties, liquidated damages, interest, attorneys' fees, litigation costs, restitution, equitable
13 relief or other relief under Business & Professions Code section 17200, et seq., including the
14 following categories: (a) any and all claims involving any alleged failure to pay the minimum
15 wages; (b) any and all claims involving any alleged failure to pay employees for all hours worked,
16 including but not limited to any claim for minimum, straight time, or overtime wages; (c) any
17 and all claims involving any alleged failure to pay overtime wages; (d) any claim involving
18 failure to include bonuses, other incentive pay, or compensation of any kind in the "regular rate"
19 of pay; (e) any and all claims arising under state law involving any alleged failure to properly
20 provide meal periods and/or authorize and permit rest periods, to pay premiums for missed, late,
21 short or interrupted meal and/or rest periods, or to pay such premiums as required by Labor Code
22 section 226.7; (f) any claim involving Defendant's workday or workweek; (g) any claim
23 involving travel time; (h) any and all claims arising under state law involving any alleged failure
24 to properly provide meal periods and/or authorize and permit rest periods, to pay premiums for
25 missed, late, short or interrupted meal and/or rest periods, or to pay such premiums as required
26 by Labor Code section 226.7; (i) any and all claims involving any alleged failure to keep accurate
27 records or to issue proper wage statements to employees; (j) any and all claims involving any
28 alleged failure to timely pay wages, including but not limited to any claim that Defendant violated
Labor Code sections 201 or 202, and any claim for waiting time penalties under Labor Code
section 203; (k) any and all claims for necessary expenditures under Labor Code section 2802;
and (l) any and all claims for unfair business practices in violation of Business and Professions



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1 Code sections 17200, et seq.; and (l) any and all penalties pursuant to the Private Attorneys
2 General Act (“PAGA”) of 2004 arising out of any or all of the aforementioned claims. The
3 Released Claims include all such claims arising under the California Labor Code (including, but
4 not limited to, sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 225.5, 226, 226.3,
5 226.7, 227.3, 246, 256, 450, 510, 511, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1,
6 1197.2, 1198, 1199, 2800, 2802, and 2698 et seq.); the Wage Orders of the California Industrial
7 Welfare Commission; California Business and Professions Code section 17200 et seq.; California
8 Civil Code section 3336; the California common law of contract. The Class
9 Representative/Plaintiff shall have fully, finally, and forever released, relinquished, and
10 discharged each and all of the Released Parties from any and all FLSA claims. This release
11 excludes the release of claims not permitted by law. The Class Representative’s Released Claims
12 exclude claims for workers’ compensation or unemployment insurance benefits.

12 **T. “Settlement”** shall mean the disposition of the Action and all related claims
13 effectuated by this Agreement.

14 **U. “Settlement Administrator”** shall mean CPT, Inc., or another administrator
15 proposed by the Parties and appointed by the Court to administer the Settlement.

16 **V. “Settlement Share”** shall mean each Class Member’s allocated share of the Net
17 Settlement Amount as provided by this Agreement.

17 **II. RECITALS**

18 **A.** On or about April 28, 2017, Plaintiff, through his attorneys, sent a letter to the
19 Labor Workforce Development Agency (“LWDA”) alleging the following: (1) failure to pay
20 wages, (2) failure to provide meal periods, (3) failure to authorize and permit rest periods, (4)
21 failure to indemnify for work expenses, (5) resulting wage statement violations, (6) resulting
22 failure to pay wages due at separation, and (7) resulting failure to timely pay wages (the “PAGA
23 letter”). Plaintiff asserted these representative claims on behalf of all current and former hourly
24 California Class Members who are or were employed during the applicable statutory period.

25 **B.** On May 17, 2017, Plaintiff filed a class action complaint in the Los Angeles
26 Superior Court, alleging the same wage and hour claims as set forth in the earlier PAGA letter
27 and adding a cause of action for unfair competition. On November 1, 2017, Plaintiff filed a first
28 amended class action complaint in the Los Angeles Superior Court, adding a cause of action
under the Labor Code Private Attorneys General Act of 2004 (“PAGA”).



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1 C. On December 21, 2017, Plaintiff filed a class action complaint in arbitration with
2 JAMS, Inc., alleging the same wage and hour claims as set forth in the earlier PAGA letter, the
3 original complaint, and the first amended complaint.

4 D. On January 3, 2018, Defendant answered Plaintiff's demand for class arbitration
5 and denied, and continues to deny, all of Plaintiff's material allegations. Specifically, Defendant
6 denies that Plaintiff and putative class members are entitled to additional wages and overtime
7 pay. Defendant contends it paid the putative class members for all hours worked as required by
8 law. Defendant denies its Class Members were deprived of meal and rest periods, alleges that
9 they had meal and rest break policies and procedures in place to ensure compliance with
10 California law, and alleges that employees were allowed to take their rest and meal periods.
11 Defendant denies that it did not reimburse Class Members for work-related expenses. Defendant
12 further alleges that the unpaid wage, improper wage statement, and rest and meal period claims
13 are not amenable to class treatment because common issues do not predominate. Defendant
14 asserts that the waiting time penalties claim will fail as to former Class Members who cannot
15 prevail on the claims described above. Defendant denies that it failed to issue accurate itemized
16 wage statements, or otherwise failed to keep accurate and complete employment records.
17 Defendant included a counter-claim against Quimby in its answer for (1) Breach of Contract, (2)
18 Breach of Contract – Lease, (3) Breach of Implied Covenant of Good Faith and Fair Dealing, (4)
19 Injury to Real Property, and (5) Commercial Disparagement.

20 E. On January 17, 2018, Plaintiff filed an answer to the counter-claim in arbitration.
21 In his answer, he denied all of the allegations and pleaded a host of affirmative defenses.

22 F. The Parties thereafter engaged in an informal, voluntary exchange of information
23 in the context of privileged settlement discussions to facilitate an early mediation. Defendant
24 produced Plaintiff's entire personnel file (including policies and agreements he signed and
25 acknowledged), copies of its relevant company written policies, time-keeping records, email
26 messages, and paycheck data and records for the putative class, and more detailed time and
27 payroll data for a random sample of putative class members specifically selected by Plaintiff's
28 counsel.

G. On April 11, 2019, following much of the foregoing informal discovery and
exchange of information, the Parties participated in a mediation sessions presided over by
Mediator Steve Pearl, an experienced class action mediator. During the mediation, the Parties



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1 had a full day of productive negotiations and reached agreement on a class-wide settlement
2 during the second mediation session. During the mediation sessions, each side, represented by
3 its respective counsel, recognized the risk of an adverse result in the Action and agreed to settle
4 the Action and all other matters covered by this Agreement pursuant to the terms and conditions
5 of this Agreement.

6 **H.** Based on their own thorough, independent investigation and evaluation of this
7 case, Class Counsel are of the opinion that the settlement with Defendant for the consideration
8 and on the terms set forth in this Agreement is fair, reasonable, adequate, and in the best interest
9 of the Settlement Class in light of all known facts and circumstances, including the risk of
10 significant costs and delay, the risk of non-certification of the Class, the defenses asserted by
11 Defendant, the risks of adverse determinations on the merits, and numerous potential appellate
12 issues. Although Defendant contends it has no liability in this case, Defendant's counsel shares
13 Class Counsel's belief that the Agreement represents a fair and adequate settlement given the
14 respective risks associated with the case.

15 **I.** This Agreement represents a compromise and settlement of highly disputed
16 claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant
17 that Plaintiff's claims in the Action have merit or that it has any liability to Plaintiff or the Class
18 on those claims or to the State, or as an admission by Plaintiff that Defendant's defenses raised
19 in the Action have merit. This Agreement is intended to fully, finally, and forever compromise,
20 release, resolve, discharge, and settle the released claims subject to the terms and conditions set
21 forth in this Agreement.

22 Based on the foregoing Recitals, the Parties agree as follows:

23 **III. SETTLEMENT TERMS AND CONDITIONS**

24 **A. Certification for Settlement Purposes.** Solely for the purposes of effectuating
25 this Settlement, and subject to Court approval, the Parties hereby stipulate to the conditional
26 certification of the Settlement Class. The Parties agree that if for any reason the Settlement is not
27 preliminarily and finally approved, the conditional certification of the Settlement Class will be
28 of no force or effect, does not constitute an admission by Defendant that class certification is
proper, and will not be deemed admissible in this or any other proceeding, and that the Parties
will litigate the issue of class certification.

B. Gross Settlement Amount. Subject to the terms and conditions of this



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1 Agreement, the Gross Settlement Amount of Four Hundred and Seventy-Five Thousand Dollars
2 and No Cents (\$475,000.00), plus Defendant's employer share of payroll taxes, is the maximum
3 amount payable by Defendant. In no event will Defendant be required to pay more than the Gross
4 Settlement Amount for distribution to the Plaintiff, Class Counsel, Class Members, LWDA, and
5 Settlement Administrator.

6 **C. Payments to Plaintiff and Class Counsel and Others.** Subject to the terms and
7 conditions of this Agreement, the Settlement Administrator will make the following payments
8 out of the Gross Settlement Amount as follows:

9 **1. To Plaintiff.**

10 **(a) Class Representative Payment.** In addition to his Settlement
11 Share, Plaintiff will apply to the Court for an award of not more than Fifteen Thousand Dollars
12 and No Cents (\$15,000.00) as his Class Representative Payment. Defendant will not oppose a
13 Class Representative Payment of not more than \$15,000.00. Plaintiff will receive no other
14 payment other than his Settlement Share and Class Representative Payment, and acknowledges
15 that he is aware of no other facts or circumstances related to his employment with Defendant that
16 could give rise to any additional entitlement to any further payments. The Settlement
17 Administrator will pay the Class Representative Payment approved by the Court out of the Gross
18 Settlement Amount. Payroll taxes, withholdings, and deductions will not be taken from the Class
19 Representative Payment, and instead a Form 1099 will be issued to Plaintiff with respect to that
20 payment. Plaintiff agrees to assume all responsibility and liability for the payment of taxes due
21 on the Class Representative Payment. Any portion of the Class Representative Payment not
22 awarded to Plaintiff will not revert to Defendant, but instead shall be returned to the Net
23 Settlement Amount.

24 **2. To Class Counsel.** Class Counsel will apply to the Court for an award of
25 not more than One Hundred and Fifty-Eight Thousand Three Hundred and Thirty-Three Dollars
26 and Thirty-Three Cents (\$158,333.33) (which is 33.333% of the Gross Settlement Amount) as
27 their Class Counsel Fees Payment and an amount not more than Twenty-Five Thousand Dollars
28 and No Cents (\$25,000.00) as their Class Counsel Litigation Expenses Payment, and Defendant
will not oppose this request. The Settlement Administrator will pay the amount approved by the
Court (but not more than \$158,333.33 in fees and not more than \$25,000.00 in expenses) out of
the Gross Settlement Amount. Withholding and deductions will not be taken from the Class



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1 Counsel Fees and Litigation Expenses Payment and one or more Forms 1099 will be issued to
2 Class Counsel with respect to those payments.

3 **3. To the Settlement Administrator.** The Settlement Administrator will be
4 paid from the Gross Settlement Amount its reasonable fees and expenses as approved by the
5 Court in an amount currently estimated to not exceed Ten Thousand Dollars and No Cents
6 (\$10,000.00).

7 **4. To the LWDA.** The Parties will jointly apply to the Court for approval of
8 a settlement of claims under the Private Attorneys General Act (“PAGA”), California Labor Code
9 section 2698, *et seq.*, for Five Thousand Dollars and No Cents (\$5,000.00), of which, payment
10 from the Gross Settlement Amount to the LWDA will be made in the amount of Three Thousand
11 Seven Hundred and Fifty Dollars and No Cents (\$3,750.00), which is 75% of the PAGA
12 settlement. One Thousand Two Hundred Dollars and No Cents (\$1,250.00), 25% of the PAGA
13 settlement, will remain in the Net Settlement Amount for distribution.

14 **D. Allocation of Net Settlement Amount and Calculation of Settlement Shares.**
15 Subject to the terms and conditions of this Agreement, the Settlement Administrator will
16 distribute a payment from the Net Settlement Amount to each Participating Class Member. The
17 Settlement Share for each Participating Class Member will be calculated as follows,
18 understanding that the formulas below do not constitute an admission by either party, and are
19 intended only to provide a practical means to simplify and administer the claims process:

20 **(a) Participating Class Members’ Settlement Shares.** The
21 settlement shares are allocated 10% to wages (for which employment taxes will be deducted and
22 W-2s issued) and 90% to penalties (for which 1099s will be issued).

23 **(b) Settlement Ratio Calculation.** The Settlement Administrator
24 shall assign to each Class Member a “Settlement Ratio,” which shall be a fractional number
25 comprised of (a) that Class Member’s Individual Pay Periods as the numerator, and (b) the
26 aggregate total of all Class Members’ Individual Pay Periods as the denominator. The Settlement
27 Administrator shall assign to each Class Member the “Settlement Share” which shall be
28 calculated by multiplying that Class Member’s Settlement Ratio by the amount allocated to Class
29 Members from the Net Settlement Amount.

30 **2. Settlement Share Worksheet.** Upon calculation of the Class Members’
31 Settlement Share, the Settlement Administrator shall furnish to Class Counsel and Defense



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1 counsel a worksheet containing a list of unique identifying numbers for each of the Class
2 Members with their corresponding Individual Pay Periods and Settlement Shares.

3 **E. Taxes and Withholdings.** Each Settlement Share is intended, in part, to settle the
4 Class Members' claims for unpaid wages. Each Class Member shall be individually responsible
5 for the employee's share of applicable payroll tax withholdings and deductions. Accordingly,
6 each Settlement Share allocated to wages will be reduced by applicable employee-side payroll
7 tax withholdings and deductions, and the Settlement Administrator will issue a Form W-2 to each
8 Participating Class Member. Defendant will be responsible for the normal employer's share of
9 any payroll tax attributable to the wage portion of the Settlement Share payments. Defendant's
10 payment of the normal employer's share of payroll taxes attributable to the wage portion of the
11 Settlement Share payments will be in addition to the Gross Settlement Amount or Net Settlement
12 Amount.

13 **F. Appointment of Settlement Administrator.** The Parties will ask the Court to
14 appoint CPT, Inc., a qualified administrator, to serve as the Settlement Administrator, which, as
15 a condition of appointment, will agree to be bound by this Agreement with respect to the
16 performance of its duties and its compensation. The Settlement Administrator's duties will
17 include preparing, printing, and mailing the Class Notice to all Class Members and using
18 reasonable measures to contact all Class Members, including conducting a National Change of
19 Address search on all Class Members before mailing the Class Notice to each Class Member's
20 address. The Settlement Administrator's duties will also include re-mailing the Class Notice to
21 the Class Member's new address for those Class Members whose address has changed; providing
22 the Parties with weekly status reports about the delivery of Class Notice; calculating Settlement
23 Shares; issuing and distributing checks to effectuate the payments due under the Settlement;
24 reporting to the Court as required; and otherwise administering the Settlement pursuant to this
25 Agreement. The Settlement Administrator's reasonable fees and expenses, including the cost of
26 printing and mailing the Class Notice, will be paid out of the Gross Settlement Amount, as set
27 forth herein, subject to Court approval. Any portion of the of the Settlement Administrator's fees
28 and expenses that are not used or which are not awarded by the Court will not revert to Defendant,
but instead will be part of the Net Settlement Amount for distribution to Participating Class
Members. If the Settlement Administrator's fees and expenses exceed \$10,000, such cost will be



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deducted from the Net Settlement Amount.

1
2 **IV. PROCEDURES FOR APPROVING SETTLEMENT**

3 **A. Motion for Preliminary Approval of Settlement by the Court.** Class Counsel
4 will move the Court for an order granting Preliminary Approval of the Settlement (the “Motion
5 for Preliminary Approval”), setting a date for the Final Approval Hearing, and approving the
6 Class Notice (attached as **Exhibit A** to this Agreement). Any disagreement among the Parties
7 concerning the Class Notice or other documents necessary to implement the Settlement will be
8 referred to the Court.

9 **1.** At the hearing on the Motion for Preliminary Approval, the Parties
10 anticipate that they will appear and support the granting of the motion, and that Class Counsel
11 will submit an Order Granting Preliminary Approval of Settlement, Approval of Notice to Class
12 and Setting Hearing for Final Approval of Settlement.

13 **2.** Should the Court decline to approve the Settlement, the Settlement will be
14 null and void and the Parties will have no further obligations under it.

15 **B. Notice to Class Members.** After the Court enters its order granting Preliminary
16 Approval of the Settlement, every Class Member will be provided with a “Class Notice.”

17 **1. List of Class Members.** Within thirty (30) days after the Court grants
18 Preliminary Approval of the Settlement, Defendant shall provide to the Settlement
19 Administrator:

20 **(a)** An electronic database of all Class Members, last known mailing
21 address, and Social Security number (“Class Members’ Data”).

22 **(b)** Corresponding to each Class Member’s name, Defendant shall
23 provide a figure indicating the total number of Pay Periods during the Class Period in which that
24 Class Member was employed by Defendant as a Representative. That number of Pay Periods
25 shall be referred to as that Class Member’s “Individual Pay Periods.”

26 **(c)** If any of the Class Members’ Data are unavailable to Defendant,
27 Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct
28 or otherwise agree upon the Class Members’ Data prior to when it must be submitted to the
Settlement Administrator. Class Members’ Data will otherwise remain confidential and will not
be disclosed to anyone, except as necessary to applicable taxing authorities, or pursuant to
Defendant’s express written authorization or by order of the Court.



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1 **2. Mailing of Class Notice.** Within fourteen (14) days after receiving the
2 Class Members' Data, or as soon thereafter as it can do so, the Settlement Administrator will
3 mail the Class Notice to all identified Class Members via first-class U.S. mail using the mailing
4 address information provided by Defendant, unless modified by any updated address information
5 that the Settlement Administrator obtains in the course of administration of the Settlement.

6 **3. Returned Class Notice.** If a Class Notice is returned because of an
7 incorrect address, the Settlement Administrator will promptly, and not later than ten (10) days
8 from receipt of the returned Class Notice, search for a more current address for the Class Member
9 and re-mail the Class Notice to the Class Member. The Settlement Administrator will use the
10 Class Members' Data and otherwise work with Defendant's Counsel and Class Counsel to find
11 a more current address. The Settlement Administrator will be responsible for taking reasonable
12 steps, consistent with its agreed-upon job parameters, court orders, and fee, to trace the mailing
13 address of any Class Member for whom a Class Notice is returned as undeliverable by the U.S.
14 Postal Service. These reasonable steps shall include the tracking of all undelivered mail;
15 performing address searches for all mail returned without a forwarding address; and promptly re-
16 mailing to Class Members for whom new addresses are found. If the Class Notice is re-mailed,
17 the Settlement Administrator will note for its own records and notify Class Counsel and
18 Defendant's Counsel of the date and address of each such re-mailing as part of a weekly status
19 report provided to the Parties.

20 **4. Declaration of Settlement Administrator.** Not later than twenty-one
21 (21) court days prior to the Final Approval Hearing, the Settlement Administrator will provide
22 the Parties for filing with the Court a declaration of due diligence setting forth its compliance
23 with its obligations under this Agreement. Prior to the Final Approval Hearing, the Settlement
24 Administrator will supplement its declaration of due diligence if any material changes occur from
25 the date of the filing of its prior declaration.

26 **C. Disputed Class Member Settlement Shares.** If a Class Member disputes his/her
27 estimated Settlement Share, the Class Member may produce evidence to the Settlement
28 Administrator for the Class Period. In order for the dispute to be considered, he/she must follow
the directions on the Class Notice. To be valid and timely, all disputes and supporting documents
must be postmarked by the date specified in the Class Notice (no less than sixty (60) days from
the initial mailing of the Class Notice by the Settlement Administrator).



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1 **D. Requests for Exclusion from Settlement; and Objections to Settlement.** Class
2 Members may submit requests to be excluded from the effect of the Settlement, or objections to
3 the Settlement, pursuant to the following procedures:

4 **1. Request for Exclusion from Settlement.** A Class Member may request
5 to be excluded from the effect of this Agreement, and any payment of amounts under this
6 Agreement, by timely mailing a letter to the Settlement Administrator stating that the Class
7 Member wants to be excluded from this Action. This letter must include the Class Member's
8 name, address, telephone number, and signature. To be valid and timely, the request to be
9 excluded must be postmarked by the date specified in the Class Notice (no less than sixty (60)
10 days from the initial mailing of the Class Notice by the Settlement Administrator). A Class
11 Member who properly submits a valid and timely request to be excluded from the Action shall
12 not receive any payment of any kind in connection with this Agreement or this Action, shall not
13 be bound by or receive any benefit of this Agreement, and shall have no standing to object to the
14 Settlement. A request for exclusion must be mailed to the Settlement Administrator at the address
15 provided on the Class Notice. The Settlement Administrator shall transmit the request for
16 exclusion to counsel for the Parties as follows:

16 *To Class Counsel:*

17 David G. Spivak, Esq.
18 The Spivak Law Firm
19 16530 Ventura Blvd, Ste. 203
20 Encino, CA 91436

16 *To Defense Counsel:*

17 Beth A. Schroeder, Esq.
18 Allison S. Wallin, Esq.
19 Raines Feldman LLP
20 1800 Avenue of the Stars, Fl. 12
21 Los Angeles, CA 90067

21 **2. Objections to Settlement.** The Class Notice will provide that any Class
22 Member who does not request exclusion from the Action and who wishes to object to the
23 Settlement should submit an objection in writing to the Settlement Administrator not later than
24 sixty (60) days after the Settlement Administrator mails the Class Notice. The written objection
25 to the Settlement should set forth the grounds for the objection and the other information required
26 by this paragraph. The objection should be mailed to the Settlement Administrator at the address
27 provided on the Class Notice. The Settlement Administrator shall transmit the objections to
28 counsel for the Parties as follows:

28 *To Class Counsel:*

28 *To Defense Counsel:*



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1 David G. Spivak, Esq.
2 The Spivak Law Firm
3 16530 Ventura Blvd, Ste. 203
4 Encino, CA 91436

Beth A. Schroeder, Esq.
Allison S. Wallin, Esq.
Raines Feldman LLP
1800 Avenue of the Stars, Fl. 12
Los Angeles, CA 90067

5 Counsel will promptly file such objection with the Court.

6 The written objection should state the objecting Class Member's full name, address, and
7 the approximate dates of HIS OR HER employment with Defendant. The written objection
8 should state the basis for each specific objection and any legal support in clear and concise terms.
9 The written objection also should state whether the Class Member intends to formally intervene
10 and become a party of record in the action, and upon formally intervening, appear and argue at
11 the Final Approval Hearing.

12 Regardless of whether an objecting Class Member complies with the objection procedure
13 encouraged above, the Court will provide an objector with the opportunity to speak at the final
14 approval hearing regardless of whether he or she has filed an appearance or submitted a written
15 opposition beforehand. If the objecting Class Member does not formally intervene in the action
16 and/or the Court rejects the Class Member's objection, the Class Member will still be bound by
17 the terms of this Agreement.

18 **E. Report.** Not later than fourteen (14) days after the deadline for submission of
19 requests for exclusion, the Settlement Administrator will provide the Parties with a complete and
20 accurate list of all Class Members who sent timely requests to be excluded from the Action and
21 all Class Members who objected to the settlement.

22 **F. No Solicitation of Objection; Right to Void.** Neither the Parties, nor their
23 respective counsel, will directly or indirectly solicit or otherwise encourage any Class Member
24 to seek exclusion from the Settlement, object to the Settlement, or to appeal from the Judgment.
25 If Class Members with Pay Periods accounting for 2% or more of the Class's Pay Periods submit
26 valid requests to be excluded from the Settlement, then Defendant shall have the unilateral right
27 to void this Settlement. Defendant may do so by giving notice to Class Counsel and the Court of
28 its election to void the Settlement not later than seven (7) days before the Final Approval Hearing.
No sums shall be payable by Defendant if this Agreement is voided as provided for herein with
one exception: Defendant agrees to pay any fees owing to the Settlement Administrator for



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1 services rendered in the event Defendant exercises its right to void the Settlement.

2 **G. Additional Briefing and Final Approval.** Plaintiff will file with the Court a
3 motion for final approval of the Settlement and payment of the Settlement Administrator's
4 reasonable fees and expenses and a memorandum in support of their motion; and Plaintiff and
5 Class Counsel will serve on Defendant and file with the Court a motion for awards of the Class
6 Representative Payment, the Class Counsel Fees Payment, and the Class Counsel Litigation
7 Expenses Payment pursuant to this Settlement, and memoranda in support of their motions.

8 Before the Final Approval Hearing, the Parties shall be entitled to file and serve a
9 response to any Class Member's objection to the Settlement and/or reply in support of their
10 motion for final approval of the Settlement, and payment of the Settlement Administrator's
11 reasonable fees and expenses to the extent that any opposition to the motion is filed; and Plaintiff
12 and Class Counsel may file replies in support of their motions for the Class Representative
13 Payment, the Class Counsel Fees Payment, and the Class Counsel Litigation Expenses Payment.

14 If the Court ultimately does not grant final approval of the Settlement or grants final
15 approval conditioned on any material change to the Settlement, then either Party will have the
16 unilateral right to void the Settlement in its entirety; if that occurs, the Parties will have no further
17 obligations under the Settlement, including any obligation by Defendant to pay the Gross
18 Settlement Amount or any amounts that otherwise would have been payable under this
19 Agreement, except that Defendant and Plaintiff will jointly and equally pay the Settlement
20 Administrator's reasonable fees and expenses incurred as of the date that the Party exercises the
21 right to void the Settlement under this Paragraph. However, an award by the Court of a lesser
22 amount than that sought by Plaintiff and Class Counsel for the Class Representative Payment,
23 the Class Counsel Fees Payment, or the Class Counsel Litigation Expenses Payment, will not
24 constitute a material modification to the Settlement within the meaning of this Paragraph and
25 shall not render the Settlement voidable. Plaintiff and Class Counsel shall retain the right to
26 appeal awards of attorneys' fees and costs less than requested.

27 Upon final approval of the Settlement by the Court at or after the Final Approval Hearing,
28 the Parties will present for the Court's approval and entry a Proposed Final Order and Judgment.
The Final Order and Judgment shall permanently bar all Participating Class Members from
prosecuting against Defendant any claims within the scope of the Releases contained in this
Agreement.



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1 After entry of the Judgment, the Court will have continuing jurisdiction over the Action
2 and the Settlement solely for purposes of (i) enforcing this Agreement, (ii) addressing settlement
3 administration matters, and (iii) addressing such post-Judgment matters as may be appropriate
4 under court rules or applicable law.

5 **H. Waiver of Right to Appeal.** Provided that the Judgment is consistent with the
6 terms and conditions of this Agreement, and that no Class Member timely objects to the
7 Settlement and formally intervene into the action as required under the California Supreme Court
8 decision of *Hernandez v. Restoration Hardware*, 4 Cal. 4th 260, 228 Cal. Rptr. 3d 106 (2018) or
9 file a motion pursuant to Civil Procedure Code section 663, Defendant, and their respective
10 counsel hereby waive, except as provided for in this Agreement or prohibited by law, any and all
11 rights to appeal from the Judgment, including all rights to any post-judgment proceeding and
12 appellate proceeding, such as a motion to vacate judgment, a motion for new trial, any
13 extraordinary writ, and any appeal, and the Judgment therefore will become non-appealable at
14 the time it is entered. The waiver of appeal does not include any waiver of the right to oppose
15 any appeal, appellate proceedings, or post-judgment proceedings. If an appeal is taken from the
16 Judgment, the time for consummation of the Settlement (including making any payments under
17 the Settlement) will be suspended until the appeal is fully and finally resolved and the Judgment,
18 consistent with the terms of this Agreement, becomes Final.

19 **I. Vacating, Reversal, or Material Modification of Judgment on Appeal or**
20 **Review.** If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other
21 motion, petition, writ, application, or appeal, the reviewing court vacates, reverses, or modifies
22 the Judgment such that there is a material modification to the Settlement, and that court's decision
23 is not completely reversed and the Judgment is not fully affirmed on review by a higher court,
24 then either Plaintiff or Defendant will have the unilateral right to void the Settlement, which the
25 Party must do by giving written notice to the other Parties, the reviewing court, and the Court,
26 not later than fourteen (14) days after the reviewing court's decision vacating, reversing, or
27 materially modifying the Judgment becomes final. The Party exercising its right to unilaterally
28 void the Settlement pursuant to this provision agrees to pay any fees owing to the Settlement
Administrator for services rendered. An order vacating, reversing or modifying the Court's award
of the Class Representative Payment, or the Class Counsel Fees Payment and/or Class Counsel
Litigation Expenses Payment will not constitute a vacation, reversal, or material modification of



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1 the Judgment within the meaning of this paragraph, and shall not render the Settlement voidable.

2 **J. Establishment of Settlement Account.** The Settlement Administrator shall
3 establish a Settlement Account for distributing Settlement Shares and Payments identified in this
4 Agreement. Within ten (10) business days after the Judgment becomes Final, Defendant shall
5 pay the Gross Settlement Amount into the Settlement Account.

6 **K. Payment of Settlement Shares.** The Settlement Administrator shall pay
7 Settlement Shares, from the Settlement Account, to all Class Members (who do not submit valid
8 requests to be excluded from the Action). The Settlement Administrator shall pay each Settlement
9 Share by sending a check in the appropriate amount to the Class Member at the address indicated
10 in the list of Class Member names and addresses provided by Defendant, or as subsequently
11 determined by the Settlement Administrator to be the correct address.

12 **L. Uncashed Settlement Share Checks.** Any check issued by the Settlement
13 Administrator to Class Members who do not timely and validly opt out shall be negotiable for
14 one hundred and eighty (180) calendar days. Those funds represented by checks returned as
15 undeliverable and those checks remaining un-cashed for more than 180 days after issuance
16 (collectively, "Voided Settlement Checks"), plus any interest that has accrued on those funds,
17 will be sent to the California State Controller's Office of Unclaimed Property Division.

18 **M.** The Settlement Administrator will mail or wire all required payments no later than
19 fourteen (14) calendar days after receipt of the funds representing the Gross Settlement Amount
20 from Defendant. Proof of payment will be filed with the Court.

21 **N. Final Report by Settlement Administrator to Court.** Within ten (10) calendar
22 days after final disbursement of all funds from the Settlement Account, the Settlement
23 Administrator will serve on the Parties for filing with the Court a declaration providing a final
24 summary report on the disbursements of all funds from the Settlement Account.

25 **O. Posting of Final Approval Order and Judgment.** Upon the Court's final
26 approval of the Settlement, the Settlement Administrator will post the Final Approval Order and
27 Judgment at the web address stated in the Class Notice.

28 **V. RELEASE OF CLAIMS**

A. Upon the Final Effective Date, Class Representative/Plaintiff Quimby and each
Participating Class Member, on behalf of themselves and their respective agents, representatives,
attorneys, assignees, heirs, executors, administrators and successors in interest, shall release, and



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1 forever discharge Defendant Released Parties from the Participating Class Members' and Class
2 Representative/Plaintiff's Released Claims.

3 **B.** In addition to the Participating Class Members' and Class
4 Representative/Plaintiff's Released Claims defined above, Class Representative/Plaintiff, in his
5 individual capacity, also expressly waives any and all claims/damages relating to or arising out
6 of his employment with the Defendant Released Parties and/or the discontinuation of said
7 employment defined as Class Representative's Released Claims above. For the purpose of
8 implementing a full and complete release, Class Representative/Plaintiff expressly acknowledges
9 that the release given in this Agreement is intended to include in its effect, without limitation,
10 claims that he did not know or suspect to exist in his favor at the time of the Effective Date of
11 this Agreement, regardless of whether the knowledge of such claims, or the facts upon which
12 they might be based, would materially have affected the settlement of this matter, and that the
13 consideration given under the Agreement was also for the release of those claims and
14 contemplates the extinguishment of any such unknown claims. This release includes, but is not
15 limited to, (a) any and all claims under the law of any jurisdiction including without limitation
16 wrongful discharge of employment; constructive discharge from employment; termination in
17 violation of public policy; discrimination; breach of contract, both express and implied; breach
18 of covenant of good faith and fair dealing, both express and implied; promissory estoppel;
19 negligent and intentional infliction of emotional distress; negligent and intentional
20 misrepresentation; negligent and intentional interference with prospective economic advantage;
21 unfair business practices; defamation; libel; slander; negligence; personal injury; assault; battery;
22 invasion of privacy; false imprisonment; conversion; (b) any and all claims for violation of any
23 state or municipal statute, including without limitation all employment laws, including the
24 California Fair Employment and Housing Act; the California Unruh Act; the Age Discrimination
25 in Employment Act, as amended; Title VII of the Civil Rights Act of 1964, as amended; the Fair
26 Labor Standards Act; the National Labor Relations Act; the California Constitution; the
27 California Labor Code; the California Business & Professions Code; the California Government
28 Code; the California Civil Code; and all other laws against discrimination or applicable to
employment that may be subject of a release under applicable law, or (c) any claim or damage
arising out of Class Representative/Plaintiff's employment with or separation from Defendant(s)
under any common law theory or any state or local statute or ordinance not specifically referred



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1 to above. Class Representative/Plaintiff expressly waives the provisions of section 1542 of the
2 Civil Code of California, which provides:

3
4 A general release does not extend to claims that the creditor or releasing party does not
5 know or suspect to exist in his or her favor at the time of executing the release, and that
6 if known by him or her, would have materially affected his or her settlement with the
7 debtor or released party.

8 **C. Class Counsel.** As of the date the Judgment becomes Final, and except as
9 otherwise provided by this Agreement, Class Counsel and any counsel associated with Class
10 Counsel (The Spivak Law Firm and the United Employees Law Group), including without
11 limitation David G. Spivak, Esq. and Walter Haines, Esq., waive any claim to costs and attorneys'
12 fees and expenses against Defendant or the Releasees arising from or related to the Action, except
13 those incurred to enforce this Agreement and collect the Judgment, including but not limited to
14 claims based on the California Labor Code, the California Civil Code, the California Code of
15 Civil Procedure, the Fair Labor and Standards Act, or any other statute or law (the "Class Counsel
16 Released Claims").

17 **VI. NON-PUBLICITY PROVISION**

18 The Parties and their counsel agree that they will not issue any press releases, initiate any
19 contact with the press, respond to any press inquiry, or have any communication with the press
20 about the fact, amount, or terms of the Settlement. In addition, the Parties and their counsel agree
21 that they will not engage in any advertising or distribute any marketing materials relating to the
22 Settlement of this case in any manner that identifies the Defendant, including but not limited to
23 any postings on any websites maintained by Class Counsel. Neither Plaintiff nor Class Counsel
24 will discuss the terms or the fact of the Settlement with third parties other than (1) their immediate
25 family members, (2) their respective accountants or lawyers as necessary for tax purposes; or (3)
26 other Class Members. Plaintiff and Class Counsel agree not to publish any of the terms or
27 conditions of this Settlement in any manner that identifies the Defendant. However, Class
28 Counsel may identify this Settlement in other matters to demonstrate their adequacy as counsel
in such other matters.

VII. MISCELLANEOUS TERMS

A. No Effect on Other Benefits. The Settlement Shares will not result in any



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1 additional employee benefit payments (such as pension, ERISA, 401(k), vacation, or bonus) and
2 shall not have any effect on the eligibility for, or calculation of, any employee benefit. Plaintiff
3 and Class Members will be deemed to have waived all such claims, whether known or unknown
4 by them, as part of their release of claims under this Agreement.

5 **B. No Admission of Liability.** Defendant denies that it has engaged in any unlawful
6 activity, has failed to comply with the law in any respect, or has any liability to anyone under the
7 claims asserted in the Action. This Agreement is entered into solely for the purpose of
8 compromising highly disputed claims. Nothing in this Agreement is intended or will be construed
9 as an admission of liability or wrongdoing by Defendant, or an admission by Plaintiff that any of
10 his claims were non-meritorious or any defense asserted by Defendant was meritorious. This
11 Settlement and the fact that Plaintiff and Defendant were willing to settle the Action will have
12 no bearing on, and will not be admissible in connection with, any litigation (other than solely in
13 connection with the Settlement).

14 **C.** Whether or not the Judgment becomes Final, neither the Settlement, this
15 Agreement, any document, statement, proceeding or conduct related to the Settlement or the
16 Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or
17 admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to
18 Defendant or any other Releasees, including, but not limited to, evidence of a presumption,
19 concession, indication or admission by any of the Releasees of any liability, fault, wrongdoing,
20 omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any
21 of the Releasees, in any further proceeding in the Action, or any other civil, criminal or
22 administrative action or proceeding except for purposes of effectuating the Settlement pursuant
23 to this Agreement.

24 **D. Integrated Agreement.** After this Agreement is signed and delivered by all
25 Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement
26 between the Parties relating to the Settlement, and it will then be deemed that no oral
27 representations, warranties, covenants, or inducements have been made to any Party concerning
28 this Agreement or its exhibits other than the representations, warranties, covenants, and
inducements expressly stated in this Agreement and its exhibits.

E. Attorney Authorization. Class Counsel and Defense Counsel warrant and
represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate



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1 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
2 its terms, and to execute any other documents required to effectuate the terms of this Agreement.
3 The Parties and their counsel will cooperate with each other and use their best efforts to effect
4 the implementation of the Settlement. In the event the Parties are unable to reach agreement on
5 the form or content of any document needed to implement the Agreement, or on any supplemental
6 provisions that may become necessary to effectuate the terms of this Agreement, the Parties will
7 seek the assistance of the Court, and in all cases, all such documents, supplemental provisions
8 and assistance of the court will be consistent with this Agreement.

8 **F. Modification of Agreement.** This Agreement, and all parts of it, may be
9 amended, modified, changed, or waived only by an express written instrument signed by all
10 Parties or their successors-in-interest.

11 **G. Agreement Binding on Successors.** This Agreement will be binding upon, and
12 inure to the benefit of, the successors of each of the Parties.

13 **H. Applicable Law.** All terms and conditions of this Agreement and its exhibits will
14 be governed by and interpreted according to the laws of the State of California, without giving
15 effect to any conflict of law principles or choice of law principles.

16 **I. Cooperation in Drafting.** The Parties have cooperated in the drafting and
17 preparation of this Agreement. This Agreement will not be construed against any Party on the
18 basis that the Party was the drafter or participated in the drafting.

19 **J. Fair Settlement.** The Parties and their respective counsel believe and warrant that
20 this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived
21 at this Agreement through arms-length negotiations, considering all relevant factors, current and
22 potential.

23 **K. Headings.** The descriptive heading of any section or paragraph of this Agreement
24 is inserted for convenience of reference only and does not constitute a part of this Agreement.

25 **L. Notice.** All notices, demands or other communications given under this
26 Agreement will be in writing and deemed to have been duly given as of the third business day
27 after mailing by United States mail, addressed as follows:

28 *To Class Counsel:*

David G. Spivak, Esq.
The Spivak Law Firm
16530 Ventura Blvd, Ste. 203

To Defense Counsel:

Beth A. Schroeder, Esq.
Allison S. Wallin, Esq.
Raines Feldman LLP



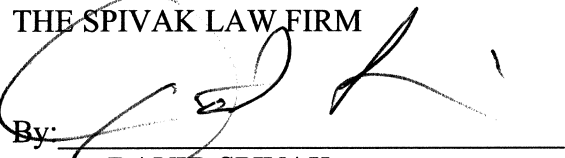
1 Encino, CA 91436

1800 Avenue of the Stars, Fl. 12
Los Angeles, CA 90067

2
3 **M. Execution in Counterpart.** This Agreement may be executed in one or more
4 counterparts. All executed counterparts and each of them will be deemed to be one and the same
5 instrument provided that counsel for the Parties will exchange between themselves original
6 signed counterparts. Facsimile signatures will be presumptive evidence of execution of the
7 original, which shall be produced on reasonable request. Any executed counterpart will be
8 admissible to prove the existence and contents of this Agreement.

9
10
11 Dated: 12/19, 2019

THE SPIVAK LAW FIRM

By: 

DAVID SPIVAK
Attorney for Plaintiff, JEFFREY
QUIMBY, and all others similarly situated

12
13
14
15
16
17 Dated: _____, 2019

THE UNITED EMPLOYEES LAW GROUP

By: _____

WALTER HAINES
Attorney for Plaintiff, JEFFREY
QUIMBY, and all others similarly situated

18
19
20
21
22
23 Dated: _____, 2019

RAINES FELDMAN LLP

By: _____

BETH A. SCHROEDER
ALLISON S. WALLIN

Attorneys for Defendant, RHB
MANAGEMENT COMPANY and THE
ROBERTS COMPANY



1 Encino, CA 91436

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6 signed counterparts. Facsimile signatures will be presumptive evidence of execution of the
7 original, which shall be produced on reasonable request. Any executed counterpart will be
8 admissible to prove the existence and contents of this Agreement.


9 THE SPIVAK LAW FIRM

10
11 Dated: _____, 2019

12 By: _____
13 DAVID SPIVAK
14 Attorney for Plaintiff, JEFFREY
15 QUIMBY, and all others similarly situated

16 THE UNITED EMPLOYEES LAW GROUP

17 Dated: Dec 19 _____, 2019

18 By:  _____
19 WALTER HAINES
20 Attorney for Plaintiff, JEFFREY
21 QUIMBY, and all others similarly situated

22 RAINES FELDMAN LLP

23 Dated: _____, 2019

24 By: _____
25 BETH A. SCHROEDER
26 ALLISON S. WALLIN
27 Attorneys for Defendant, RHB
28 MANAGEMENT COMPANY and THE
ROBERTS COMPANY



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6 signed counterparts. Facsimile signatures will be presumptive evidence of execution of the
7 original, which shall be produced on reasonable request. Any executed counterpart will be
8 admissible to prove the existence and contents of this Agreement.

9 THE SPIVAK LAW FIRM

10
11 Dated: _____, 2019

By: _____

12 DAVID SPIVAK
13 Attorney for Plaintiff, JEFFREY
14 QUIMBY, and all others similarly situated

15 THE UNITED EMPLOYEES LAW GROUP

16
17 Dated: _____, 2019

By: _____

18 WALTER HAINES
19 Attorney for Plaintiff, JEFFREY
20 QUIMBY, and all others similarly situated

21 RAINES FELDMAN LLP

22
23 Dated: December 19, 2019

By: Allison S. Wallin

24 BETH A. SCHROEDER
25 ALLISON S. WALLIN

26 Attorneys for Defendant, RHB
27 MANAGEMENT COMPANY and THE
28 ROBERTS COMPANY



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Employee Rights Attorneys
16530 Ventura Bl. Ste 203
Encino CA 91436
(818) 582-3086 Tel
(818) 582-2561 Fax
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12 / 19 / 2019

DATED: _____, 2019

JEFFREY QUIMBY

By: _____



DATED: _____, 2019

ON BEHALF OF DEFENDANTS

By: _____

ROBERT H. BLUMENFIELD
President

With the authorization of Defendants
RHB MANAGEMENT COMPANY and THE
ROBERTS COMPANY



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DATED: _____, 2019

JEFFREY QUIMBY

By: _____

DATED: Dec 19, 2019

ON BEHALF OF DEFENDANTS

By: 

ROBERT H. BLUMENFIELD
President

With the authorization of Defendants
RHB MANAGEMENT COMPANY and THE
ROBERTS COMPANY



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EXHIBIT A



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**IN THE SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JEFFREY QUIMBY,

Plaintiff(s),

vs.

RHB MANAGEMENT COMPANY

Defendant.

Case No. BC661584

Hon. Amy D. Hogue

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT

I. WHY DID I GET THIS NOTICE?

The records of RHB Management Company and the Roberts Company (collectively “Defendant”) indicate that you were employed by Defendant at some time between May 17, 2013 (the “Class Period”) as a current or former resident manager employee. This Notice explains that for settlement purposes only, the Court has granted preliminary approval of this class action settlement that may affect you. You have legal rights and options that you may exercise at this time.

II. WHAT IS THIS CLASS ACTION LAWSUIT ABOUT?

Plaintiff, a former resident-manager employee who worked for Defendant, filed a class action lawsuit on behalf of himself and similar employees claiming that Defendant violated California labor laws by: (1) failing to provide meal periods and rest periods or compensation in lieu thereof; (2) failing to pay all wages for all hours worked, including minimum, regular, overtime and doubletime wages; (3) failing to reimburse for work-related expenses, (4) failing to timely pay wages owed upon termination of employment; and (5) failing to provide accurate and itemized wage statements.

Defendant denies any wrongdoing, denies Plaintiff’s allegations, and contends it was in full compliance with all California labor laws.

The Court has not ruled on whether Plaintiff’s allegations have any merit. However, for the purpose of avoiding the time and expense of further litigation, the ultimate outcome of which is uncertain, and to provide a fair and reasonable resolution of this legal dispute, Plaintiff and Defendant have negotiated a settlement whereby Defendant has agreed to pay Four Hundred and Seventy-Five Thousand Dollars and Zero Cents (\$475,000.00) to resolve all of the class claims listed above. The Settlement is not an admission by Defendant of any liability.

III. WHO IS INCLUDED IN THIS CLASS ACTION?

The Class consists of all of Defendant’s current and former resident manager employees (collectively “Class Members”) who worked anytime during the Class Period in California. The Class Period is May 17, 2013 to _____ [pao order date].



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1 **IV. WHAT DOES THE PROPOSED SETTLEMENT OFFER?**

2 A. Defendant will pay \$475,000.00, plus its employer-side payroll taxes, to settle the
3 claims. A Settlement Administrator has been appointed to administer the settlement. The
4 Settlement Administrator will pay from the \$475,000: (1) costs of administering the claims up to
5 \$10,000.00; (2) attorneys' fees up to \$158,333.33 plus documented costs up to \$25,000; (3) an
6 enhancement not to exceed \$15,000 to Plaintiff for his work on the class claims; and (4) \$3,750 to
7 the California Labor Workforce Development Agency ("LWDA").

8 B. Your individual share will be based on the number of pay periods you worked for
9 Defendant during the Class Period. The amount of money you receive will be based on the size of
10 your share in comparison to the size of all class members' shares combined. The Settlement
11 Administrator will assign to each class member a "Settlement Ratio," which will be a fractional
12 number comprised of (a) the number of pay periods that class member worked for Defendant
13 during the Class Period as the numerator, and (b) the aggregate total number of pay periods that
14 all class members worked during the Class Period as the denominator. The Settlement
15 Administrator will assign to each Class Member the "Settlement Share" which will be calculated
16 by multiplying that class member's Settlement Ratio by amount allocated to class members from
17 the net settlement amount.

18 C. If you do not exclude yourself from the settlement (according to the procedures
19 explained below), you will release Defendant and all of their past, present and future agents,
20 employees, servants, officers, directors, partners, trustees, representatives, shareholders,
21 stockholders, attorneys, parents, subsidiaries, equity sponsors, related corporations, divisions, joint
22 venturers, assigns, predecessors, successors, service providers, insurers, consultants,
23 subcontractors, joint employers, employee benefit plans and fiduciaries thereof, affiliated
24 organizations, and all persons acting under, by, through or in concert with them ("Releasees") from
25 the following:

26 **WAGE AND HOUR CLAIMS, RIGHTS, DEMANDS, LIABILITIES AND CAUSES**
27 **OF ACTION, WHETHER KNOWN OR UNKNOWN, ARISING DURING THE**
28 **CLASS PERIOD, THAT WERE ASSERTED OR COULD HAVE BEEN**
ASSERTED IN THE ACTION AGAINST DEFENDANTS BASED ON THE FACTS
ALLEGED OR ASCERTAINED DURING THE PENDENCY OF THIS ACTION,
UNDER STATE LAWS, INCLUDING STATUTORY, OR COMMON LAW
CLAIMS FOR WAGES, PENALTIES, LIQUIDATED DAMAGES, INTEREST,
ATTORNEYS' FEES, LITIGATION COSTS, RESTITUTION, EQUITABLE
RELIEF OR OTHER RELIEF UNDER BUSINESS & PROFESSIONS CODE
SECTION 17200, ET SEQ. BASED ON THE ALLEGED LABOR CODE
VIOLATIONS, INCLUDING THE FOLLOWING CATEGORIES: (A) ANY AND
ALL CLAIMS INVOLVING ANY ALLEGED FAILURE TO PAY THE MINIMUM
WAGES; (B) ANY AND ALL CLAIMS INVOLVING ANY ALLEGED FAILURE
TO PAY EMPLOYEES FOR ALL HOURS WORKED, INCLUDING BUT NOT
LIMITED TO ANY CLAIM FOR MINIMUM, STRAIGHT TIME, OR OVERTIME
WAGES; (C) ANY AND ALL CLAIMS INVOLVING ANY ALLEGED FAILURE
TO PAY OVERTIME WAGES; (D) AND ANY CLAIM INVOLVING FAILURE
TO INCLUDE BONUSES, OTHER INCENTIVE PAY, OR COMPENSATION OF
ANY KIND IN THE "REGULAR RATE" OF PAY; (E) ANY AND ALL CLAIMS
ARISING UNDER STATE LAW INVOLVING ANY ALLEGED FAILURE TO
PROPERLY PROVIDE MEAL PERIODS AND/OR AUTHORIZE AND PERMIT



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1 REST PERIODS, TO PAY PREMIUMS FOR MISSED, LATE, SHORT OR
2 INTERRUPTED MEAL AND/OR REST PERIODS, OR TO PAY SUCH
3 PREMIUMS AS REQUIRED BY LABOR CODE SECTION 226.7; (F) ANY CLAIM
4 INVOLVING DEFENDANT'S WORKDAY OR WORKWEEK; (G) ANY CLAIM
5 INVOLVING TRAVEL TIME; (H) ANY AND ALL CLAIMS ARISING UNDER
6 STATE LAW INVOLVING ANY ALLEGED FAILURE TO PROPERLY
7 PROVIDE MEAL PERIODS AND/OR AUTHORIZE AND PERMIT REST
8 PERIODS, TO PAY PREMIUMS FOR MISSED, LATE, SHORT OR
9 INTERRUPTED MEAL AND/OR REST PERIODS, OR TO PAY SUCH
10 PREMIUMS AS REQUIRED BY LABOR CODE SECTION 226.7; (I) ANY AND
11 ALL CLAIMS INVOLVING ANY ALLEGED FAILURE TO KEEP ACCURATE
12 RECORDS OR TO ISSUE PROPER WAGE STATEMENTS TO EMPLOYEES; (J)
13 ANY AND ALL CLAIMS INVOLVING ANY ALLEGED FAILURE TO TIMELY
14 PAY WAGES, INCLUDING BUT NOT LIMITED TO ANY CLAIM THAT
15 DEFENDANTS VIOLATED LABOR CODE SECTIONS 201 OR 202, AND ANY
16 CLAIM FOR WAITING TIME PENALTIES UNDER LABOR CODE SECTION
17 203; (K) ANY AND ALL CLAIMS FOR UNFAIR BUSINESS PRACTICES IN
18 VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTIONS 17200, ET
19 SEQ.; (L) ANY AND ALL CLAIMS FOR NECESSARY EXPENDITURES UNDER
20 LABOR CODE SECTION 2802; AND (M) ANY AND ALL PENALTIES
21 PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT ("PAGA") OF
22 2004 ARISING OUT OF ANY OR ALL OF THE AFOREMENTIONED CLAIMS.
23 THE RELEASED CLAIMS INCLUDE ALL SUCH CLAIMS ARISING UNDER
24 THE CALIFORNIA LABOR CODE (INCLUDING, BUT NOT LIMITED TO,
25 SECTIONS 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 225.5, 226, 226.3, 226.7,
26 227.3, 246, 256, 450, 510, 511, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1,
27 1197.2, 1198, 1199, 2800, 2802, AND 2698 ET SEQ.); THE WAGE ORDERS OF THE
28 CALIFORNIA INDUSTRIAL WELFARE COMMISSION; CALIFORNIA
BUSINESS AND PROFESSIONS CODE SECTION 17200 ET SEQ.; CALIFORNIA
CIVIL CODE SECTION 3336; THE CALIFORNIA COMMON LAW OF
CONTRACT. THIS RELEASE EXCLUDES THE RELEASE OF CLAIMS NOT
PERMITTED BY LAW. THE CLASS REPRESENTATIVE'S RELEASED
CLAIMS EXCLUDE CLAIMS FOR WORKERS' COMPENSATION OR
UNEMPLOYMENT INSURANCE BENEFITS.

22 **V. WHAT ARE MY OPTIONS?**

23 A. **You may accept your share of the \$475,000 settlement.** You will be deemed to
24 have accepted your share of the \$475,000 settlement if you do not submit a timely and valid request
25 to be excluded from the settlement as described in this Notice. In accepting your settlement share,
26 you will waive all "Released Claims" as described above.

27 B. **You may accept your share of the \$475,000.00 settlement but dispute the**
28 **number of your pay periods.** If you do not agree with the number of pay periods on this Class
Notice, you should provide the corrected information to the Settlement Administrator. Write down
all dates that you worked or the number of pay periods you worked during the Class Period. Send
in any documents to support your position by mail to the Settlement Administrator, CPT Group,



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(818) 582-2561 Fax
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1 Inc., at the following address: _____, or by calling
2 _____ . The Settlement Administrator will read the documents both you and Defendant
3 provide and make the final determination of the amount of your settlement award. Your supporting
4 documentation must be postmarked by <<date>> to be valid. Once the dispute is resolved by the
5 Settlement Administrator, and if the Settlement is finally approved by the Court, you will be sent
6 a check for your Settlement Share and you will have released all “Released Claims” as described
7 above.

8 C. **You may exclude yourself from the class action settlement.** If you exclude
9 yourself from the class action settlement, you will no longer be a member of the Class so you will
10 not receive any class action settlement money and you will not be bound by the class settlement
11 Release. To be excluded from the class action settlement, you must send by mail, postmarked by
12 <<date>>, a written letter requesting that you be excluded from the class action with your name,
13 address, telephone number, and signature to the Settlement Administrator, CPT Group, Inc., at the
14 following address: _____, or by calling
15 _____.

16 D. **You may object to the settlement.** If you want to object to the settlement because
17 you find it unfair, unreasonable, or inadequate, you may do so according to the procedures set forth
18 below in paragraph IX. By objecting, you are not excluding yourself from the settlement. To do
19 so, you should follow the procedures below. If the Court approves the settlement despite your
20 objection, and you do not submit a timely request to be excluded from the settlement, you will be
21 sent a check for your settlement share and you will be bound by the Release described above. The
22 Court will consider the merits of all timely objections, whether or not the objector appears at the
23 final fairness hearing.

24 VI. WHAT IS MY ESTIMATED SHARE?

25 Your *estimated* share is [insert estimated share]. This amount was calculated based on
26 Defendant’s records, which show that you worked approximately [insert class member pay
27 periods] pay periods. This amount is an estimate. The actual amount you receive may be more or
28 less than the estimated amount shown, depending on a number of factors including whether other
class members request exclusion from the Settlement and how much the Court approves in
attorneys’ fees, litigation expenses, and other costs.

29 VII. WHAT ARE THE PROCEDURES FOR PAYMENT?

30 A. The Settlement Administrator will calculate your share of the \$475,000 settlement
31 and issue you a check for your settlement share.

32 B. The settlement shares are allocated 10% to wages (for which employment taxes
33 will be deducted and W-2s issued) and 90% to penalties (for which 1099s will be issued).

34 C. You will have one hundred and eighty (180) calendar days from the date of the
35 check’s issuance to cash your settlement check. After the expiration of the 180-day period, any
36 amounts from settlement checks that remain uncashed and otherwise unclaimed, plus any interest
37 that has accrued on those funds, will be sent to the California State Controller’s Office of
38 Unclaimed Property Division.



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1 D. It is important for the parties to have your current address in order to be able to send
2 you other mailings regarding this case. You should contact the Settlement Administrator to report
3 any change of your address after you receive this Notice. Failure to report a change of address may
4 result in you not receiving money from the settlement.

5 **VIII. HEARING ON PROPOSED SETTLEMENT**

6 A final fairness hearing will be held by the Court at [time] on [date], in the Superior
7 Court for the County of Los Angeles, Spring Street Courthouse, 312 N. Spring Street, Los
8 Angeles, CA, 90012, Dept. SSC-17 (Judge Maren E. Nelson), to decide whether or not the
9 proposed settlement is fair, reasonable and adequate. You do not have to attend the hearing. Class
10 Counsel will answer any questions the Judge may have. But, you are welcome to come at your
11 own expense.

12 **IX. PROCEDURES FOR EXCLUSION FROM SETTLEMENT**

13 If you wish to exclude yourself settlement, and any payment of amounts under the
14 Agreement, as described above, you must mail a letter to the Settlement Administrator stating that
15 you want to be excluded from the Settlement. This letter must include your name, address,
16 telephone number, and signature on or before 60 days from the mailing of this Notice. The
17 objection must be mailed to the Settlement Administrator as follows:

18 *To Settlement Administrator:*

19 *Quimby v. Defendant*
20 Settlement Administrator
21 c/o _____
22 _____
23 _____

24 **X. PROCEDURES FOR OBJECTING TO SETTLEMENT**

25 If you wish to object to the settlement as described above, you are strongly encouraged to
26 do two things: (1) submit an objection in writing to the Settlement Administrator stating why you
27 object to the settlement on or before 60 days from the mailing of this Notice; and (2) formally
28 intervene into the court action as an aggrieved party by filing separate paperwork with the Court
through your own independent legal counsel or as a *pro per*.

The written objection should be mailed to the Settlement Administrator as follows:

To Settlement Administrator

Quimby v. RHB Management Co.
Settlement Administrator
c/o _____

The written objection must state your full name, address, and the dates of your employment



1 with Defendant. The written objection must state the basis for each specific objection and any legal
2 support in clear and concise terms. The written objection also should state whether you or your
3 lawyer plan to formally intervene in the action and intend to appear and object at the Final
4 Approval Hearing. Class Counsel will file any objections received with the Court within 5 business
5 days of receipt. Objectors will be provided with the opportunity to speak at the final approval
6 hearing regardless of whether they have filed an appearance or submitted a written opposition
7 beforehand.

8 **If you do not timely object to the settlement and also formally intervene into the court
9 action as set forth above, you may waive your right to appeal and standing to appeal the class
10 settlement judgment that ultimately is entered by the Court over your objections.** If you send
11 an objection and/or formally intervene in the action, you may come to Court and be heard, but you
12 do not have to come to Court to talk about it. As long as you mail your written objection on time,
13 the Court will consider it. You may also pay your own lawyer to attend the Final Approval Hearing.
14 The Court will also provide objectors the opportunity to speak at the Final Approval Hearing
15 regardless of whether they have filed an appearance or submitted a written opposition beforehand.

16 **XI. EXAMINATION OF COURT PAPERS AND INQUIRIES**

17 This Notice summarizes the class action settlement. To obtain additional information
18 regarding the settlement you may: (1) call the Settlement Administrator at _____;
19 (2) inspect the complete court file at maintained by the Clerk of the Superior Court for the County
20 of Los Angeles, Spring Street Courthouse, 312 N. Spring Street, Los Angeles, CA, 90012,
21 Department SSC-17 (Judge Maren E. Nelson); (3) or access the court file via the Los Angeles
22 Superior Court's web site (information about filed civil cases can be found on the Court's general
23 website at <https://www.lacourt.org/>).

24 If you have any questions or comments regarding this Notice, the claims asserted in this
25 class action and/or your rights regarding the settlement, you may contact any of the attorneys for
26 the Class listed below. You will not be charged for speaking with these lawyers. If you want to be
27 represented by your own lawyer, you may hire one at your own expense. The attorneys approved
28 by the Court to represent the class of employees are:

David G. Spivak, Esq.
The Spivak Law Firm
16530 Ventura Blvd., Suite 203
Encino, CA 91436
Toll Free: (877) 203-9010
Fax: (818) 582-2561
David@MyWorkMyWages.com

The Settlement Agreement and, ultimately, the order giving final approval to the Settlement will
be posted on the Settlement Administrator's website at www._____.com/



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5 Telephone (818) 582-3086
6 Facsimile (818) 582-2561

7 WALTER HAINES (SBN 71075)

whaines@uelglaw.com

8 UNITED EMPLOYEES LAW GROUP
9 5500 Bolsa Ave, Suite 201
10 Huntington Beach, CA 92649
11 Telephone: (562) 256-1047
12 Facsimile: (562) 256-1006

13 Attorneys for Plaintiff,

14 JEFFREY QUIMBY, and all others similarly situated

15 (Additional Counsel on Following Page)

16 **IN THE SUPERIOR COURT OF CALIFORNIA**

17 **FOR THE COUNTY OF LOS ANGELES**

18 JEFFREY QUIMBY, on behalf of himself and
19 all others similarly situated, and as an
20 “aggrieved employee” on behalf of other
21 “aggrieved employees” under the Labor Code
22 Private Attorneys General Act of 2004,

Plaintiff(s),

vs.

23 RHB MANAGEMENT COMPANY, a
24 California corporation; THE ROBERTS
25 COMPANIES, a California limited partnership;
26 and DOES 1 through 50, inclusive,

Defendants.

Case No.: BC661584

**[PROPOSED] ORDER
PRELIMINARILY APPROVING CLASS
ACTION SETTLEMENT**

Action filed: May 17, 2017

Dept. SS-7, Hon. Amy D.
Hogue

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ATTORNEYS FOR DEFENDANTS

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RAINES FELDMAN LLP

1800 Avenue of the Stars, Fl. 12

Los Angeles, CA 90067

Telephone: (310) 440-4100

Facsimile: (310) 691-1943

Attorneys for Defendants,

RHB MANAGEMENT COMPANY and THE ROBERTS COMPANIES

1 Plaintiff Jeffrey Quimby's (hereafter referred to as "Plaintiff") Motion for Preliminary Approval
2 of a Class Action Settlement (the "Motion") was considered by the Court, the Honorable Maren
3 E. Nelson presiding. The Court having considered the Motion, the Second Amended Joint
4 Stipulation of Class Action Settlement and Release of Claims ("Settlement" or "Settlement
5 Agreement"), and supporting papers, HEREBY ORDERS THE FOLLOWING:

6 1. The Court grants preliminary approval of the Settlement and the Settlement Class
7 based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary
8 Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court
9 has determined there is sufficient evidence to preliminarily determine that (a) the terms of the
10 Settlement appear to be fair, adequate, and reasonable to the Settlement Class and (b) the
11 Settlement falls within the range of reasonableness and appears to be presumptively valid,
12 subject only to any objections that may be raised at the final hearing and final approval by this
13 Court. The Court will make a determination at the hearing on the motion for final approval of
14 class action settlement (the "Final Approval Hearing") as to whether the Settlement is fair,
15 adequate and reasonable to the Settlement Class.

16 2. For purposes of this Preliminary Approval Order, the "Settlement Class" means
17 all persons who are currently employed, or formerly have been employed, by RHB Management
18 Company, a California corporation and/or the Roberts Company, a California limited
19 partnership (collectively "Defendant") as current and former resident manager employees
20 (collectively "Class Members"), who worked anytime during the Class Period. The "Class
21 Period" shall mean the period of time from May 17, 2013, through the date of this order.
22 Defendant estimates that as of April 11, 2019, there were 108 potential Settlement Class
23 Members. The "Effective Date" means the date by which this Agreement is approved by the
24 Court by entry of the Judgment and the Judgment becomes Final. The Judgment becomes
25 "Final" when the later of the following events occurs: (1) the period for filing any appeal, writ,
26 or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ, or
27 other appellate proceeding having been filed; (2) any appeal, writ, or other appellate proceeding
28 opposing the Settlement has been dismissed finally and conclusively with no right by any
appellant or objector to pursue further remedies or relief; or (3) any appeal, writ, or other
appellate proceeding has upheld the Judgment with no right by any appellant or objector to
pursue further remedies or relief. In this regard, it is the intention of the Parties that the

1 Settlement shall not become effective until the Court's Judgment granting final approval of the
2 Settlement is completely final, and no further recourse exists by an appellant or objector who
3 seeks to contest the Settlement. The occurrence of the Effective Date is a prerequisite to any
4 obligation of Defendant to pay any funds into the Settlement Account.

5 3. This action is provisionally certified pursuant to section 382 of the California
6 Code of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class action
7 for purposes of settlement only with respect to the proposed Settlement Class.

8 4. The Court hereby preliminarily finds that the Settlement was the product of
9 serious, informed, non-collusive negotiations conducted at arm's length by the Parties. In
10 making this preliminary finding, the Court considered the nature of the claims set forth in the
11 pleadings, the amounts and kinds of benefits which shall be paid pursuant to the Settlement, the
12 allocation of Settlement proceeds to the Settlement Class, and the fact that the Settlement
13 represents a compromise of the Parties' respective positions. The Court further preliminarily
14 finds that the terms of the Settlement have no obvious deficiencies and do not improperly grant
15 preferential treatment to any individual Class Member. Accordingly, the Court preliminarily
16 finds that the Settlement was entered into in good faith.

17 5. The Court finds that the dates set forth in the Settlement for mailing and
18 distribution of the Class Notice meet the requirements of due process and provide the best notice
19 practicable under the circumstances, and constitute due and sufficient notice to all persons
20 entitled thereto, and directs the mailing of the Class Notice by first class mail to the Settlement
21 Class as set forth in the Settlement. Accordingly, the Court orders the following implementation
22 schedule for further proceedings:

- 23 a. By _____, Defendant shall provide
24 _____, the appointed Settlement Administrator,
25 with: (a) An electronic database of all Class Members, last known mailing
26 address, and Social Security number ("Class Members' Data"); (b)
27 Corresponding to each Class Member's name, Defendant shall provide a
28 figure indicating the total number of Pay Periods during the Class Period in
which that Class Member was employed by Defendant as a Representative.
That number of Pay Periods shall be referred to as that Class Member's
"Individual Pay Periods;" (c) If any of the Class Members' Data are

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unavailable to Defendant, Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon the Class Members' Data prior to when it must be submitted to the Settlement Administrator. Class Members' Data will otherwise remain confidential and will not be disclosed to anyone, except as necessary to applicable taxing authorities, or pursuant to Defendant's express written authorization or by order of the Court.

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b. **Mailing of Class Notice.** By _____, approximately fourteen (14) days after receiving the Class Members' Data, or as soon thereafter as it can do so, the Settlement Administrator will mail the Class Notice to all identified Class Members via first-class U.S. mail using the mailing address information provided by Defendant, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement.

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c. **Returned Class Notice.** If a Class Notice is returned because of an incorrect address, the Settlement Administrator will promptly, and not later than ten (10) days from receipt of the returned Class Notice, search for a more current address for the Class Member and re-mail the Class Notice to the Class Member. The Settlement Administrator will use the Class Members' Data and otherwise work with Defendant's Counsel and Class Counsel to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, court orders, and fee, to trace the mailing address of any Class Member for whom a Class Notice is returned as undeliverable by the U.S. Postal Service. These reasonable steps shall include the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice is re-mailed, the Settlement Administrator will note for its own records and notify Class Counsel and Defendant's Counsel of the date and address of each such re-mailing as part of a weekly status report provided to the Parties.

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d. **Declaration of Settlement Administrator.** Not later than twenty-one (21) court days prior to the Final Approval Hearing, the Settlement Administrator will provide the Parties for filing with the Court a declaration of due diligence setting forth its compliance with its obligations under this Agreement. Prior to the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

e. **Requests for Exclusion from Settlement; and Objections to Settlement.** Class Members may submit requests to be excluded from the effect of the Settlement, or objections to the Settlement, pursuant to the following procedures:

i. **Request for Exclusion from Settlement.** A Class Member may request to be excluded from the effect of this Agreement, and any payment of amounts under this Agreement, by timely mailing a letter to the Settlement Administrator stating that the Class Member wants to be excluded from this Action. This letter must include the Class Member's name, address, telephone number, and signature. To be valid and timely, the request to be excluded must be postmarked by the date specified in the Class Notice (_____, or sixty (60) days from the initial mailing of the Class Notice by the Settlement Administrator). A Class Member who properly submits a valid and timely request to be excluded from the Action shall not receive any payment of any kind in connection with this Agreement or this Action, shall not be bound by or receive any benefit of this Agreement, and shall have no standing to object to the Settlement. A request for exclusion must be mailed to the Settlement Administrator at the address provided on the Class Notice. The Settlement Administrator shall transmit the request for exclusion to counsel for the Parties as follows:

To Class Counsel:

To Defense Counsel:

1 David G. Spivak, Esq.
2 The Spivak Law Firm
3 16530 Ventura Blvd, Ste. 203
4 Encino, CA 91436

Beth A. Schroeder, Esq.
Allison S. Wallin, Esq.
1800 Avenue of the Stars, Fl. 12
Los Angeles, CA 90067

5 ii. **Objections to Settlement.** The Class Notice will provide that any
6 Class Member who does not request exclusion from the Action and
7 who wishes to object to the Settlement should submit an objection in
8 writing to the Settlement Administrator by _____, or sixty
9 (60) days after the Settlement Administrator mails the Class Notice,
10 a written objection to the Settlement which sets forth the grounds for
11 the objection and the other information required by this paragraph.
12 The objection should be mailed to the Settlement Administrator at the
13 address provided on the Class Notice. The Settlement Administrator
14 shall transmit the objections to counsel for the Parties as follows:

15 *To Class Counsel:*

16 David G. Spivak, Esq.
17 The Spivak Law Firm
18 16530 Ventura Blvd, Ste. 203
19 Encino, CA 91436

To Defense Counsel:

Beth A. Schroeder, Esq.
Allison S. Wallin, Esq.
Raines Feldman LLP
1800 Avenue of the Stars, Fl. 12
Los Angeles, CA 90067

20 The written objection should state the objecting Class Member's full
21 name, address, and the approximate dates of HIS OR HER
22 employment with Defendant. The written objection should state the
23 basis for each specific objection and any legal support in clear and
24 concise terms. The written objection also should state whether the
25 Class Member intends to formally intervene and become a party of
26 record in the action, and upon formally intervening, appear and argue
27 at the Final Approval Hearing. However, the objectors will be
28 provided with the opportunity to speak at the final approval hearing
regardless of whether they have filed an appearance or submitted a

written opposition beforehand.

If the objecting Class Member does not formally intervene in the action and/or the Court rejects the Class Member's objection, the Class Member may still be bound by the terms of this Agreement.

f. **Report.** Not later than fourteen (14) days after the deadline for submission of requests for exclusion, the Settlement Administrator will provide the Parties with a complete and accurate list of all Class Members who sent timely requests to be excluded from the Action and all Class Members who objected to the settlement.

6. The Court approves, as to form and content, the Class Notice in substantially the form attached as Exhibit A to the Settlement.

7. The Court approves, for settlement purposes only, David Spivak of The Spivak Law Firm as Class Counsel.

8. The Court approves, for settlement purposes only, Jeffrey Quimby as the Class Representative.

9. The Court approves Phoenix Settlement Administrators as the Settlement Administrator.

10. The Court preliminarily approves Class Counsel's request for attorneys' fees and costs subject to final review by the Court.

11. The Court preliminarily approves the estimated Settlement Administrator costs payable to the Settlement Administrator subject to final review by the Court.

12. The Court preliminarily approves Plaintiff's Class Representative Payment subject to final review by the Court.

13. A Final Approval Hearing shall be held on _____ at _____ **.m.** in Department SSC-17 of the Superior Court for the State of California, County of Los Angeles, located at 312 N. Spring Street, Los Angeles, California to consider the fairness, adequacy and reasonableness of the proposed Settlement preliminarily approved by this Preliminary Approval Order, and to consider the application of Class Counsel for attorneys' fees and costs and the Class Representative Payment to the Class Representative. The notice of motion and all briefs and materials in support of the motion for final approval of class action settlement and motion for attorneys' fees and litigation costs shall be served and filed with this Court on or before

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14. If for any reason the Court does not execute and file a final approval order and judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the proposed Settlement that is the subject of this order, and all evidence and proceedings had in connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the litigation, as more specifically set forth in the Settlement.

15. The Court expressly reserves the right to adjourn or continue the Final Approval Hearing from time to time without further notice to members of the Class. The Plaintiff shall give prompt notice of any continuance to Settlement Class Members who object to the Settlement.

IT IS SO ORDERED.

DATE

**HONORABLE AMY D. HOGUE,
JUDGE OF THE SUPERIOR COURT**

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2 THE SPIVAK LAW FIRM
3 16530 Ventura Blvd., Ste. 203
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9 5500 Bolsa Ave, Suite 201
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11 Telephone: (562) 256-1047
12 Facsimile: (562) 256-1006

13 Attorneys for Plaintiff,
14 JEFFREY QUIMBY, and all others similarly situated

15 (Additional Counsel on Following Page)

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF LOS ANGELES**
18 **(UNLIMITED JURISDICTION)**

19 JEFFREY QUIMBY, on behalf of himself and
20 all others similarly situated, and as an
21 “aggrieved employee” on behalf of other
22 “aggrieved employees” under the Labor Code
23 Private Attorneys General Act of 2004,

Plaintiff(s),

vs.

24 RHB MANAGEMENT COMPANY, a
25 California corporation; THE ROBERTS
26 COMPANIES, a California limited partnership;
27 and DOES 1 through 50, inclusive,

Defendants.

Case No.: BC661584

**[PROPOSED] FINAL ORDER AND
JUDGMENT APPROVING CLASS
SETTLEMENT**

Hearing Dept.: SS-7, Hon. Amy D. Hogue

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ATTORNEYS FOR DEFENDANTS

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Los Angeles, CA 90067

Telephone: (310) 440-4100

Facsimile: (310) 691-1943

Attorneys for Defendants,

RHB MANAGEMENT COMPANY and THE ROBERTS COMPANIES

1 This matter came on for hearing on _____, 2019 at _____m. in
2 Department SSC-17 of the above-captioned court on Plaintiff's Motion for Final Approval of a
3 Class Action Settlement pursuant to California Rules of Court, Rule 3.769, as set forth in the
4 First Amended Final Settlement Agreement (the "Settlement") filed herewith which provides for
5 a Gross Settlement Amount ("GSA") of up to \$475,000 in compromise of all disputed claims on
6 behalf of all persons Defendant RHB Management Company ("Defendant" or "Defendant")
7 employed in California as resident manager employees during the period of May 17, 2013 to
8 _____ [PAO date] ("Settlement Class Period"). All capitalized terms used herein shall have
9 the same meaning as defined in the Settlement.

10 In accordance with the Court's prior Order Granting Preliminary Approval of Class
11 Action Settlement, Class Members have been given notice of the terms of the Settlement and the
12 opportunity to submit a claim, request exclusion, comment upon or object to it or to any of its
13 terms. Having received and considered the Settlement, the supporting papers filed by the Parties,
14 and the evidence and argument received by the Court in conjunction with the motions for
15 preliminary and final approval of the Settlement, the Court grants final approval of the Settlement
16 and HEREBY ORDERS, ADJUDGES, DECREES AND MAKES THE FOLLOWING
17 DETERMINATIONS¹:

18 1. The Court has jurisdiction over the subject matter of the Action and over all
19 Parties to the Action, including all Class Members. Pursuant to this Court's Order Granting
20 Preliminary Approval of Class Action Settlement of _____, the Class Notice was sent
21 to each Class Member by First Class U.S. mail. The Class Notice informed Class Members of
22 the terms of the Settlement, their right to receive their proportional share of the Settlement, their
23 right to request exclusion, their right to comment upon or object to the Settlement, and their right
24 to appear in person or by counsel at the final approval hearing and be heard regarding final
25 approval of the Settlement. Adequate periods of time were provided by each of these procedures.
26 No member of the Settlement Class presented written objections to the proposed Settlement as
27 part of this notice process, stated an intention to appear, or actually appeared at the final approval

28 ¹ A true and correct copy of the Court's ruling on the Motion for Final Approval of Class
Action Settlement entered on _____ is attached hereto as **Exhibit A** and
incorporated by reference. A true and correct copy of the Court's Minute Order dated
_____, 2019 is attached hereto as **Exhibit B** and incorporated by reference.

1 hearing.

2 2. For purposes of this Final Order and Judgment, Class Members are all current and
3 former hourly non-exempt employees employed by Defendant within the State of California at
4 any time during the period of May 17, 2013 to The date of a Court order granting preliminary
5 approval to this Settlement (“Settlement Class Period”).

6 3. The Court finds and determines that the notice procedure afforded adequate
7 protections to Class Members and provides the basis for the Court to make an informed decision
8 regarding final approval of the Settlement based on the responses of Class Members. The Court
9 finds and determines that the notice provided in this case was the best notice practicable, which
10 satisfied the requirements of law and due process as to all persons entitled to such notice.

11 2. **Release by Plaintiff and Class Members.** As of the date of the Judgment, the
12 Settlement will release any further attempt, by lawsuit, administrative claim or
13 action, arbitration, demand, or other action of any kind by each. and all of the
14 Settlement Class Members (including participation to any extent in any
15 representative or collective action), against Defendant and all of their past, present
16 and future agents, employees, servants, officers, directors, partners, trustees,
17 representatives, shareholders, stockholders, attorneys, parents, subsidiaries,
18 equity sponsors, related corporations, divisions, joint venturers, assigns,
19 predecessors, successors, service providers, insurers, consultants, subcontractors,
20 joint employers, employee benefit plans and fiduciaries thereof, affiliated
21 organizations, and all persons acting under, by, through or in concert with them
22 and its parents, future parents, predecessors, successors, subsidiaries, affiliates,
23 partners, assigns, and trusts, and all of its employees, officers, agents, attorneys,
24 stockholders, fiduciaries, other service providers, assigns and all persons acting
25 under, by, through or in concert with any of them, and each of them, arising during
26 the period May 17, 2013 through the date the Preliminary Approval Order is
27 signed by the Court, and arising from, could have been asserted, or related in any
28 way to the claims asserted in the Action against Defendant. The Settlement Class
Members will release and discharge Defendant, and any of their former and
present parents, subsidiaries, owners, shareholders, officers, directors, employees,
affiliates, successors, assigns, agents, attorneys, legal representatives ("Released

Parties").

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3 3. The Court further finds and determines that the terms of the Settlement are fair,
4 reasonable and adequate, that the Settlement is ordered finally approved, and that all terms and
5 provisions of the Settlement, including the release of claims contained therein, should be and
6 hereby are ordered to be consummated, and directs the Parties to effectuate the Settlement
7 according to its terms. As of the Effective Date of Settlement, and for the duration of the
8 Settlement Class Period, all Class Members are hereby deemed to have waived and released all
9 Released Claims and are forever barred and enjoined from prosecuting the Released Claims
10 against the Releasees as fully set forth in the Settlement. No objections were received by the
11 Parties or the Court through the date of this Final Order and Judgment. The Court finds _____
12 Class Member(s)—_____—submitted a request for exclusion from the Settlement
13 as determined by the Settlement Administrator and therefore is/are not in the Settlement Class.

14 4. The Court finds and determines that (a) the Settlement Shares to be paid to
15 Participating Class Members and (b) the LWDA payment as civil penalties under the California
16 Labor Code Private Attorneys General Act of 2004, as amended, California Labor Code sections
17 2699 et seq., as provided for by the Settlement are fair and reasonable. The Court hereby grants
18 final approval to, and orders the payment of, those amounts be made to the Participating Class
19 Members and to the California Labor & Workforce Development Agency (“LWDA”), in
20 accordance with the terms of the Settlement.

21 5. The Court further grants final approval to and orders that the following payments
22 be made in accordance with the terms of the Settlement:

23 a. Class Counsel fees & costs of \$158,333.33 in attorneys’ fees and
24 \$ _____ in litigation costs to Class Counsel;

25 b. \$15,000 as a Class Representative Payment award payable to Plaintiff
26 Jeffrey Quimby for his service as a Class Representative;

27 c. \$10,000 in costs of the Settlement Administrator payable to
28 _____ for its services as the Settlement Administrator; and

 d. Payment of \$3,750.00 (75% of the \$5,000.00 PAGA penalty) to the
LWDA.

 7. The settlement shall proceed as directed in the Settlement, and no payments

1 pursuant to the Settlement shall be distributed until after the Effective Date of Settlement.
2 Without affecting the finality of this Final Order and Judgment in any way, the Court retains
3 jurisdiction of all matters relating to the interpretation, administration, implementation,
4 effectuation and enforcement of this Final Order and Judgment and the Settlement pursuant to
California Rule of Court 3.769(h).

5 8. Within 30 calendar days of the Effective Date of Settlement, Defendant shall
6 deposit the Settlement proceeds in an account designated by the Settlement Administrator: (i)
7 the total amount of all Settlement Shares to Participating Class Members, (ii) the Court approved
8 Class Counsel fees & costs, (iii) the Court-approved Class Representative Payment, (iv) the
9 Court-approved costs of the Settlement Administrator, and (v) the payment to the LWDA.
10 Defendant shall also pay its share of the employer-side payroll taxes.

11 9. Defendant's payment of such sums shall be the sole financial obligation of
12 Defendant under the Settlement, and shall be in full satisfaction of all claims released herein,
13 including, without limitation, all claims for wages, penalties, interest, attorneys' fees, costs and
14 expenses.

15 10. Pursuant to CCP 384 and the Settlement, Participating Class Members shall have
16 one hundred and eighty (180) days from the date of the check's issuance to cash their Settlement
17 Share check. After the 180-day period, any amounts from settlement checks that remain uncashed
18 and otherwise unclaimed, plus any interest that has accrued on those funds, will be sent to the
California State Controller's Office of Unclaimed Property Division

19 11. The Parties shall file a final accounting report by _____. A non-
20 appearance case review re submission of a final report is scheduled for _____ **at**
21 **_____ .m. in Department SSC-17.** If there are objections by any party or non-party, class
22 counsel shall immediately notify the Court and the matter will be set for further hearing. Pursuant
23 to Section CCP 384.5, a conformed copy of the stipulation and order and Amended Final Order
24 and Judgment (once signed by the Court) shall be forwarded by Class Counsel to the Judicial
25 Council. A non-appearance hearing for the lodging of the stipulation and proposed order and
26 separate amended judgment is scheduled for _____ **at _____ .m. in Department**
SSC-17.

27 12. Nothing in this Final Order and Judgment shall preclude any action to enforce the
28 Parties' obligations under the Settlement or hereunder, including the requirement that Defendant

1 deposit funds for distribution by the Settlement Administrator to Participating Class Members in
2 accordance with the Settlement.

3 13. The Court hereby enters final judgment in this case in accordance with the terms
4 of the Settlement, Order Granting Preliminary Approval of Class Action Settlement, and this
5 Final Order and Judgment.

6 14. The Parties are hereby ordered to comply with the terms of the Settlement.

7 15. The Parties shall bear their own costs and attorneys' fees except as otherwise
8 provided by the Settlement and this Final Order and Judgment.

9 16. The Settlement is not an admission by Defendant nor is this Final Order and
10 Judgment a finding of the validity of any claims in the Action or of any wrongdoing by
11 Defendant. Furthermore, the Settlement is not a concession by Defendant and shall not be used
12 as an admission of any fault, omission, or wrongdoing by Defendant. Neither this Final Order
13 and Judgment, the Settlement, any document referred to herein, any exhibit to any document
14 referred to herein, any action taken to carry out the Settlement, nor any negotiations or
15 proceedings related to the Settlement are to be construed as, or deemed to be evidence of, or an
16 admission or concession with regard to, the denials or defenses of Defendant, and shall not be
17 offered in evidence in any proceeding against the Parties hereto in any Court, administrative
18 agency, or other tribunal for any purpose whatsoever other than to enforce the provisions of this
19 Final Order and Judgment. This Final Order and Judgment, the Settlement and exhibits thereto,
20 and any other papers and records on file in the Action may be filed in this Court or in any other
21 litigation as evidence of the settlement by Defendant to support a defense of res judicata,
22 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to
23 the Released Claims.

24 17. This document shall constitute a Judgment for purposes of California Rule of
25 Court 3.769(h).

26 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

27 DATED: _____

28 _____
HON. AMY D. HOGUE,
JUDGE OF THE SUPERIOR COURT