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25 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
26 **FOR THE COUNTY OF LOS ANGELES**

27 **David Lachman and Arthur Steiner,**
28 individually and on behalf of all similarly situated
individuals,

Plaintiff,

vs.

Berlitz Languages, Inc., a New York corporation,
Berlitz Corporation, a New York corporation,
and **DOES 1-100;**

Defendants.

CASE NO.: 19STCV01533

[Assigned for All Purposes to the Hon. Carolyn B. Kuhl, Dept. 12]

CLASS ACTION

AMENDED JOINT STIPULATION
SETTLEMENT AND RELEASE OF CLASS
ACTION

Trial Date: None Set.
Complaint Filed: January 22, 2019

1 This Joint Stipulation of Settlement and Release of Class Action (“Agreement” or “Settlement
2 Agreement”) is made and entered into by and between Plaintiffs David Lachman (“Lachman”) and
3 Arthur Steiner (“Steiner”) (collectively “Plaintiffs” or “Class Representatives”), as individuals and on
4 behalf of all others similarly situated, and Defendants Berlitz Languages, Inc., and Berlitz Corporation,
5 (collectively, “Defendants”) (Plaintiffs and Defendants are referred to herein as the “Parties”).

6 This Stipulation is subject to the approval of the Court, pursuant to California Rules of Court, Rule
7 3.769(c), (d) and (e), and is made for the sole purpose of attempting to consummate settlement of the Action
8 on a class-wide basis subject to the following terms and conditions. As detailed below, in the event the
9 Court does not enter an order granting final approval of the Class Settlement, as defined below, or the
10 conditions precedent are not met for any reason, this Stipulation is void and of no force or effect
11 whatsoever.

12 This settlement shall be binding on Plaintiffs and the settlement classes and aggrieved employees
13 Plaintiffs purport to represent and (i) Defendants; (ii) each of Defendants’ respective past, present and
14 future parents, subsidiaries, and affiliates including, without limitation, any corporation, limited liability
15 company, partnership, trust, foundation, and non-profit entity which controls, is controlled by, or is under
16 common control with Defendants; (iii) the past, present and future shareholders, directors, officers, agents,
17 employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants,
18 representatives, administrators, payroll service providers, fiduciaries, benefit plans, transferees,
19 predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or entity which could
20 be jointly liable with any of the foregoing, subject to the terms and conditions hereof and the approval of
21 the Court.

22 **RECITALS**

23 1. On January 22, 2019, Lachman filed a civil Complaint against Defendants in the Los
24 Angeles County Superior Court entitled *David Lachman, as an individual and on behalf of all others*
25 *similarly situated v. Berlitz Languages, Inc., a New York corporation, Berlitz Corporation, a New York*
26 *corporation, and DOES 1-100*, Case Number 19STCV01533, which sets forth the following causes of
27 action: (1) failure to pay minimum wages for all hours worked; (2) failure to provide rest periods; (3)
28 failure to provide and maintain accurate records; (4) failure to timely pay wages; and (5) violation of

1 California Business & Professions Code §§ 17200, *et seq.* (the “Action”)

2 2. Per the Parties’ agreement, Plaintiffs will file a First Amended Class and Representative
3 Action Complaint (“FAC”) adding Steiner as an additional named plaintiff and additional claims for (1)
4 unpaid meal periods penalties, (2) and penalties based on the foregoing Labor Code violations Pursuant
5 to the Private Attorneys’ General Act (“PAGA”).

6 3. Defendants deny all material allegations set forth in the Action and anticipated FAC and
7 has asserted numerous affirmative and other defenses. Notwithstanding, in the interest of avoiding
8 further litigation, the Parties desire to fully and finally settle all actual or potential claims by the Class
9 Members.

10 4. Class Counsel has conducted significant discovery during the prosecution of the Action.
11 This discovery, investigation, and prosecution has included, among other things, (a) over a dozen
12 telephonic conferences with Plaintiffs; (b) inspection and analysis of hundreds of pages of documents
13 and other information produced by Plaintiffs and Defendants; (c) analysis of the legal positions taken
14 by Defendants; (d) investigation into the viability of class treatment of the claims asserted in the Action;
15 (e) analysis of potential class-wide damages, including information sufficient to understand Defendants’
16 potential defenses to Plaintiffs’ claims; (f) research of the applicable law with respect to the claims
17 asserted in the Complaint and First Amended Complaint and the potential defenses thereto; and (g)
18 assembling and analyzing of data for calculating damages.

19 5. The extensive discovery conducted in this matter, as well as discussions between counsel,
20 have been adequate to give the Class Representative and Class Counsel a sound understanding of the
21 merits of their positions and to evaluate the worth of the claims of the Settlement Class. The discovery
22 conducted in this Action and the information exchanged by the Parties through discovery and settlement
23 discussions are sufficient to reliably assess the merits of the Parties’ respective positions and to
24 compromise the issues on a fair and equitable basis.

25 6. On August 14, 2019, the Parties participated in mediation before David A. Rotman, Esq.
26 (the “Mediator”), a well-respected mediator of wage and hour class actions. At the August 14, 2019
27 mediation, the Parties agreed to the principal terms of a class action and PAGA settlement.

28 7. The settlement discussions before, during, and after mediation were conducted at arm’s

1 length and the settlement is the result of an informed and detailed analysis of Defendants’ alleged
2 potential liability in relation to the costs and risks associated with continued litigation.

3 8. Plaintiffs and Class Counsel believe that the claims, causes of action, allegations, and
4 contentions asserted in the Action have merit. However, Plaintiffs and Class Counsel recognize and
5 acknowledge the expense and delay of continued lengthy proceedings necessary to prosecute the Action
6 against Defendant through trial and through appeals. Class Counsel has taken into account the uncertain
7 outcome of the litigation, the risk of continued litigation in complex actions such as this, as well as the
8 difficulties and delays inherent in such litigation, and the potential difficulty of obtaining certification
9 of the Action as well as trying the claims of the class. Class Counsel is mindful of the potential problems
10 of proof under, and possible defenses to, the claims alleged in the Action.

11 9. Class Counsel believes that the Settlement set forth in this Stipulation confers substantial
12 benefits upon Plaintiffs and the Class Members and that an independent review of this Stipulation by
13 the Court in the approval process will confirm this conclusion. Based on their own independent
14 investigation and evaluation, Class Counsel has determined that the Settlement set forth in the
15 Stipulation is in the best interests of Plaintiffs and the Class Members.

16 10. On September 17, 2019, Steiner exhausted his administrative remedies pursuant to
17 California Labor Code § 2699, *et seq.* by providing notice to the Labor and Workforce Development
18 Agency (“LWDA”). Steiner did not receive a response from the LWDA.

19 11. Based on the data and documents produced pursuant to informal discovery, as well as
20 Class Counsel’s own independent investigation and evaluation, and the Mediator’s efforts, Class
21 Counsel believe that the settlement with Defendants for the consideration and on the terms set forth in
22 this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class
23 Members in light of all known facts and circumstances, including the risk of significant delay and
24 uncertainty associated with litigation, various defenses asserted by Defendants, the sharply contested
25 legal and factual issues involved, and numerous appellate issues.

26 12. This Settlement Agreement is made and entered into by and between Plaintiffs,
27 individually and on behalf of all others similarly situated and aggrieved, and Defendants, and is subject
28 to the terms and conditions hereof, and to the Court’s approval. The Parties expressly acknowledge that

1 this Agreement is entered into solely for the purpose of compromising significantly disputed claims and
2 that nothing herein is an admission of any liability or wrongdoing by Defendants. If, for any reason the
3 Settlement Agreement is not approved, it will be of no force or effect, and the Parties shall be returned
4 to their original respective positions.

5 13. The Parties agree to abide by all of the terms of the Class Settlement in good faith and to
6 support the Class Settlement fully and to use their best efforts to defend this Class Settlement from any
7 legal challenge, whether by appeal or collateral attack.

8 **DEFINITIONS**

9 The following definitions are applicable to this Settlement Agreement. Definitions contained
10 elsewhere in this Settlement Agreement will also be effective:

11 1. **“Action”** means *David Lachman and Arthur Steiner, as an individual and on behalf of*
12 *all others similarly situated v. Berlitz Languages, Inc., a New York corporation, Berlitz Corporation, a*
13 *New York corporation, and DOES 1-100*, Los Angeles County Superior Court, Case Number
14 19STCV01533, as amended.

15 2. **“Class Counsel’s Fees and Costs”** means attorneys’ fees agreed upon by the Parties and
16 approved by the Court for Class Counsel’s litigation and resolution of this Action, and all costs incurred
17 and to be incurred by Class Counsel in the Action, including, but not limited to, costs associated with
18 documenting the Settlement, securing the Court’s approval of the Settlement, responding to any
19 objections to the settlement and appeals arising therefrom, administering the Settlement, and obtaining
20 entry of a Judgment terminating this Action, and expenses for any experts. Class Counsel will request
21 attorneys’ fees not in excess of thirty-three and one third percent (33.3%) of the Maximum Settlement
22 Amount, or up to Four Hundred Sixteen Thousand Two Hundred Fifty Dollars and Zero Cents
23 (\$416,250.00). The Class Counsel’s Fees and Costs will also mean and include the additional
24 reimbursement of Class Counsel’s actual costs associated with Class Counsel’s litigation and settlement
25 of the Action per Class Counsel’s billing statements, up to Twenty-Five Thousand Dollars and Zero
26 Cents (\$25,000.00), subject to the Court’s approval. Defendants have agreed not to oppose Class
27 Counsel’s request for fees and reimbursement of costs as set forth above.

28 3. **“Settlement Administrator”** means CPT Group, Inc. or any other third-party class

1 action settlement claims administrator agreed to by the Parties and approved by the Court for purposes
2 of administering this settlement. The Parties each represent that they do not have any financial interest
3 in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that
4 could create a conflict of interest.

5 4. “**Settlement Administration Costs**” means the costs payable from the Maximum
6 Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not
7 limited to, printing, distributing, and tracking documents for this Settlement, calculating estimated
8 amounts per Class Member, tax reporting, distributing the appropriate settlement amounts, and
9 providing necessary reports and declarations, and other duties and responsibilities set forth herein to
10 process this Settlement, and as requested by the Parties. The Settlement Administration Costs will be
11 paid from the Maximum Settlement Amount, including, if necessary, any such costs in excess of the
12 amount represented by the Settlement Administrator as being the maximum costs necessary to
13 administer the settlement. The Settlement Administration Costs are currently estimated to be
14 \$15,000.00. To the extent actual Settlement Administrations Costs are greater than \$15,000.00 such
15 excess amount will be deducted from the Maximum Settlement Amount.

16 5. “**Class Counsel**” means Elliot J. Siegel and Julian Burns King of King & Siegel LLP and
17 Jonathan Melmed of Melmed Law Group P.C.

18 6. “**Class List**” means a complete list of all Class Members that Defendants will diligently
19 and in good faith compile from their records and provide to the Settlement Administrator within thirty
20 (30) calendar days after Preliminary Approval of this Settlement, unless the 30th day falls on a Saturday,
21 Sunday, or federal holiday, in which case the deadline will be extended to the next day business day.
22 The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include Class
23 Members’ names, last-known addresses, last-known telephone numbers, social security numbers, and
24 start date of hire; end date of hire; number of work weeks qualifying as a Class Member during the Class
25 Period; and the total number of work weeks of all Class Members during the Class Period.

26 7. “**Class Member(s)**” or “**Settlement Class**” or the “**Class**” means all individuals who are
27 or previously were employed by Defendants in the State of California as non-exempt hourly or piece-
28 rate employees and who worked at least one shift or were terminated between January 22, 2015 through

1 the date the court issues an order granting preliminary approval (“Preliminary Approval”) of the
2 Settlement. Defendant represents that there are approximately 745 Class Members.

3 8. “**Class Period**” means the period from January 22, 2015 through the date of Preliminary
4 Approval.

5 9. “**Class Representatives**” means Plaintiffs David Lachman (“Lachman”) and Arthur
6 Steiner (“Steiner”), who will seek to be appointed as the representatives for the Settlement Class.

7 10. “**Class Representative Enhancement Payments**” means the amounts to be paid to
8 Lachman and Steiner in recognition of their effort and work in prosecuting the Action on behalf of Class
9 Members and negotiating the Settlement. Defendants agree not to dispute that the Class Representatives
10 will be paid, subject to Court approval, up to Ten Thousand Dollars (\$10,000) for Lachman and up to
11 Five Thousand Dollars (\$5,000) for Steiner, from the Maximum Settlement Amount for their services
12 on behalf of the class, subject to the Court granting final approval of this Settlement Agreement and
13 subject to the exhaustion of any and all appeals. Should the Court reduce the Class Representative
14 Enhancement Payments, any such reduction shall revert to the Net Settlement distributed to
15 Participating Class Members.

16 11. “**Court**” means the Superior Court of California, County of Los Angeles.

17 12. “**Defendants**” means Berlitz Languages, Inc. and Berlitz Corporation.

18 13. “**Effective Date**” means the date on which the settlement embodied in this Settlement
19 Agreement shall become effective after all of the following events have occurred: (i) this Settlement
20 Agreement has been executed by all parties and by counsel for the Settlement Class and Defendants;
21 (ii) the Court has given preliminary approval to the Settlement; (iii) notice has been given to the putative
22 members of the Settlement Class, providing them with an opportunity to object to the terms of the
23 Settlement or to opt-out of the Settlement; (iv) the Court has held a formal fairness hearing and, having
24 heard no objections to the Settlement, entered a final order and judgment certifying the Class, dismissing
25 the Action (including the FAC) with prejudice, and approving this Settlement Agreement; (v) sixty-five
26 (65) calendar days have passed following the Court’s entry of a final order and judgment certifying the
27 Settlement Class; and (vi) in the event there are written objections filed prior to the formal fairness
28 hearing which are not later withdrawn or denied, the later of the following events: (a) five (5) business

1 days after the period for filing any appeal, writ or other appellate proceeding opposing the Court's final
2 order approving the Settlement has elapsed without any appeal, writ or other appellate proceeding
3 having been filed; or (b) five (5) business days after any appeal, writ or other appellate proceeding
4 opposing the Settlement has been dismissed finally and conclusively with no right to pursue further
5 remedies or relief, unless the date falls on a Saturday, Sunday, or federal holiday, in which case the
6 Effective Date will be extended to the next day business day.

7 14. "Individual Settlement Payment" means each Participating Class Member's share of the
8 Net Settlement Amount, to be distributed to the Class Members who do not submit a valid Request for
9 Exclusion, to be paid without the need to submit a claim.

10 15. "Labor and Workforce Development Agency Payment" means the amount that the Parties
11 have agreed to pay to the Labor and Workforce Development Agency ("LWDA") in connection with
12 the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA"). The
13 Parties have agreed that Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the Maximum
14 Settlement Amount will be allocated to the resolution of any Class Members' claims arising under
15 PAGA. Pursuant to PAGA, Seventy-Five Percent (75%), or Twenty-Two Thousand Five Hundred
16 Dollars and Zero Cents (\$22,500.00), of the PAGA Settlement Amount will be paid to the California
17 Labor and Workforce Development Agency, and Twenty-Five Percent (25%), or Seven Thousand Five
18 Hundred Dollars and Zero Cents (\$7,500.00), of the PAGA Settlement Amount will be paid to the Class
19 as part of the Net Settlement Amount.

20 16. "Maximum Settlement Amount" means the maximum settlement amount of One Million
21 Two Hundred Fifty Thousand Dollars and Zero Cents (\$1,250,000.00) to be paid by Defendants in full
22 satisfaction of all claims arising from the Action, which includes all Individual Settlement Payments to
23 Participating Class Members, the Class Representative Enhancement Payments, Settlement
24 Administration Costs to the Settlement Administrator, the Labor and Workforce Development Agency
25 Payment, and the Class Counsel's Fees and Costs to Class Counsel. Defendants agree they are
26 responsible for employer payroll taxes, which is not included in the Maximum Settlement Amount. This
27 Maximum Settlement Amount has been agreed to by Plaintiffs and Defendants based on the aggregation
28 of the agreed-upon settlement value of individual claims. In no event will Defendants be liable for more

1 than the Maximum Settlement Amount, plus the employer payroll taxes, except as otherwise explicitly
2 set forth herein. The Maximum Settlement Amount is non-reversionary.

3 17. "Net Settlement Amount" means the portion of the Maximum Settlement Amount
4 remaining after deduction of the approved Class Representative Enhancement Payments, Settlement
5 Administration Costs, Labor and Workforce Development Agency Payment, and Class Counsel's Fees
6 and Costs. The Net Settlement Amount will be distributed to Participating Class Members.

7 18. "Notice of Objection" means a Class Member's valid and timely written objection to the
8 Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector's full
9 name, signature, address, telephone number, and the last four digits of the objector's social security
10 number, (b) the dates the objector was employed by either of the Defendants in California, (c) a written
11 statement of all grounds for the objection accompanied by any legal support for such objection, and (d)
12 copies of any papers, briefs, or other documents upon which the objection is based.

13 19. "Notice Packet" or "Notice" means the Notice of Class Action Settlement, substantially
14 in the form attached as **Exhibit A**.

15 20. "Parties" means Plaintiffs and Defendants collectively.

16 21. "Participating Class Members" means all Class Members who do not submit valid
17 Requests for Exclusion.

18 22. "Plaintiffs" means David Lachman and Arthur Steiner.

19 23. "Preliminary Approval" means the Court order granting preliminary approval of the
20 Settlement Agreement.

21 24. "Released Claims" means all claims under state law, California law, the Federal Labor
22 Standards Act (FLSA), or local law, whether statutory, common law or administrative law arising out of
23 or related to all claims and allegations made or which could have been made based on the factual
24 allegations of the FAC effective Complaint in the Action from January 22, 2015 through Preliminary
25 Approval, including allegations of alleged: failure to pay wages, including but not limited to all hours
26 worked, training time, and unpaid "off-the-clock time," minimum wage and/or overtime, if any; rest period
27 violations; meal period violations; split shift premiums; wage statement violations; waiting time penalties;
28 civil penalties; penalties under the Private Attorneys General Act ("PAGA"); violations of Business and

1 Professions Code section 17200; including, but not limited to, claims for injunctive relief; punitive
2 damages; liquidated damages, penalties of any nature; interest; fees; and costs.

3 25. "Released Claims Period" means the period from January 22, 2015 through the date of
4 Preliminary Approval.

5 26. "Released Parties" means: (i) Defendants; (ii) each of Defendants' respective past,
6 present and future parents, subsidiaries, divisions, concepts, related or affiliate companies including,
7 without limitation, any corporation, limited liability company, partnership, trust, foundation, and non-
8 profit entity which controls, is controlled by, or is under common control with Defendants; (iii) the past,
9 present and future shareholders, directors, officers, agents, employees, attorneys, insurers, members,
10 partners, managers, contractors, agents, consultants, representatives, administrators, payroll service
11 providers, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the
12 foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing.

13 27. "Request for Exclusion" means a timely letter submitted by a Class Member indicating a
14 request to be excluded from the settlement. The Request for Exclusion must: (a) be signed by the Class
15 Member; (b) contain the name, address, telephone number, and the last four digits of the Social Security
16 Number of the Class Member requesting exclusion; (c) clearly state that the Class Member received the
17 Notice, does not wish to participate in the settlement, and wants to be excluded from the settlement; (d)
18 be returned by first class mail or equivalent to the Settlement Administrator at the specified address;
19 and, (e) be postmarked on or before the Response Deadline. The date of the postmark on the return
20 mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been
21 timely submitted. A Class Member who does not request exclusion from the settlement will be deemed
22 a Class Member and will be bound by all terms of the settlement, if the settlement is granted final
23 approval by the Court.

24 28. "Response Deadline" means the deadline by which Class Members must postmark to the
25 Settlement Administrator valid Claim Forms, Requests for Exclusion, or file and serve objections to the
26 settlement. The Response Deadline will be forty-five (45) calendar days from the initial mailing of the
27 Notice Packet by the Settlement Administrator, unless the 45th day falls on a Saturday, Sunday, or
28 federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S.

1 Postal Service is open. The Response Deadline for Objections or Requests for Exclusion will be
2 extended fifteen (15) calendar days for any Class Member who is re-mailed a Notice Packet by the
3 Settlement Administrator, unless the 15th day falls on a Saturday, Sunday or federal holiday, in which
4 case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open.
5 The Response Deadline may also be extended by express agreement between Class Counsel and
6 Defendants. Under no circumstances, however, will the Settlement Administrator have the authority to
7 extend the deadline for Class Members to submit a Request for Exclusion, or objection to the settlement.

8 29. "Workweeks" means the number of weeks of actually worked for each Class Member as
9 a non-exempt employee during the Class Period. Workweeks are determined by calculating the number
10 of days each Class Member actually worked during the Class Period, dividing by seven (7), and rounding
11 up to the nearest whole number.

12 **CLASS CERTIFICATION**

13 30. Solely for purposes of settling the Action, and not for purposes of class certification
14 should the matter not be settled or for any other reason, the Parties stipulate and agree that the requisites
15 for establishing class certification with respect to the Settlement Class have been met and are met. More
16 specifically, the Parties stipulate and agree for purposes of this settlement only that:

17 a. The Settlement Class is ascertainable and so numerous as to make it impracticable
18 to join all Class Members;

19 b. There are common questions of law and fact including, but not limited to, the
20 following:

21 i. Whether Defendants failed to pay Plaintiffs and Class Members at least
22 minimum wages for all hours worked;

23 ii. Whether Defendants failed to provide Plaintiffs and Class Members with
24 rest periods or premium pay and meal periods premium pay in lieu thereof;

25 iii. Whether Defendants failed to pay piece rate Class Members separately and
26 hourly for rest periods;

1 iv. Whether Defendants failed to pay Plaintiffs and Class Members earned
2 minimum wages, and rest break premiums and meal periods premiums due to Plaintiffs and Class Members
3 upon discharge;

4 v. Whether Defendants failed to provide Plaintiffs and Class Members with
5 complete and accurate wage statements as required by California Labor Code section 226;

6 vi. Whether Defendants failed to pay Plaintiffs and Class Members minimum
7 wages during their employment;

8 vii. Whether Defendants failed to pay Plaintiffs and Class Members wages for
9 time spent on mandatory training;

10 viii. Whether Defendants engaged in unlawful and unfair business practices in
11 violation of California Business & Professions Code sections 17200 *et seq.*;

12 ix. Whether Defendants failed to provide Plaintiffs and Class Members with
13 meal periods or premium pay in lieu thereof;

14 x. Whether Defendants are subject to penalties pursuant to Labor Code section
15 2699 *et seq.*;

16 Should this Settlement not be approved or be terminated, these stipulations shall be null and void
17 and shall not be admissible, in this or any other action, for any purpose whatsoever.

18 31. The Class Representatives' claims are typical of the claims of the members of the
19 Settlement Class; should this Settlement not be approved or be terminated, this stipulation shall be null
20 and void and shall not be admissible, in this or any other action, for any purpose whatsoever.

21 32. The Class Representatives and Class Counsel will fairly and adequately protect the
22 interests of the Settlement Class; should this Settlement not be approved or be terminated, this
23 stipulation shall be null and void and shall not be admissible, in this or any other action, for any purpose
24 whatsoever.

25 33. The prosecution of separate actions by individual members of the Settlement Class would
26 create the risk of inconsistent or varying adjudications, which would establish incompatible standards
27 of conduct; should this Settlement not be approved or be terminated, this stipulation shall be null and
28 void and shall not be admissible, in this or any other action, for any purpose whatsoever.

1 34. With respect to the Settlement Class, the Class Representatives believe that questions of
2 law and fact common to the members of the Settlement Class predominate over any questions affecting
3 any individual member in such Class, and a class action is superior to other available means for the fair
4 and efficient adjudication of the controversy; should this Settlement not be approved or be terminated,
5 this stipulation shall be null and void and shall not be admissible, in this or any other action, for any
6 purpose whatsoever.

7 **TERMS OF AGREEMENT**

8 NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements set
9 forth herein, the Parties agree, subject to the Court's approval, as follows:

10 35. Funding of the Maximum Settlement Amount. Within five (5) business days after the
11 Effective Date, the Settlement Administrator will provide the Parties with an accounting of the amounts
12 to be paid by Defendants pursuant to the terms of the Settlement. Within five (5) business days after
13 the Settlement Administrator provides the Parties with the accounting of amounts to be paid, Defendant
14 will make a one-time deposit of One Million Two Hundred Fifty Thousand Dollars and Zero Cents
15 (\$1,250,000.00), representing the Maximum Settlement Amount, *plus* the employer portion of all
16 applicable payroll taxes into a Qualified Settlement Account to be established by the Settlement
17 Administrator. Within fourteen (14) business days of the funding of the Settlement, the Settlement
18 Administrator will issue payments to (a) Participating Class Members; (b) the Labor and Workforce
19 Development Agency; (c) Class Representatives; and (d) Class Counsel. The Settlement Administrator
20 will also issue a payment to itself for Court-approved services performed in connection with the
21 settlement.

22 36. Class Counsel's Fees and Costs. Defendants agree not to oppose or impede any
23 application or motion by Class Counsel for Class Counsel's Fees and Costs of up to Four Hundred
24 Sixteen Thousand Two Hundred Fifty Dollars and Zero Cents (\$416,250.00), plus the reimbursement
25 of actual costs and expenses associated with Class Counsel's litigation and settlement of the Action per
26 Class Counsel's billing statements, up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000), both
27 of which will be paid from the Maximum Settlement Amount.

28 37. Class Representative Enhancement Payments. In exchange for a general release, and in

1 recognition of their effort and work in prosecuting the Action on behalf of Class Members and
2 negotiating the Settlement, Defendants agree not to oppose or impede any application or motion for
3 Class Representative Enhancement Payments of up to a total of Fifteen Thousand Dollars and Zero
4 Cents (\$15,000.00) to the Class Representatives, with up to Ten Thousand Dollars and Zero Cents
5 (\$10,000.00) to David Lachman and up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Arthur
6 Steiner subject to the Court's approval. The Class Representative Enhancement Payments, which will
7 be paid from the Maximum Settlement Amount, will be in addition to Plaintiffs' Individual Settlement
8 Payment paid pursuant to the Settlement. The Class Representatives agree to execute general releases
9 of all claims, including a waiver of California Civil Code § 1542, against Defendants for this payment.
10 The Settlement Administrator will issue an IRS Form 1099 for the enhancement payment to the Class
11 Representatives, and the Class Representatives shall be solely and legally responsible for correctly
12 characterizing this compensation for tax purposes and for paying any taxes on the amount received. The
13 Class Representatives agree to indemnify and hold Defendants harmless from any claim or liability for
14 taxes, penalties, or interest arising as a result of the Class Representative Enhancement Payments.
15 Should the Court reduce the Class Representative Enhancement Payments, any such reduction shall
16 revert to the Net Settlement distributed to Participating Class Members.

17 38. Settlement Administration Costs. The Settlement Administrator will be paid for the
18 reasonable costs of administration of the Settlement and distribution of payments from the Maximum
19 Settlement Amount, which is currently estimated to be \$15,000.00. These costs, which will be paid
20 from the Maximum Settlement Amount, will include, *inter alia*, the required tax reporting on the
21 Individual Settlement Payments, the issuing of 1099 IRS Forms, distributing the Notice Packet,
22 calculating and distributing the Maximum Settlement Amount and Class Counsel's Fees and Costs, and
23 providing necessary reports and declarations.

24 39. Labor and Workforce Development Agency Payment. Subject to Court approval, the
25 Parties agree that the amount of Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the Maximum
26 Settlement Amount will be designated for satisfaction of Plaintiffs' and Class Members' PAGA claims.
27 Pursuant to PAGA, 75%, or Twenty-Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00),
28 of the PAGA Settlement Amount will be paid to the LWDA, and 25%, or Seven Thousand Five Hundred

1 Dollars and Zero Cents (\$7,500.00), will be distributed to Participating Class Members as part of the
2 Net Settlement Amount.

3 40. Net Settlement Amount. “Net Settlement Amount” shall mean the Maximum Settlement
4 Amount minus Settlement Administrative Expenses, Class Counsel’s Attorneys’ Fees and Expenses,
5 Class Representative Enhancement Awards, and PAGA Payment to the California Labor and Workforce
6 Development Agency (“LWDA”).

7 41. Acknowledgement of Potential Administration Cost Increases. The Parties hereby
8 acknowledge that Settlement Administration Costs may increase above the current estimate of
9 \$15,000.00 and that any such additional Settlement Administration Costs will be taken out of the
10 Maximum Settlement Amount. Any portion of the estimated or designated Class Administration Costs
11 which are not in fact required to fulfill the total Class Administration Costs will become part of the Net
12 Settlement Amount.

13 42. Individual Settlement Payment Calculations. Individual Settlement Payments will be
14 calculated and apportioned from the Net Settlement Amount based on the Workweeks a Participating
15 Class Member worked during the Class Period. Specific calculations of Individual Settlement Payments
16 will be made as follows:

17 a. The Settlement Administrator will calculate the number of Workweeks per
18 Participating Class Member during the Class Period based on records in Defendants’ possession,
19 custody or control. Defendants’ Workweek data will be presumed to be correct, unless a particular
20 Class Member proves otherwise to the Settlement Administrator by credible written evidence. All
21 Workweek disputes will be resolved and decided by the Settlement Administrator in consultation with
22 Class Counsel and counsel for Defendants. The Settlement Administrator’s decision on all Workweek
23 disputes will be final and non-appealable.

24 b. The Settlement Administrator will calculate the total number of Workweeks for
25 each individual Class Member (“Individual Workweeks”). The Settlement Administrator will calculate
26 the total number of Workweeks for all Class Members during the Class Period (“Class Workweeks”).

27 c. To determine each Class Member’s “Individual Settlement Payment” the
28 Settlement Administrator will use the following formula: Individual Settlement Payment = (Net

1 Settlement Amount ÷ Participating Class Workweeks) x Individual Workweeks for each individual
2 Participating Class Member.

3 d. Notwithstanding the foregoing, any Class Member who was terminated within the
4 Class Period but who did not work a shift during the Class Period shall receive a payment of \$500.00.

5 e. Individual Settlement Payment checks will contain the following printed notice
6 advising Participating Class Members that by cashing, depositing or otherwise negotiating their
7 Individual Settlement Payment checks they are affirmatively opting into the settlement for purposes of
8 the FLSA: “BY CASHING THIS CHECK YOU ARE AGREEING TO THE TERMS OF THE
9 SETTLEMENT REACHED IN LACHMAN ET AL. V. BERLITZ LANGUAGES, INC. ET AL. CASE
10 NO. 19STCV01533, AND AGREE TO OPT-IN TO THE SETTLEMENT AND TO RELEASE
11 CLAIMS UNDER THE FAIR LABOR STANDARDS ACT PURSUANT TO THE SETTLEMENT.”

12 43. Settlement Awards Do Not Trigger Additional Benefits. All settlement awards to Class
13 Members shall be deemed to be paid to such Class Members solely in the year in which such payments
14 actually are received by the Class Members. It is expressly understood and agreed that the receipt of
15 such individual settlement awards will not entitle any Class Member to additional compensation or
16 benefits under any company bonus, commission or other compensation or benefit plan or agreement in
17 place during the period covered by the Settlement, nor will it entitle any Class Member to any increased
18 retirement, 401K benefits or matching benefits, or deferred compensation benefits. It is the intent of
19 this Settlement that the individual settlement awards provided for in this Settlement are the sole
20 payments to be made by Defendants to the Class Members, and that the Class Members are not entitled
21 to any new or additional compensation or benefits as a result of having received the individual settlement
22 awards (notwithstanding any contrary language or agreement in any benefit or compensation plan
23 document that might have been in effect during the period covered by this Settlement).

24 44. Settlement Administration Process. The Parties agree to cooperate in the administration
25 of the settlement and to make all reasonable efforts to control and minimize the costs and expenses
26 incurred in administration of the Settlement.

27 45. Delivery of the Class List. Within thirty (30) calendar days of Preliminary Approval,
28 Defendants will provide the Class List to the Settlement Administrator, unless the 30th day falls on a

1 Saturday, Sunday, or federal holiday, in which case the deadline will be extended to the next day
2 business day.

3 46. Notice by First-Class U.S. Mail. Within forty-five (45) calendar days of Preliminary
4 Approval, the Settlement Administrator will mail a Notice Packet to all Class Members via regular First-
5 Class U.S. Mail, using the most current, known mailing addresses identified in the Class List, unless the
6 45th day falls on a Saturday, Sunday, or federal holiday, in which case the deadline will be extended to
7 the next day business day.

8 47. Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement
9 Administrator will perform a search based on the National Change of Address Database for information
10 to update and correct for any known or identifiable address changes. Any Notice Packets returned to
11 the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent
12 promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
13 Administrator will indicate the date of such re-mailing on the Notice Packet. If no forwarding address
14 is provided, the Settlement Administrator will promptly attempt to determine the correct address using
15 a skip-trace, or other search using the name, address and/or Social Security number of the Class Member
16 involved, and will then perform a single re-mailing. Those Class Members who receive a re-mailed
17 Notice Packet, whether by skip-trace or by request, will have between the later of (a) an additional
18 fifteen (15) calendar days (unless the 15th day falls on a Saturday, Sunday, or federal holiday, in which
19 case the deadline will be extended to the next day business day) or (b) the Response Deadline to fax or
20 postmark a Request for Exclusion, or file and serve an objection to the Settlement.

21 48. Notice Packets. All Class Members will be mailed a Notice Packet. Upon receipt of the
22 Class Information, the Settlement Administrator will perform a search based on the National Change of
23 Address Database to update and correct any known or identifiable address changes. Within 45 days of
24 Preliminary Approval, the Settlement Administrator shall mail copies of the Notice Packet, containing
25 the Class Notice and the individualized populated Share Form, to all Class Members via regular First
26 Class U.S. Mail. If the 45th day falls on a Saturday, Sunday, or federal holiday, the deadline will be
27 extended to the next day business day. The Settlement Administrator shall exercise its best judgment to
28 determine the current mailing address for each Class Member. The address identified by the Settlement

1 Administrator as the current mailing address shall be presumed to be the best mailing address for each
2 Class Member.

3 49. Each Notice Packet will provide: (a) information regarding the nature of the Action; (b)
4 a summary of the Settlement's principal terms; (c) the Settlement Class definition; (d) each Class
5 Member's estimated Individual Settlement Payment and the formula for calculating Individual
6 Settlement Payments; (e) the dates which comprise the Class Period; (f) instructions on how to submit
7 valid Requests for Exclusion or objections; (g) the deadlines by which the Class Member must fax or
8 postmark Requests for Exclusions or file and serve objections to the Settlement; (h) the claims to be
9 released, as set forth herein; and (i) the date for the Final Approval Hearing.

10 50. Disputed Information on Notice Packets. Class Members will have an opportunity to
11 dispute the information provided in their Notice Packets. To the extent Class Members dispute the
12 number of weeks he/she worked during the Class Period, or the amount of their Individual Settlement
13 Payment, Class Members may produce evidence to the Settlement Administrator showing that such
14 information is inaccurate. Absent evidence rebutting Defendants' records, Defendants' records will be
15 presumed determinative. However, if a Class Member produces evidence to the contrary, the Settlement
16 Administrator will evaluate the evidence submitted by the Class Member in consultation with Class
17 Counsel and counsel for Defendants and will make the final decision as to the Individual Settlement
18 Payment to which the Class Member may be entitled.

19 51. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
20 Settlement Agreement must sign and postmark a written Request for Exclusion to the Settlement
21 Administrator within the Response Deadline. The date of the postmark on the return mailing envelope
22 will be the exclusive means to determine whether a Request for Exclusion has been timely submitted.
23 All Requests for Exclusion will be submitted to the Settlement Administrator, who will certify jointly
24 to Class Counsel and Defendants' Counsel the Requests for Exclusion that were timely submitted. Any
25 Class Member who submits a Request for Exclusion shall be prohibited from objecting to the Settlement
26 Agreement.

27 52. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member
28 who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid

1 Request for Exclusion will be bound by all of its terms, including those pertaining to the Released
2 Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the
3 Settlement.

4 53. Objection Procedures. To object to the Settlement Agreement, a Class Member must file
5 a valid Notice of Objection with the Settlement Administrator on or before the Response Deadline. The
6 Settlement Administrator shall serve all objections as received on Class Counsel and Defendants'
7 Counsel, as well as file all such objections with the Court. The Notice of Objection shall be signed by
8 the Class Member and contain all information required by this Settlement Agreement. The postmark
9 date of the filing and service will be deemed the exclusive means for determining that the Notice of
10 Objection is timely. At no time will any of the Parties or their counsel seek to solicit or otherwise
11 encourage Class Members to object to the Settlement Agreement or appeal from the Order and
12 Judgment. Class Counsel will not represent any Class Members with respect to any such objections to
13 this Settlement.

14 54. Certification Reports Regarding Individual Settlement Payment Calculations. The
15 Settlement Administrator will provide Defendants' counsel and Class Counsel a weekly report which
16 certifies: (a) the number of Class Members who have submitted valid Requests for Exclusion; and (b)
17 whether any Class Member has submitted a challenge to any information contained in their Claim Form
18 or Notice Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties
19 any updated reports regarding the administration of the Settlement Agreement as needed or requested.
20 No later than 14 days prior to the deadline for Class Counsel to file its motion in support of the Final
21 Approval and Fairness Hearing, the Settlement Administrator will compile and deliver to Class Counsel
22 and Defense Counsel a report with summary information regarding (a) the total amount of final
23 Individual Settlement Amounts of each Settlement Class Member (b) the number of Settlement Class
24 Members to receive such payments, and (c) the final number of requests for exclusion/Opt-Outs and
25 objections, unless the 14th day falls on a Saturday, Sunday, or federal holiday, in which case the deadline
26 will be extended to the next day business day.

27 55. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to
28 Participating Class Members will be negotiable for 120 calendar days from the date the check was

1 issued. Upon the expiration of 120 calendar days, uncashed settlement award checks will not be re-
2 issued, except for good cause and as mutually agreed upon by the Parties in writing. All uncashed
3 checks will not be reissued and will be submitted to the following *cy pres* fund per the Parties'
4 agreement: Family Promise (familypromise.org), a 501(c)(3) nonprofit organization with a mission to
5 help families experiencing homelessness achieve sustained independence. In the event that the Court
6 does not approve Family Promise as an appropriate *cy pres*, then the uncashed checks shall be distributed
7 to the Equal Access Fund. The Settlement Administrator shall reverse any tax documents issued to
8 Class Members who did not cash his or her check.

9 56. Certification of Completion. Upon completion of administration of the Settlement, the
10 Settlement Administrator will provide a written declaration under oath to certify such completion to the
11 Court and counsel for all Parties.

12 57. Administration Costs if Settlement Fails. If the Settlement is voided or rejected by the
13 Court, any costs incurred by the Settlement Administrator will be paid equally by the Parties (half by
14 Defendants and half by Class Counsel), unless otherwise specified in this Agreement.

15 58. Treatment of Individual Settlement Payments. All Individual Settlement Payments will
16 be allocated as follows: of each Individual Settlement Payment 20% will be allocated as alleged unpaid
17 wages, 40% will be allocated as alleged unpaid interest, and the remaining 40% will be allocated as
18 alleged unpaid civil penalties and reimbursement. The 20% of each Individual Settlement Payment
19 allocated as wages will be reported on an IRS Form W-2 by the Settlement Administrator. The
20 remaining 80% of each Individual Settlement Payment allocated as interest, penalties and
21 reimbursement will be reported on an IRS Form-1099 by the Settlement Administrator.

22 59. Administration of Taxes by the Settlement Administrator. The Settlement Administrator
23 will be responsible for issuing to Plaintiffs, Participating Class Members, and Class Counsel any W-2,
24 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Agreement.
25 Within five (5) business days after the Effective Date, the Settlement Administrator will provide the
26 Parties with an accounting of the amounts to be paid by Defendants pursuant to the terms of the
27 Settlement, including the amount of the employer contribution for payroll taxes to be paid by
28 Defendants.

1 60. Tax Liability. Defendants make no representation as to the tax treatment or legal effect
2 of the payments called for hereunder, and Class Representatives, Participating Class Members, and
3 Class Counsel are not relying on any statement, representation, or calculation by Defendants or by the
4 Settlement Administrator in this regard. Class Representatives, Participating Class Members, and Class
5 Counsel understand and agree that they will be solely responsible for the payment of any taxes and
6 penalties assessed on the payments described herein and will defend, indemnify, and hold Defendants
7 free and harmless from and against any claims resulting from treatment of such payments as non-taxable
8 damages.

9 61. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES
10 OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS
11 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”)
12 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO
13 WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR
14 THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY
15 SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
16 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY
17 DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
18 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN,
19 INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN
20 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT
21 BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR
22 ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
23 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER
24 PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
25 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY
26 HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH
27 ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH
28 LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING

1 PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION,
2 INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

3 62. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
4 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
5 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause
6 of action or right herein released and discharged.

7 63. Release of Claims by Class Members. Upon the Effective Date, Plaintiffs and all
8 Participating Class Members will be deemed to have fully, finally and forever released, settled,
9 compromised, relinquished, and discharged with respect to all of the Released Parties and any and all
10 Released Claims. The Settlement Class and each member of the Class who has not submitted a valid
11 Request for Exclusion, fully releases and discharges the Released Parties for the Released Claims for
12 any period during the Released Claims Period. Notwithstanding any other provision in this Settlement,
13 the release will only become effective on the date when Defendant pays the Gross Settlement Amount
14 in full.

15 Settlement Class Members will be deemed to have acknowledged and agreed that their claims for
16 wages and/or penalties in the Action are disputed, and that their Individual Settlement Amount constitutes
17 payment of all sums allegedly due to them. Settlement Class Members will be deemed to have
18 acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the Individual
19 Settlement Amount. That section provides in pertinent part as follows:

20 **“An employer shall not require the execution of a release of a claim or right
21 on account of wages due, or to become due, or made as an advance on wages
22 to be earned, unless payment of those wages has been made.”**

23 64. Plaintiffs’ Released Claims. In addition to the Settlement Class Members’
24 Released Claims described above, in exchange for the consideration recited in this Stipulation, including
25 but not limited to the Class Representative Enhancement Awards, Plaintiffs release, acquit, and
26 discharge and covenant not to sue any of the Released Parties for any claim, whether known or unknown,
27 which they have ever had, or hereafter may claim to have, arising on or before the date they sign this
28 Stipulation, including without limitation to, any claims relating to or arising out of any aspect of their

1 relationship with Defendants, or the termination of that relationship, any claims for unpaid
2 compensation, wages, reimbursement for business expenses, penalties, or waiting time penalties under
3 the California Labor Code, the California Business and Professions Code, the federal Fair Labor
4 Standards Act, 29 U.S.C. section 201, *et seq.*, or any state, county or city law or ordinance regarding
5 wages or compensation; any claims for employee benefits including without limitation, any claims
6 under the Employment Retirement Income Security Act of 1974; any claims of employment
7 discrimination on any basis, including without limitation, any claims under Title VII of the Civil Rights
8 Act of 1964, the Civil Rights Act of 1866, 42 U.S.C. section 1981, the Civil Rights Act of 1991, the
9 Americans with Disabilities Act of 1991, the Family and Medical Leave Act of 1993, the California
10 Government Code, or any other state, county or city law or ordinance regarding employment
11 discrimination. Plaintiffs acknowledge and agree that the foregoing general release is given in exchange
12 for the consideration provided to each of them under this Stipulation by Defendants. However, this
13 release shall not apply to claims for workers' compensation benefits, unemployment insurance benefits,
14 pension or retirement benefits, or any other claim or right that as a matter of law cannot be waived or
15 released.

16 Plaintiffs each expressly waive any rights or benefits available to each of them under the provisions
17 of Section 1542 of the California Civil Code, which provides as follows:

18 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**
19 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**
20 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE**
21 **AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY**
22 **AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASING**
23 **PARTY.**

24 Plaintiffs each understand fully the statutory language of Civil Code Section 1542 and, with this
25 understanding, nevertheless each elect to, and do, assume all risks for claims that have arisen, whether
26 known or unknown, which they each ever had, or hereafter may claim to have, arising on or before the
27 date of their respective signatures to this Stipulation, and specifically each waive all rights each may have
28 under the California Civil Code Section 1542. Notwithstanding any other provision in this Settlement,
the release will only become effective on the date when Defendant pays the Gross Settlement Amount in
full.

1 65. Duties of the Parties Prior to Court Approval. The Parties shall promptly submit this
2 Settlement Agreement to the Court in support of Plaintiffs’ Motion for Preliminary Approval and
3 determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution
4 of this Settlement Agreement, the Parties shall apply to the Court for the entry of an order:

5 a. Scheduling a fairness hearing on the question of whether the proposed settlement,
6 including but not limited to, payment of attorneys’ fees and costs, and the Class Representatives’
7 Enhancement Payments, should be finally approved as fair, reasonable and adequate as to the members of
8 the Settlement Class;

9 b. Certifying the Settlement Class;

10 c. Approving, as to form and content, the proposed Notice;

11 d. Approving the manner and method for Class Members to request exclusion from
12 the Settlement as contained herein and within the Notice;

13 e. Directing the mailing of the Notice, by first class mail to the Class Members;

14 f. Preliminarily approving the Settlement subject only to the objections of Class
15 Members and final review by the Court; and

16 g. Enjoining Plaintiffs and all Class Members from filing or prosecuting any claims,
17 suits or administrative proceedings (including filing claims with the California Division of Labor
18 Standards Enforcement and the Labor and Workforce Development Agency) regarding the Released
19 Claims unless and until such Class Members have filed valid Requests for Exclusion with the Settlement
20 Administrator.

21 66. Duties of the Parties Following Final Court Approval. Following final approval by the
22 Court of the Settlement provided for in this Settlement Agreement, Class Counsel will submit a proposed
23 final order of approval and judgment:

24 a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
25 adequate, and directing consummation of its terms and provisions;

26 b. Approving Class Counsel’s application for an award of attorneys’ fees and costs;

27 c. Approving the Class Representative Enhancement Payments to the Class
28 Representatives;

1 d. Approving the Settlement Administration Costs of the Settlement Administrator;
2 and

3 e. Entering judgment in this Action barring and enjoining all members of the
4 Settlement Class from prosecuting against any of the Released Parties, any individual or class, collective
5 or representative claims released herein, upon satisfaction of all payments and obligations hereunder.

6 67. Rescission of Settlement Agreement (by Defendants). If more than ten percent (10%) of
7 the Class Members opt-out of the Settlement by submitting Request for Exclusion forms, Defendants
8 may, at their option, rescind and void the Settlement and all actions taken in furtherance of it will thereby
9 be null and void. Defendants must exercise this right of rescission, in writing, to Class Counsel within
10 fourteen (14) calendar days after the Settlement Administrator notifies the Parties of the total number
11 of Requests for Exclusion received by the Response Deadline, unless the 14th day falls on a Saturday,
12 Sunday, or federal holiday, in which case the deadline will be extended to the next day business day. If
13 the option to rescind is exercised, Defendants shall be solely responsible for all costs of the Settlement
14 Administrator accrued to that point.

15 68. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally
16 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other
17 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null
18 and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will
19 likewise be treated as void from the beginning.

20 69. Preliminary Approval Hearing. Plaintiffs will obtain a hearing before the Court to
21 request the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval
22 Order for: (a) conditional certification of the Settlement Class for settlement purposes only, (b)
23 Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a Final
24 Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the Notice
25 Packet to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval
26 hearing, Plaintiffs will submit this Settlement Agreement, which sets forth the terms of this Settlement,
27 and will include the proposed Notice Packet; i.e., the proposed Notice of Class Action Settlement
28 document, attached as Exhibit A. Class Counsel will be responsible for drafting all documents

1 necessary to obtain preliminary approval. Defendants agree not to oppose the Motion for Preliminary
2 Approval.

3 70. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
4 deadlines to Requests for Exclusion, or objections to the Settlement Agreement, and with the Court's
5 permission, a Final Approval/Settlement Fairness Hearing will be conducted to determine the Final
6 Approval of the Settlement Agreement along with the amounts properly payable for (a) Individual
7 Settlement Payments; (b) the Labor and Workforce Development Agency Payment; (c) the Class
8 Counsel's Fees and Costs; (d) the Class Representative Enhancement Payments; (e) all Settlement
9 Administration Costs; and (f) the employer's share of payroll taxes for wages paid in connection with
10 the Individual Settlement Payments. The Final Approval/Settlement Fairness Hearing will not be held
11 earlier than thirty (30) calendar days after the Response Deadline. Class Counsel will be responsible
12 for drafting all documents necessary to obtain final approval, including responding to any objections
13 and appeals arising therefrom. Class Counsel will also be responsible for drafting the attorneys' fees
14 and costs application to be heard at the final approval hearing.

15 71. Termination of Settlement. Subject to the obligation(s) of cooperation set forth herein,
16 either Party may terminate this Settlement if the Court declines to enter the Preliminary Approval Order,
17 the Final Approval Order or final judgment in substantially the form submitted by the Parties, or the
18 Settlement Agreement as agreed does not become final because of appellate court action. The
19 Terminating Party shall give to the other Party (through its counsel) written notice of its decision to
20 terminate no later than ten (10) business days after receiving notice that one of the enumerated events
21 has occurred. Termination shall have the following effects:

22 a. The Settlement Agreement shall be terminated and shall have no force or effect,
23 and no Party shall be bound by any of its terms;

24 b. In the event the Settlement is terminated, Defendants shall have no obligation to
25 make any payments to any Party, Class Member or Class Counsel, except that the Terminating Party shall
26 pay the Settlement Administrator for services rendered up to the date the Settlement Administrator is
27 notified that the settlement has been terminated;

28

1 c. The Preliminary Approval Order, Final Approval Order and Judgment, including
2 any order of class certification, shall be vacated;

3 d. The Settlement Agreement and all negotiations, statements and proceedings
4 relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored
5 to their respective positions in the Action prior to the settlement;

6 e. Neither this Stipulated Settlement, nor any ancillary documents, actions, statements
7 or filings in furtherance of settlement (including all matters associated with the mediation) shall be
8 admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

9 72. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the Court
10 or after the Final Approval/Settlement Fairness Hearing, the Parties will present the Judgment pursuant
11 to California Code of Civil Procedure section 664.6 to the Court for its approval. After entry of the
12 Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (a) the
13 interpretation and enforcement of the terms of the Settlement, (b) Settlement administration matters,
14 and (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this
15 Agreement.

16 73. Exhibits Incorporated by Reference. The terms of this Agreement include the terms set
17 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein.
18 Any Exhibits to this Agreement are an integral part of the Settlement.

19 74. Confidentiality. The Parties and their counsel agree that they will not issue any media or
20 press releases, initiate any contact with the media or press, respond to any media or press inquiry, or
21 have any communication with the media or press about the fact, amount, or terms of the Settlement. In
22 addition, the Parties and their counsel agree that they will not engage in any advertising or distribute
23 any marketing materials relating to the Settlement of this case. The Class Representatives and Class
24 Counsel will not make any public disclosure of the Settlement or the Confidential Memorandum of
25 Understanding through the filing of a motion for preliminary approval by the court. Class counsel will
26 take all steps necessary to ensure the Class Representatives are aware of, and will instruct the Class
27 Representatives to adhere to, the restrictions set forth in this paragraph. Any communication about the
28 Settlement to Class Members prior to the Court-approved mailing will be limited to a statement that a

1 settlement has been reached and the details will be communicated in a forthcoming Court-approved
2 notice. Nothing set forth herein, however, shall prohibit the parties from providing this Agreement to
3 the Court in connection with the Parties' efforts to seek the Court's approval of this Settlement. Neither
4 Plaintiffs nor Class Counsel shall hold a press conference or otherwise seek to affirmatively contact the
5 media about the Settlement. Plaintiffs and Class Counsel agree not to disparage or otherwise take any
6 action which could reasonably be expected to adversely affect the personal or professional reputation
7 of Defendants or the Settlement. Nothing in this Agreement shall prohibit Class Counsel from
8 disclosing the terms of this Agreement to Courts at any time in the future for purposes of establishing
9 Class Counsel's adequacy as class counsel.

10 75. Other Lawsuits. To the fullest extent permissible under applicable law, and solely for
11 the purposes of this Settlement Agreement and not for any other purpose, counsel for Plaintiffs represent
12 and warrant on behalf of themselves and all others acting on their behalf, that they: (i) have not been
13 retained by any other individuals with claims against Defendants (other than those of which Defendants
14 and/or its counsel have been advised); (ii) are not aware of, and have not been informed of, any other
15 plaintiff, class member, or attorney who intends to bring a claim against Defendants including, but not
16 limited to, any claim based on the subject matter of the Action; and (iii) do not currently intend to bring
17 any other claim against Defendants. Nothing in the foregoing is intended to limit or restrict Plaintiffs'
18 counsel's ability to practice law, or to otherwise violate California Rules of Professional Conduct, Rule
19 1-500. To the extent any portion of this paragraph is found to violate Rule 1-500, or any other Rule of
20 Professional Conduct, such offending language will be deemed stricken and will be treated as if it is of no
21 force and effect.

22 76. Entire Agreement. This Settlement Agreement, the general release of all claims by the
23 Class Representatives, and any attached Exhibits constitute the entirety of the Parties' settlement terms.
24 No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties.
25 The Parties expressly recognize California Civil Code section 1625 and California Code of Civil
26 Procedure section 1856(a), which provide that a written agreement is to be construed according to its
27 terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such
28 extrinsic oral or written representations or terms will modify, vary or contradict the terms of this

1 Agreement.

2 77. Amendment or Modification. This Settlement Agreement may be amended or modified
3 only by a written instrument signed by the named Parties and counsel for all Parties or their successors-
4 in-interest.

5 78. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
6 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
7 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
8 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
9 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with
10 each other and use their best efforts to effect the implementation of the Settlement. If the Parties are
11 unable to reach agreement on the form or content of any document needed to implement the Settlement,
12 or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement,
13 the Parties may seek the assistance of the Court to resolve such disagreement.

14 79. Signatories. It is agreed that because the members of the Class are so numerous, it is
15 impossible or impractical to have each member of the Class execute this Settlement Agreement. The
16 Notice, attached hereto as Exhibit A, will advise all Class Members of the binding nature of the release,
17 and the release shall have the same force and effect as if this Settlement Agreement were executed by
18 each member of the Class.

19 80. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
20 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

21 81. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto
22 will be governed by and interpreted according to the laws of the State of California.

23 82. Execution and Counterparts. This Settlement Agreement is subject only to the execution
24 of all Parties. However, the Agreement may be executed in one or more counterparts. All executed
25 counterparts and each of them, including facsimile and scanned copies of the signature page, will be
26 deemed to be one and the same instrument provided that counsel for the Parties will exchange among
27 themselves original signed counterparts.

28 83. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this

1 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at
2 this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into
3 account all relevant factors, present and potential. The Parties further acknowledge that they are each
4 represented by competent counsel and that they have had an opportunity to consult with their counsel
5 regarding the fairness and reasonableness of this Agreement.

6 84. Invalidity of Any Provision. Before declaring any provision of this Settlement
7 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
8 possible consistent with applicable precedents so as to define all provisions of this Settlement
9 Agreement valid and enforceable.

10 85. Plaintiffs' Waiver of Right to Be Excluded and Object. Plaintiffs, and each of them,
11 agree to sign this Settlement Agreement and, by signing this Settlement Agreement, are hereby bound
12 by the terms herein. For good and valuable consideration, Plaintiffs further agree that they will not
13 request to be excluded from the Settlement Agreement, nor object to any terms herein. Any such request
14 for exclusion or objection by Plaintiffs will be void and of no force or effect. Any efforts by Plaintiffs
15 to circumvent the terms of this paragraph will be void and of no force or effect.

16 86. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
17 certification for purposes of this Settlement only; except, however, that Plaintiffs or Class Counsel may
18 appeal any reduction in the Class Counsel's Fees and Costs below the amount requested from the Court,
19 and either Party may terminate this Settlement or appeal any Court order which is not in substantially
20 the form submitted by the Parties.

21 87. Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute
22 that has arisen between them and to avoid the burden, expense and risk of continued litigation. In
23 entering into this Agreement, Defendants do not admit, and specifically deny, they have violated any
24 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute
25 or any other applicable laws, regulations or legal requirements; breached any contract; violated or
26 breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful
27 conduct with respect to their employees. Neither this Agreement, nor any of its terms or provisions, nor
28 any of the negotiations connected with it, shall be construed as an admission or concession by

1 Defendants of any such violations or failures to comply with any applicable law. Except as necessary
2 in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions
3 shall not be offered or received as evidence in any action or proceeding to establish any liability or
4 admission on the part of Defendants or to establish the existence of any condition constituting a violation
5 of, or a non-compliance with, federal, state, local or other applicable law.

6 88. Captions. The captions and section numbers in this Agreement are inserted for the
7 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
8 provisions of this Agreement.

9 89. Waiver. No waiver of any condition or covenant contained in this Agreement or failure
10 to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a
11 further waiver by such party of the same or any other condition, covenant, right or remedy.

12 90. Enforcement Actions. In the event that one or more of the Parties institute any legal
13 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
14 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
15 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
16 expert witness fees incurred in connection with any enforcement actions.

17 91. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
18 conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against
19 one party than another merely by virtue of the fact that it may have been prepared by counsel for one of
20 the Parties, it being recognized that, because of the arms-length negotiations between the Parties, all
21 Parties have contributed to the preparation of this Agreement.

22 92. Representation By Counsel. The Parties acknowledge that they have been represented
23 by counsel throughout all negotiations that preceded the execution of this Agreement, and that this
24 Agreement has been executed with the consent and advice of counsel, and reviewed in full. Further,
25 Plaintiffs and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

26 93. All Terms Subject to Final Court Approval. All amounts and procedures described in
27 this Settlement Agreement herein will be subject to final Court approval.

28 94. Notices. Unless otherwise specifically provided herein, all notices, demands or other

1 communications given hereunder shall be in writing and shall be deemed to have been duly given as of
2 the third business day after mailing by United States registered or certified mail, return receipt requested,
3 addressed as follows:

4 To Plaintiffs and the Settlement Class:

5 Julian Burns King
6 Elliot J. Siegel
7 **KING & SIEGEL LLP**
8 724 S. Spring Street, Suite 201
9 Los Angeles, California 90014

10 Jonathan Melmed
11 **MELMED LAW GROUP, PC**
12 1801 Century Park East, Suite 950
13 Los Angeles, California 90067

14 To Defendants:

15 Nicky Jatana
16 Andrea F. Oxman
17 Sehreen Ladak
18 **JACKSON LEWIS P.C.**
19 725 South Figueroa Street, Suite 2500
20 Los Angeles, California 90017

21 95. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
22 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
23 Settlement Agreement.

24 96. Integration Clause. This Settlement Agreement contains the entire agreement between
25 the Parties relating to the settlement and transaction contemplated hereby, and all prior or
26 contemporaneous agreements, understandings, representations, and statements, whether oral or written
27 and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be
28 waived except in writing.

97. Binding Agreement. The Parties warrant that they understand and have full authority to
enter into this Agreement, and further intend that this Agreement will be fully enforceable and binding
on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce
its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under

1 federal or state law.

2

3 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
4 Stipulation of Settlement and Release Between Plaintiffs and Defendants as of the date(s) set forth
5 below:

6 **SIGNATURES**

7 **READ CAREFULLY BEFORE SIGNING**

8

9

PLAINTIFF: David Lachman

DocuSigned by:

David Lachman

91EF185185FB4B4...

David Lachman

10 Dated: 10/15/2020 _____

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PLAINTIFF: Arthur Steiner

13 Dated: _____

Arthur Steiner

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16

DEFENDANT: BERLITZ LANGUAGES, INC.

17 Dated: _____

Please Print Name of Authorized Signatory

19

20

21

DEFENDANT: BERLITZ CORPORATION

22 Dated: _____

Please Print Name of Authorized Signatory

24

25

Dated: 10/22/2020

KING & SIEGEL, LLP

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By  _____
Julian King Burns

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Elliott J. Siegel
Attorneys for Plaintiffs DAVID LACHMAN
and ARTHUR STEINER

Dated: 10/22/2020

MELMED LAW GROUP P.C.

By Jonathan Melmed
Jonathan Melmed
Attorneys for Plaintiffs DAVID LACHMAN
and ARTHUR STEINER

Dated:

JACKSON LEWIS P.C.

By _____
Nicky Jatana
Andrea F. Oxman
Sehreen Ladak

Attorneys for Defendants
BERLITZ LANGUAGES, INC. and
BERLITZ CORPORATION

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Elliott J. Siegel
Attorneys for Plaintiffs DAVID LACHMAN
and ARTHUR STEINER

Dated:

MELMED LAW GROUP P.C.

By _____
Jonathan Melmed
Attorneys for Plaintiffs DAVID LACHMAN
and ARTHUR STEINER

Dated: October 13, 2020

JACKSON LEWIS P.C.

By  _____
Nicky Jatana
Andrea F. Oxman
Sehreen Ladak

Attorneys for Defendants
BERLITZ LANGUAGES, INC. and
BERLITZ CORPORATION

1 federal or state law.

2
3 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
4 Stipulation of Settlement and Release Between Plaintiffs and Defendants as of the date(s) set forth
5 below:

6 **SIGNATURES**

7 **READ CAREFULLY BEFORE SIGNING**

9 **PLAINTIFF: David Lachman**

10 Dated: _____

David Lachman

12 **PLAINTIFF: Arthur Steiner**

13 Dated: _____

Arthur Steiner

16 **DEFENDANT: BERLITZ LANGUAGES, INC.**

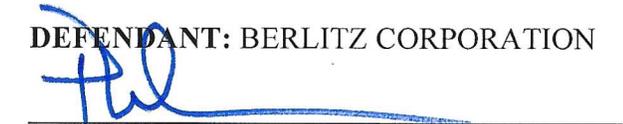
17 Dated: 10/13/2020



Paul H. Weinstein
Please Print Name of Authorized Signatory

21 **DEFENDANT: BERLITZ CORPORATION**

22 Dated: 10/13/2020



Paul H. Weinstein
Please Print Name of Authorized Signatory

25 KING & SIEGEL, LLP

25 Dated:

28 By _____

Julian King Burns

1 federal or state law.

2

3 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
4 Stipulation of Settlement and Release Between Plaintiffs and Defendants as of the date(s) set forth
5 below:

6 **SIGNATURES**

7 **READ CAREFULLY BEFORE SIGNING**

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PLAINTIFF: David Lachman

DocuSigned by:

David Lachman

DocuSignature ID: 1011170518310001

David Lachman

10 Dated: 10/1 /2020

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PLAINTIFF: Arthur Steiner

13 Dated: Oct 27, 2020

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Arthur Steiner

Arthur Steiner

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DEFENDANT: BERLITZ LANGUAGES, INC.

17 Dated: _____

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Please Print Name of Authorized Signatory

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DEFENDANT: BERLITZ CORPORATION

22 Dated: _____

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Please Print Name of Authorized Signatory

25 Dated: 10/22/2020

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KING & SIEGEL, LLP

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By *Julian King Burns*

Julian King Burns

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