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21 and aggrieved employees and all others similarly situated

22 **SUPERIOR COURT OF CALIFORNIA**

23 **COUNTY OF LOS ANGELES**

24 NELSON HERNANDEZ, on behalf of himself &
25 all aggrieved employees & all others similarly
26 situated,

27 Plaintiff,

28 v.

LEVB, INC., a California Corporation; LEVON
BAKALIAN, an Individual; and DOES 1 through
100, inclusive,

Defendants.

Case No. 19 STCV37975

CLASS ACTION

**JOINT STIPULATION AND CLASS
SETTLEMENT AGREEMENT**

1 IT IS HEREBY STIPULATED AND AGREED by and between Defendants LEBV, INC. and
2 LEVON BAKALIAN (hereinafter referred to as “Defendants”) on the one hand, and Plaintiff
3 NELSON HERNANDEZ (hereinafter referred to as “ Representative Plaintiff”) on behalf of himself
4 and all aggrieved employees and all others similarly situated (“Class Members,” as defined herein),
5 on the other, subject to the approval of the Court pursuant to section 382 of the California *Code of*
6 *Civil Procedure* and Rule 3.769 of the California *Rules of Court*, that the settlement of the Action (as
7 defined herein) shall be effectuated and subject to the following terms and conditions:

8 I. **SUMMARY OF SETTLEMENT TERMS**

9 Under the terms of the Settlement, Defendants will pay the Maximum Settlement Amount
10 (“MSA”) of One Hundred Twenty Nine Thousand Dollars (\$129,000.00), without reversion, in
11 exchange for the full and final settlement and release of any and all claims that were or could have
12 been alleged in the operative Complaint in this Action, and subject to the terms and conditions
13 outlined in this Agreement (as defined herein). This is a no claims-made settlement and will be
14 administered by a third-party administrator to be agreed by the Parties. Defendants conditionally
15 agrees to stipulate, solely for the limited purpose of consummating the terms of the Settlement
16 contained in this Agreement, to have the Court certify a class of all current and former non-exempt
17 employees who worked for LEVB, Inc. in California during the Class Period (as defined herein).

18 In addition, Representative Plaintiff and Class Counsel will seek from the Maximum
19 Settlement Amount: (1) attorney’s fees in the amount of forty two thousand five hundred seventy
20 dollars (\$42,570.00), representing one-third of the MSA; (2) litigation costs of two thousand one
21 hundred eighty-seven dollars (\$2,187.00); and (3) enhancement payment for Representative Plaintiff
22 in the amount of Five Thousand Dollars (\$5,000.00). Finally, any costs associated with the
23 administration of the Settlement, including but not limited to giving notice to the Class regarding the
24 Settlement, processing any inquiries or disputes, and remitting payment of any funds to the
25 Authorized Claimants pursuant to the procedures outlined herein (“Settlement Administration
26 Costs”), which are estimated to be ten thousand five hundred dollars (\$10,500.00), will be paid from
27 the MSA. Defendant will not be responsible for anything more than the MSA, however, payment of
28 employer’s share of payroll taxes and other required withholdings, based on Settlement Payment(s)

1 to the Class Members shall be paid by the Defendants in addition to the MSA. There will be no
2 reversion of any funds to the Defendants.

3 **II. DEFINITIONS**

4 As used in this Settlement Agreement, the following terms shall have the meanings specified
5 below:

6 1. "Action" means this lawsuit, and the operative Complaint in the matter entitled *Nelson*
7 *Hernandez v. LEVB, INC., et al.*, Los Angeles County Superior Court, Case No. 19STCV37975.

8 2. "Agreement" or "Settlement" means this Stipulation and Settlement Agreement,
9 including any attached exhibits.

10 3. "Authorized Claimants" means those Class Members who do not timely file a valid
11 Request for Exclusion with the Settlement Administrator, as provided under this Agreement.

12 4. "Class," "Class Member," or "Class Members" means any current or former non-
13 exempt employees of LEVB, Inc. in California who worked for LEVB, Inc. at any time during the
14 Class Period.

15 5. "Class Counsel" means Gregory P. Wong, Esq. and John F. Litwin, Esq. of
16 BARKHORDARIAN LAW FIRM, 6047 Bristol Parkway, Second Floor, Culver City, California
17 90230; Telephone number (323) 450-2777; Facsimile Number (310) 215-3416.

18 6. "Class Counsel Costs" means the amounts to be paid, after Court approval, to Class
19 Counsel for costs incurred by Class Counsel in this Action.

20 7. "Class Counsel Fees" means the amount to be paid, after Court approval, to Class
21 Counsel for attorneys' fees.

22 8. "Class Notice" means the form to be prepared by the Parties and sent to the Class
23 Members, after the Court preliminarily approves the terms contained in the Agreement informing
24 them of the material terms of the Agreement, why they are receiving the notice, and what their options
25 are to object, remain in the class, or be excluded from the Settlement. The Class Notice is attached
26 hereto as Exhibit 1.

27 9. "Class Notice Period" or "Notice Period" means a period of sixty (60) calendar days
28 after the original date of the Settlement Administrator's mailing of the Class Notice.

1 10. “Class Period” means from October 23, 2015, up to and including the date of
2 preliminary approval of this Settlement.

3 11. “Complaint” means the Complaint for: (1) Failure to Pay All Wages Earned; (2)
4 Failure to Pay Minimum Wages; (3) Failure to Pay Overtime Wages; (4) Failure to Provide Accurate,
5 Itemized Wage Statements; (5) Failure to Provide Meal Periods; (6) Failure to Provide Rest Breaks;
6 7) Failure to Maintain Records; 8) Failure to Reimburse Business Expense; 9) Failure to Pay All
7 Wages Upon Termination; 10) Unfair Business Practice; 11) Violation of California Labor Code
8 §2698, et seq. (Private Attorneys General Act (“PAGA”).

9 12. “Counsel for Defendants” or “Defense Counsel” means Alfred J. Landegger, Esq.,
10 and Oscar E. Rivas, Esq. of LANDEGGER BARON LAW GROUP, ALC, 15760 Ventura Blvd.,
11 Suite 1200, Encino, California 91436; Telephone No.: (818) 986-7561; Facsimile No.: (818) 986-
12 5147.

13 13. “Court” means the Los Angeles County Superior Court, Dept. 11, in which the Action
14 is currently pending, the Honorable Ann I. Jones, judge presiding, and located 312 North Spring
15 Street, Los Angeles, California 90012. Court shall also mean any other Court that acquires proper
16 jurisdiction of this Action.

17 14. “Distributable Amount,” “Net Settlement Amount,” or “NSA” means the amount that
18 is distributable to the Authorized Claimants, and equals the MSA less Class Counsel Fees, Class
19 Counsel Costs, Enhancement Payment(s), Settlement Administration Costs, and any other court-
20 approved costs.

21 15. “Effective Date” means the later of (a) the date of entry of Order granting final
22 approval of this Settlement, if no objection to the Settlement is filed, (b) the date on which the time
23 for all appeals from objections to the Settlement has expired, if one or more objections to the
24 Settlement are filed, and not withdrawn, and (c) if an appeal is taken, the date on which the appeal is
25 settled, withdrawn or dismissed, or any reviewing court issues a decision, the time for further appeal
26 has expired, and the trial court has regained jurisdiction.

27 16. “Enhancement Payment” means a payment to Representative Plaintiff, in addition to
28 whatever payment he is otherwise entitled to as Authorized Claimants, for his service to the Class.

1 17. “Final Approval Hearing” refers to the hearing(s) during which the Parties will seek
2 final approval of this Agreement.

3 18. “Final Judgment” means the order and/or judgment entered by the Court pursuant to
4 the terms set forth in this Agreement finally and fully giving effect to the terms contained in this
5 Agreement and dismissing the Action with prejudice as to the Representative Plaintiffs and the Class,
6 except those Class Members who timely Opt-Out.

7 19. “Maximum Settlement Amount” or “MSA” means the total amount of one hundred
8 twenty nine thousand dollars (\$129,000.00) to be paid by Defendants pursuant to the terms of this
9 Agreement.

10 20. “Notice Returns” means envelopes containing the Class Notice that were mailed by
11 the Settlement Administrator to Class Members but were undelivered and returned to the Settlement
12 Administrator by the United States Postal Service.

13 21. “Objection to Class Settlement” means any written objection to this Settlement by
14 Class Members who do not choose to be excluded from the Class that is served on the Settlement
15 Administrator within the Opt-Out Period.

16 22. “Opt-Out Period” refers to the deadline of no later than sixty (60) calendar days after
17 the Settlement Administrator mails the Notice of Settlement, in which any Class Member wishing to
18 be excluded from the Settlement submits a Request for Exclusion.

19 23. “Personal Release(s)” means the Representative Plaintiff’s irrevocable and
20 unconditional release, acquittal, and discharge of the Released Persons and all persons and/or
21 corporate entities acting by, through, under, or in concert with any of them, or any of them, from any
22 and all complaints, claims, penalties, liabilities, obligations, promises, agreements, controversies,
23 damages, costs, losses, debts and expenses (including attorneys’ fees and costs actually incurred), of
24 any nature whatsoever, known or unknown, which the person giving this release now has, owns, or
25 holds, or claims to have, own or hold, or which said person at any time heretofore had, owned, or
26 held, or claimed to have, own, or hold or which said person at any time hereinafter may have, own,
27 or hold, or claim to have, own, or hold, against each or any of the Released Persons, arising from acts,
28 events, or circumstances occurring on or before the effective date of this Agreement.

1 As to the foregoing release, the Representative Plaintiff expressly waives the benefits of
2 California *Civil Code §1542*. *Civil Code §1542* provides:

3 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
4 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT
5 TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING
6 THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD
7 HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH
8 THE DEBTOR OR RELEASED PARTY.

9 The Personal Release is not intended to, nor do they cover, any claims that cannot be released
10 as a matter of law.

11 With respect to the Representative Plaintiff's release of any and all claims under the Older
12 Workers Benefit Protection Act/Age Discrimination in Employment Act ("ADEA")("ADEA
13 Release"), and only if the Representative Plaintiff is 40 years old or older, the Representative Plaintiff
14 specifically acknowledges that Defendants have advised him that under the ADEA, he has twenty-
15 one (21) days from receipt of this Agreement to consider the ADEA Release before signing the
16 Agreement. The Representative Plaintiff may decide to sign the Agreement sooner and voluntarily
17 waive the 21-day period provided by the ADEA. The Representative Plaintiff further acknowledges
18 that he has had the opportunity to make counter-proposals to the ADEA Release, and has been advised
19 that he has seven (7) days after signing this Agreement to revoke the ADEA Release, and the ADEA
20 Release shall not become effective or enforceable until the revocation period has expired. In the event
21 any Representative Plaintiff exercises the right to revocation, as discussed above, he must notify
22 Defendants' Counsel of such revocation in writing via facsimile and certified mail, return receipt
23 requested. Said notification will be considered timely if post-marked no later than the seventh day
24 after the Representative Plaintiff has signed this Agreement. The Representative Plaintiff's ADEA
25 Release will be null and void if revoked by him or her during said revocation period. The
26 Representative Plaintiff's revocation of the ADEA Release must be addressed to the attention of
27 Defense Counsel at the address stated herein. In the event the Representative Plaintiff exercises
28 revocation of the ADEA Release, said revocation shall have no effect on his Personal Release of any
and all claims unrelated to the ADEA. If any the Representative Plaintiff exercises his right to revoke
under this provision, he gives up the right to any Enhancement Payment under this Agreement.

1 24. “Preliminary Approval Order” is the order preliminarily approving the settlement
2 terms contained in this Agreement.

3 25. “Preliminary Approval Date” is the date the Court grants preliminary approval of this
4 Settlement.

5 26. “Redirected Notice” means a re-mailing of the Class Notice mailed by the Settlement
6 Administrator to a new or different address to a Class Member that was obtained by the Settlement
7 Administrator as a result of a Notice Return.

8 27. “Released Class Claims” means any and all claims, debts, liabilities, demands,
9 obligations, guarantees, costs, expenses, attorneys’ fees, damages, or causes of action which relate to
10 any and all claims alleged or which could have been alleged based on the facts in the Complaint filed
11 by Representative Plaintiff, on his behalf, on behalf of all aggrieved employees and on behalf of the
12 Class Members in this Action during the Class Period, including the date of preliminary approval of
13 the Settlement under any federal, state or local law, and shall specifically include, but is not limited
14 to, claims for: (1) Failure to Pay All Wages Earned; (2) Failure to Pay Minimum Wages; (3) Failure
15 to Pay Overtime Wages; (4) Failure to Provide Accurate, Itemized Wage Statements; (5) Failure to
16 Provide Meal Periods; (6) Failure to Provide Rest Breaks; 7) Failure to Maintain Records; 8) Failure
17 to Reimburse Business Expense; 9) Failure to Pay All Wages Upon Termination; 10) Unfair Business
18 Practice; 11) Violation of California Labor Code §2698, et seq. (Private Attorneys General Act
19 (“PAGA”)), and any other claims, including penalties, pertaining to the aggrieved employees and to
20 the Class Members which were alleged or could have been alleged in Complaint. This release is
21 limited in time to the Class Period covering the Class Members who worked for the Released Persons
22 in the State of California.

23 28. “Released Persons” means Defendants Levon Bakalian and LEVB, Inc., and its
24 respective agents, attorneys, insurers, past, present and future divisions, affiliates, DBAs (if any),
25 predecessors, successors, shareholders, officers, directors, managers, employees, trustees,
26 representatives, administrators, fiduciaries, assigns, subrogees, executors, partners, parents, owners,
27 subsidiaries, privies, and/or any and all persons and/or corporate entities acting by, through, under or
28 in concert with any of them.

1 29. “Representative Plaintiff” means Plaintiff Nelson Hernandez and his representative(s),
2 heir(s), assign(s), and attorney(s).

3 30. “Request for Exclusion” or “Opt-Out” means a written request by a Class Member
4 to be excluded from the Class and the Settlement containing all the information necessary, as detailed
5 herein.

6 31. “Settlement Administrator” refers to the entity that Class Counsel and Counsel for
7 Defendants select to act as the Settlement Administrator to process the Settlement under the terms of
8 this Agreement, along with any orders issued by the Court relating to processing the Settlement.

9 32. “Settlement Administration Costs” means the fees and costs incurred or charged by
10 the Settlement Administrator in connection with the execution of its duties under this Agreement,
11 including but not limited to: (i) fees and costs associated with preparing, issuing and/or monitoring
12 reports, filings and notices (including the cost of printing and mailing all notices and other documents
13 to the Class) required to be prepared in the course of administering the Settlement; (ii) computing the
14 amount of the Settlement Payments, taxes, and any other payments to be made under this Agreement;
15 (iii) handling inquiries about the calculation of individual Settlement Payments; (iv) establishing and
16 operating a Settlement payment center address, and phone number to receive Class Members'
17 inquiries about the Settlement; and (v) remitting any tax deductions or subtractions applicable under
18 the law and/or pursuant to this Agreement and preparing and submitting any filings required by any
19 governmental taxing authority or other governmental agency.

20 33. “Settlement Payment” refers to the payment to any Authorized Claimant pursuant to
21 the terms of this Agreement.

22 34. “Workweek” shall mean the number of weeks an employee worked for the Defendant,
23 and shall be computed from the dates of employment divided by seven (7). Any fraction will be
24 rounded up to the nearest Workweek. Due to the fact that some employees’ employment dates are
25 not available, the Administrator shall determine the average number of Workweeks for those who do
26 have employment dates, and award each Class Member whose Workweeks cannot be calculated the
27 average determined from those who do have employment date.

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1 **III. BACKGROUND**

2 The Complaint in this Action was filed on October 23, 2019, in the Superior Court of the State
3 of California, County of Los Angeles. In the Complaint, Representative Plaintiff asserts the following
4 claims: (1) Failure to Pay All Wages Earned; (2) Failure to Pay Minimum Wages; (3) Failure to Pay
5 Overtime Wages; (4) Failure to Provide Accurate, Itemized Wage Statements; (5) Failure to Provide
6 Meal Periods; (6) Failure to Provide Rest Breaks; 7) Failure to Maintain Records; 8) Failure to
7 Reimburse Business Expense; 9) Failure to Pay All Wages Upon Termination; 10) Unfair Business
8 Practice; 11) Violation of California Labor Code §2698, et seq. (Private Attorneys General Act
9 (“PAGA”). Defendants deny each and every one of the allegations asserted in the Complaint and
10 assert that they have no liability for the claims of the Representative Plaintiff, to any aggrieved
11 employee, or to the Class.

12 The Parties have conducted a significant investigation of the facts and law during the
13 prosecution of this Action, which included informal discovery and exchange of financial information.
14 The informal discovery included the exchange of class information such as class size and
15 composition, the production of Class Members’ time and payroll records, as well as Defendants’
16 written wage and hour policies and practices. The Parties conducted the aforementioned investigation
17 and discovery in anticipation of, and prior to, private mediation of the Action.

18 However, prior to the time the mediation was to take place, the Covid-19 pandemic hit,
19 significantly impacting LEVB, Inc.’s party equipment rental. The financial impact was devastating
20 and the Parties decided to negotiate directly to same the significant costs associated with mediating
21 the Action.

22 After the exchange of class and financial information, and after the Counsel for the Parties
23 investigated the law as applied to the discovered facts regarding the alleged claims of the
24 Representative Plaintiff and the potential defenses thereto, and the potential damages claimed by the
25 Representative Plaintiff, as well as the financial condition and viability of the Defendants’, the Parties
26 reached an agreement to resolve the claims for \$129,000.

27 Representative Plaintiff and Class Counsel concluded, after taking into account the sharply
28 disputed factual and legal issues involved in the Action, the present financial condition of the

1 Defendants and future risk related to the pandemic, the risks and substantial expenses involved in the
2 further prosecution of this case, and the substantial benefits to be received pursuant to the compromise
3 and settlement of the Action at this early stage, as set forth in this Agreement, that settlement on the
4 terms set forth herein is in the best interest of Representative Plaintiff and the Class, and is fair and
5 reasonable. In particular, Class Counsel and Representative Plaintiff understand the risk of the class
6 certification process, the financial impact of the pandemic on Defendants' business and potential for
7 bankruptcy of the business which still employs many of the class members, as well as the potential
8 merits of affirmative defenses expected to be raised by the Defendants. In light of the risks related to
9 certifying a class, prevailing on an anticipated motion for summary judgment and a potential trial, the
10 recovery of one hundred twenty nine thousand dollars (\$129,000.00) obtained in the Action is both
11 reasonable and fair.

12 Similarly, Defendants concluded that there are benefits associated with settling the Action at
13 this early stage. After taking into account the sharply disputed factual and legal issues involved in
14 the Action, the expense and burden of protracted litigation, the significant financial impact of the
15 pandemic on LEVB, Inc., and their desire to put the controversy to rest, Defendants believe that
16 settlement on the terms set forth in this Agreement is in its best interest and is fair and reasonable.
17 Defendants in particular has concluded that the future costs and expenses involved in continuing the
18 Action are substantial and chose to eliminate any further expenses, attorneys' fees, and risks via the
19 Settlement. In particular, given the severely disputed nature of the case, it is expected that substantial
20 expenses will be incurred determining many issues dealing with discovery, a class certification
21 motion, a Summary Judgment motion, eventual trial, and possible appeals.

22 This Agreement contemplates (i) entry of an Order preliminarily approving the Settlement
23 and approving certification of a provisional settlement class, contingent upon final approval of the
24 Settlement; (ii) the mailing of a Notice of Settlement to all Class Members; (iii) the processing of any
25 objections, and opt-outs by the Settlement Administrator, as well as payment to the Class Members
26 after final approval of this Agreement by the Court; and (iv) entry of Final Judgment granting final
27 approval of the Settlement and terms contained therein.

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1 **IV. SETTLEMENT APPROVAL & IMPLEMENTATION PROCEDURE**

2 **A. Preliminary Approval of the Settlement**

3 As soon as practicable, Class Counsel will also submit this Agreement to the Court for its
4 preliminary approval. Such submission will include such motions, pleadings, and evidence as may
5 be required for the Court to determine that this Agreement is fair, adequate, and reasonable, as
6 required by section 382 of the California *Code of Civil Procedure* and Rule 3.769 of the California
7 *Rules of Court*. Such submission will also include a Notice of Class Settlement and Notice of
8 Settlement Award (“Notice of Settlement”) in substantially the form attached hereto as Exhibit 1.

9 **B. Conditional Certification of the Class**

10 Defendants hereby consent, solely for purposes of the Settlement set forth in this Agreement,
11 to the conditional certification of the Class, to the conditional appointment of Class Counsel, and to
12 the conditional approval of the Representative Plaintiff, provided however, that if the Settlement fails
13 to be approved or otherwise fails to be consummated for any reason whatsoever, including but not
14 limited to the Final Judgment not becoming final, then Defendants retain all rights previously
15 available to it, and any provisional certification of any class, or the adoption of any procedure herein,
16 shall be undone and the Parties restored to their pre-settlement status as if no settlement had been
17 reached and no decisions were made pursuant to it. In that event, nothing in this Agreement or other
18 papers or proceedings related to the Settlement shall be used as evidence or argument by any party,
19 including any Class Members who opt out, concerning whether or not the claims advanced in the
20 Complaint may properly be maintained as a class action, whether the purported class is ascertainable,
21 or whether Class Counsel or the Representative Plaintiffs can adequately represent the members of
22 the class under applicable law.

23 **C. Cooperation**

24 The Parties agree to cooperate fully with each other to accomplish the terms and requirements
25 of this Agreement, including but not limited to, the execution of such documents and to take such
26 other action as may reasonably be necessary to implement the terms of this stipulated Settlement.

27 Except as otherwise provided herein, neither party nor any of their attorneys or agents shall
28 initiate any communication with any Class Members for the purpose of encouraging or discouraging

1 them to Opt-Out of the Class, or to object to the Settlement contained herein, unless agreed upon by
2 the other party in writing or if authorized by the Court. This provision in no way limits Class Counsel
3 from communicating with the Representative Plaintiff, nor does the provision limit Class Counsel
4 from responding to any inquiry initiated by any Class Members.

5 The Parties shall promptly submit this Agreement for preliminary approval and determination
6 by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this
7 Agreement, the Parties shall apply to the Court for the entry of a Preliminary Approval Order
8 scheduling a hearing to determine whether the proposed Class Settlement should be approved as fair,
9 reasonable, and adequate as to the Class Members, and approving as to form and content of the
10 proposed Notice of Settlement.

11 **D. Notice Of Settlement By Mail**

12 Defendants will provide as soon as practicable, but no later than ten (10) business days after
13 the Preliminary Approval Date, to the Settlement Administrator a list containing the Class Members'
14 names, last known addresses, dates of employment, and social security numbers, which will be used
15 to send the Notice of Settlement to the Class Members. Using this list, the Settlement Administrator
16 shall calculate the Workweeks and the Settlement Payment to which each Class Member is entitled
17 to pursuant to the formula provided in Section IV(J)(2), below, and mail the Notice of Settlement via
18 First-Class mail using the United States Postal Service to the most recent address known for each
19 Class Member within twenty (20) calendar days of receipt from Defendant of the Class Members'
20 information. Before mailing the Notice of Settlement, the Settlement Administrator shall review the
21 National Change of Address registry for all Class Members and/or skip trace to determine the most
22 up-to-date addresses of all Class Members. If any Notices of Settlement are returned with a
23 forwarding address, the Settlement Administrator will re-mail the Notice of Settlement to the Class
24 Member whose notice was returned.

25 In the event that prior to the final date for any Class Member to Opt-Out, any Notice mailed
26 to the Class Member is returned as having been undelivered by the U.S. Postal Service ("Notice
27 Return"), the Settlement Administrator shall, via skip-tracing, seek an address correction from such
28 Class Member(s), and send a Redirected Notice to the new or different address within seven (7)

1 calendar days if such address is found. The Settlement Administrator may conduct any investigation
2 it deems economically reasonable and consistent with its role and industry practice to determine the
3 correct address of any Class Member. Any class member to whom a Redirected Notice has been re-
4 mailed shall have 45 days from the mailing of the Redirected Notice or up to the 7th day before the
5 final approval hearing, whichever is longer to exercise his or her options as provided in the Notice.

6 The Notice of Settlement to Class Members shall notify the Class Members of the fact and
7 nature of this Settlement. Further, the Notice of Settlement shall inform the Class Members that they
8 are entitled to a Settlement Payment and shall indicate the number of Workweeks calculated for the
9 particular Class Member along with the estimated amount of the Settlement Payment the particular
10 Class Member will receive if the Settlement is approved. The Notice of Settlement will also
11 specifically inform Class Members that they do not have to submit a claim form in order to receive
12 Settlement Payment. Moreover, the Notice of Settlement shall outline the procedures for submitting
13 Opt-Outs and/or Objections to the Settlement and all deadlines applicable thereto.

14 The Notice of Settlement to Class Members shall also inform Class Members of the deadline
15 by which the checks representing the Settlement Payments must be cashed/negotiated (180 calendar
16 days), and also that by cashing/negotiating the checks representing the Settlement Payments, it shall
17 constitute opting-in for a release of claims under the Fair Labor Standards Act to the extent such
18 claims fall within the definition of Released Class Claims as that phrase is defined and used in this
19 Agreement.

20 Class Members shall have sixty (60) calendars days from the date the Class Notice is first
21 mailed by the Settlement Administrator (“Class Notice Period” or “Notice Period”) to submit a
22 Request for Exclusion, or an Objection to Class Settlement, as further explained herein.

23 **E. Requests for Exclusion (“Opt-Outs”)**

24 Any Class Member who wishes to be excluded from the Settlement outlined herein must mail
25 to the Settlement Administrator a written statement expressing his or her desire to be excluded from
26 the Settlement (a “Request for Exclusion” or “Opt-Out”). For the Request for Exclusion to be
27 accepted it must be timely and valid. To be valid, the Request for Exclusion must contain a clear
28 statement that the Class Member requests to be excluded from the class and must include the name

1 (and former names used during his/her employment, if any), current address, telephone number, and
2 last 4 numbers of their social security number, for verification. In addition, the statement shall be
3 signed and dated by the Class Member.

4 To be timely, any Class Member who wishes to be excluded from the Settlement must submit
5 a Request for Exclusion to the Settlement Administrator postmarked no later than sixty (60) calendar
6 days after the original date of the Settlement Administrator's mailing of the Notice of Settlement (the
7 "Opt-Out Period"). Any Class Member who submits a valid and timely Request for Exclusion or Opt-
8 Out shall no longer be a member of the Class, shall be barred from participating in this Settlement,
9 shall not receive a Settlement Payment, shall be barred from objecting to this Settlement, and shall
10 receive no benefit from this Settlement and will not be bound by the terms of the Settlement,
11 including the release of claims.

12 Any Class Member who fails to submit a timely Request for Exclusion or Opt-Out within the
13 Opt-Out Period shall be bound by all terms of this Agreement, regardless of whether that Class
14 Member receives and/or cashes his or her check for Settlement Payment.

15 **F. Declaration Of Compliance**

16 As soon as practicable, but no later than ten (10) calendar days following the Opt-Out-Period,
17 the Settlement Administrator shall provide Class Counsel and Counsel for Defendant with a
18 declaration attesting to completion of the notice process set forth in this Section (Section IV) of the
19 Agreement, including an explanation of efforts to resend undeliverable notices returned with
20 forwarding addresses, and a summary of disputed claims, and opt outs including the name of the class
21 members opting out, which declaration shall be filed with the Court by Class Counsel along with their
22 papers requesting Final Approval of the Settlement.

23 **G. Sufficient Notice**

24 Compliance with the procedures described in this Section shall constitute due and sufficient
25 notice to Class Members of this Settlement and the final approval hearing, shall satisfy the
26 requirements of due process, and nothing else shall be required of the Representative Plaintiffs, Class
27 Counsel, Defendants, Counsel for Defendants, or the Settlement Administrator to provide additional
28 notice of the settlement and the Final Approval Hearing, unless expressly ordered by the Court.

1 **H. Objections To Settlement**

2 Any Class Member wishing to object to the Settlement must notify the Settlement
3 Administrator in writing of his or her intent to object within sixty (60) calendar days of mailing of
4 the Notice of Settlement. Class Members are forever barred from objecting to the Settlement if they
5 do not serve written objections on the Settlement Administrator within sixty (60) calendar days of the
6 mailing of the Notice of Settlement.

7 To be considered valid, an objection must be in writing, must include the objector’s name and
8 address, and last four digits of their Social Security Number or their employee ID number and must
9 include the basis for the objection (including why the objector believes the settlement is not in the
10 best interest of the Class), along with any and all documents that support the objection. In order to
11 object to the Class Settlement, the Class Member must not have submitted a Request for Exclusion.
12 As soon as practicable, the Settlement Administrator shall forward any and all objections to Class
13 Counsel and Defense Counsel.

14 At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class
15 Members to file or serve written objections to the Settlement or appeal from the Final Judgment. Class
16 Counsel shall not represent any Class Members with respect to any such objections.

17 If an Objection or dispute of the amount due to a Class Member and a Request for Exclusion
18 are received from the same Class Member, the Settlement Administrator shall attempt to resolve the
19 matter by contacting the Class Member by any reasonable means to determine the Class Member’s
20 choice. If the Settlement Administrator fails to determine what the Class Member intends, the Opt-
21 Out shall be null and void, and the Class Member will be counted as part of the Class.

22 **I. Final Approval Hearing**

23 At the Final Approval Hearing, the Representative Plaintiffs, Class Counsel, and Counsel for
24 Defendants shall ask the Court to give final approval to this Agreement and the Settlement contained
25 herein. At this hearing, the Court will consider and rule upon any Objections to Settlement submitted
26 by any Class Member, whether timely or not. Upon granting final approval of the Settlement
27 contained herein, the Court shall also enter a Final Judgment which, among other things, will
28 implement the Releases contained in Section VI of the Agreement as to Representative Plaintiff, and

1 all Class Members who did not timely Opt-Out of the Settlement. The Release contained in Section
2 VI of this Agreement shall enter into effect concurrently with the issuance of the Final Approval
3 Order and/or Judgment.

4 **J. Formulas to Determine Payment, Distribution of Funds and Payment of Funds**

5 1. ***General Terms of Settlement***

6 Defendants shall pay the MSA of One Hundred Twenty Nine Thousand Dollars (\$129,000.00)
7 to settle this Action, under the terms described in this Agreement. Defendants shall pay the MSA in
8 one installment within 30 calendar days from the Effective Date.

9 From the MSA, Class Counsel will request, and Defendant will not oppose, \$42,500.00 as
10 Class Counsel Fees, and up to \$2,187.00 for Class Counsel Costs. In addition, Class Counsel will
11 request an Enhancement Payment of \$5,000.00 for the Representative Plaintiff for his service to the
12 class. Finally, the Parties will designate \$5,000 for the settlement of the Private Attorneys General
13 Act of 2004, with 75% of that amount being remitted to the Labor Workforce Development Agency
14 (LWDA) pursuant to Cal. *Labor Code* sections 2698, *et seq.*, with the remainder being distributed to
15 the aggrieved employees. Class Counsel shall comply with the requirements for remitting any
16 payment to the LWDA. The Representative Plaintiff will also grant the Defendant the Personal
17 Release in exchange for the additional compensation. Under no circumstances will Defendants be
18 required to pay more in Class Counsel Fees, Class Counsel Costs, and/or Enhancement Payment(s)
19 than specified in this Section. Class Counsel Fees, Class Counsel Costs, and the Enhancement
20 Payment are subject to Court approval. The Court's ruling on the request for Class Counsel Fees,
21 Class Counsel Costs, PAGA payment and Enhancement Payment(s) shall not affect the enforceability
22 of this Agreement or the terms contained herein. In the event the Court reduces the amount requested
23 in Class Counsel Fees, Class Counsel Costs and/or Enhancement Payment(s), the difference shall be
24 added to the Distributable Amount to the Class Members.

25 In addition, the Settlement Administration Costs, currently estimated at Ten Thousand Dollars
26 (\$10,500.00) shall be made from the Maximum Settlement Amount. Any and all Settlement
27 Administration Costs shall be made from the Maximum Settlement Amount. Any amounts not used
28 by the Settlement Administrator for Settlement Administration shall be added to the Distributable

1 Amount to the Class Members.

2 Consequently, the amount from which the Class may be paid, also called the "Distributable
3 Amount," is estimated to be:

4	Maximum Settlement Amount	\$129,000.00
5	Class Counsel Fees	-\$42,570.00
6	PAGA Payment to LWDA (75% of \$5,000)	\$3750.00
7	Class Counsel Costs	-\$2,187.00
8	Enhancement Payment(s)	-\$5,000.00
9	Settlement Administrator Costs	-\$10,500.00

10

11	Distributable Amount	\$64,993.00
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13 No funds will revert to the Defendant from the Maximum Settlement Amount.

14 **2. Formula for Determining the Value of the Claims for the Class and for Each**
15 **Class Member Who Do Not Opt Out**

16 In order to fairly distribute the Settlement Payments to Class Members, Class Counsel and
17 Defendants' Counsel have arrived at a formula designed to fairly determine each Authorized
18 Claimant's pro rata payment from the Distributable Amount based on their length of service. The
19 formula is based on the relative amount of the Authorized Claimant's Workweeks worked as
20 compared to the total Workweeks worked by the Class Members as a whole.

21 Each Authorized Claimant's pro-rata Settlement Payment is calculated by dividing the
22 Distributable Amount, by the total number of Workweeks of the Class, to determine the monetary
23 value of each Workweek. To determine each Authorized Claimant's Settlement Payment, the
24 Settlement Administrator will then multiply the number of each Authorized Claimant's Workweeks,
25 as calculated above, times the value of each Workweek, as calculated above. The resulting figure
26 shall be rounded up to the nearest cent.

27 Mathematically, the Authorized Claimant's payment is calculated as follows: Authorized
28 Claimant's Settlement Payment = [(Distributable Amount ÷ Workweeks of the Class Members) X

1 (Authorized Claimant's Workweeks)].

2 The amount payable to each Authorized Claimant will depend upon the number of
3 Workweeks worked by the Authorized Claimant in California during the Class Period. In the event
4 that dates of employment are not available for an Authorized Claimant (such persons shall be referred
5 to herein as "Unknown Workweek Claimant"), the number of Workweeks used for the calculation of
6 the amount payable will be equal to the average number of Workweeks calculated for all Authorized
7 Claimants for whom dates of employment are known.

8 Payments from the Distributable Amount shall be made only to Authorized Claimants,
9 pursuant to the manner provided in this Agreement and this section, in particular. Within a reasonable
10 time but no later than ten (10) business days after the Preliminary Approval Date, Defendants shall
11 provide to the Settlement Administrator an updated list containing the Class Members' names, last
12 known addresses, dates of employment, and social security numbers.

13 Defendants' employment records used to calculate each Class Members' Settlement Payment
14 shall be presumed to be correct. However, each Class Member shall be given an opportunity to
15 dispute the number of Workweek(s) as provided in their Notice of Settlement Award. Any such
16 dispute shall be sent in writing to the Settlement Administrator postmarked on or before the Opt-Out
17 Period deadline, and the Class Member shall provide any information he/she deems proper. The
18 Settlement Administrator shall send the dispute information to Defendants' Counsel and Class
19 Counsel within five business days of receiving the dispute. Defense and Class Counsel shall meet
20 and confer to determine if they can agree to a resolution regarding the Class Member's challenge.
21 The Settlement Administrator will inform the Class Member. Defense and Class Counsel will inform
22 the Settlement Administrator to approve payment to the Class Member, as revised by the evidence
23 submitted by the Class Member. Any Party, including the Class Member, may present the issue to
24 the Court for resolution.

25 Payment to each Authorized Claimant shall be allocated as follows: Thirty Percent (30.00 %)
26 of any settlement funds paid to any Class Member shall be attributed to wages, to be reported on an
27 IRS Form W-2 with legally required tax deductions, forty percent (40.00%) of any settlement funds
28 paid to any Class Member shall be treated as statutory penalties, and thirty percent (30.00%) as

1 interest, to be reportable on IRS Form 1099 with no withholding. Each Class Member shall be
2 responsible for any tax consequences of the Settlement or payment of funds pursuant to this
3 Agreement, including the payment of any applicable tax deductions or obligation as if paying through
4 payroll. However, Defendant will be responsible for employer side payroll taxes, separate and apart
5 from the MSA.

6 **3. Class Counsel Fees, Costs, Enhancement Payment, Settlement**
7 **Administration Cost, and Payment of Maximum Settlement Amount Funds**

8 Plaintiff and Class Counsel will request following payments from the MSA: 1) \$5,000.00 as
9 an Enhancement Payment to the Representative Plaintiff; 2) \$42,570.00 to Class Counsel for Class
10 Counsel Fees; 3) \$2,187.00 to Class Counsel for Class Counsel Costs; and \$5,000.00 to resolve the
11 PAGA claims, with 75% of the amount being remitted to the LWDA and the remainder being
12 distributed among the aggrieved employees. Class Counsel believes, and Defendants do not
13 challenge, that such awards from the MSA to Class Counsel and the Representative Plaintiff are
14 reasonable. Class Counsel Fees, Costs and the Enhancement Payment(s), whether they are awarded
15 as requested or reduced by the Court at its discretion, shall be paid from the MSA. In addition, all
16 the Settlement Administration Costs shall be paid from the MSA. At this time, the amount is
17 estimated to be about \$10,500.

18 Class Counsel shall timely provide a completed IRS Form W-9 no later than five (5) calendar
19 days after the Effective Date and any other information needed for the Settlement Administrator to
20 make payments. Any payment obligation by any party shall be tolled until the correct information is
21 provided as required by any party. Settlement Administration Costs may be paid earlier if necessary
22 to effectuate the terms of this Agreement, except that the party paying shall be entitled to offset the
23 costs from the Maximum Settlement Amount.

24 The Settlement administrator shall pay the attorneys' fees and costs awarded to Class Counsel
25 and the incentive awards awarded to the Representative Plaintiffs from the Maximum Settlement
26 Amount pursuant to the disbursement described in Section IV(L).

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1 **K. The Settlement Administrator**

2 Class Counsel and Defense Counsel will designate an experienced Settlement Administrator,
3 to process this Settlement. The Settlement Administrator will administer the Settlement including,
4 but not limited to, distributing the Class Notice of Settlement, calculating and directing the
5 disbursements for Settlement Payments from the Distributable Amount, and handling inquiries about
6 the calculation of individual settlement payments to the Class pursuant to the terms contained in this
7 Agreement. The Settlement Administrator shall establish a settlement payment center address,
8 telephone number, and facsimile number to receive and timely process Class Members' inquiries
9 about the Class Notice of Settlement, Requests for Exclusion and Objections, and process the
10 payments to the Class under the terms of this Agreement. Moreover, the Settlement Administrator
11 shall provide as soon as possible to Defense Counsel instructions for Defendants to tender the MSA
12 payment by electronic transfer to the Settlement Administrator. Defendants' payment of the MSA is
13 contingent upon receipt of the payment instructions. Defendants expressly agree to follow the
14 Settlement Administrator's payment instructions. The Parties agree that Defendants' payment
15 obligations under the Settlement shall be met upon initiating the electronic transfer of funds to the
16 Settlement Administrator, pursuant to its instructions.

17 The Settlement Administrator shall provide the parties with weekly reports commencing with
18 the date the Class Notice is first mailed and continuing to the Effective Date notifying the Parties of
19 Notices mailed, Notices returned to sender, Notice re-mailed and the number of valid Opt-Outs
20 submitted by Class Members, if any, the number of Objections and identity of Objectors, if any and
21 the amounts of all Settlement Payments due and payable.

22 The Settlement Administrator shall not disburse the settlement funds except as provided
23 herein, as ordered by the Court, or as agreed upon, in writing, by Defense Counsel and Class Counsel.
24 Subject to further orders and/or directions as may be made by the Court, the Settlement Administrator
25 is authorized to execute such transactions on behalf of the Class Members as are consistent with the
26 terms of this Agreement.

27 Moreover, the Parties expressly agree that, in the event any Settlement Administrator cannot
28 perform the functions of a Settlement Administrator, they will cooperate with each other to select a

1 new, mutually agreed upon another Settlement Administrator.

2 **L. Time For Disbursement**

3 Within fifteen calendar (15) days of receipt of Defendants' payment of the MSA, the
4 Settlement Administrator shall cause to be paid: (1) Settlement Payments due to Class Members who
5 did not timely file valid Opt-Outs as provided under this Agreement; (2) Class Counsel Fees; (3)
6 Class Counsel Costs; and (4) Enhancement Payments. Payment to any Authorized Claimant will be
7 in the form a check issued for an amount calculated using the formulas contained in this Agreement.
8 Any funds not paid to those Class Members who submitted timely valid Opt-Outs shall be
9 proportionally redistributed to Authorized Claimants based on the number of their Workweeks, as
10 provided by the formula provided above in this Agreement.

11 Class Members who do not timely Opt-Out will be bound by all the terms of this Agreement,
12 regardless of whether that Class Member receives and/or cashes his or her Settlement Payment check.
13 Any checks issued by the Settlement Administrator to Authorized Claimants will be negotiable for
14 one-hundred eighty (180) calendar days. After one-hundred eighty (180) calendar days from the date
15 of mailing, the checks shall become null and void, and any monies remaining in the distribution
16 account shall be distributed to the Controller of the State of California to be held pursuant to the
17 Unclaimed Property Law, California *Civil Code* § 1500 *et seq.*, for the benefit of those Settlement
18 Class members who did not cash their checks until such time that they claim their property.

19 **M. Taxes**

20 **1. *Withholding and Reporting Requirements***

21 The Settlement Administrator shall be responsible for ensuring that all taxes associated with
22 the Agreement are timely paid to the appropriate tax authorities. The Settlement Administrator's
23 responsibilities include the following: (i) filing all federal, state, and local tax deduction, (ii) to timely
24 and proper filing of all required federal, state, and local forms (e.g., 1099s, W-2s, etc.) with the
25 appropriate taxing authorities, and (iii) completion of any other steps necessary for compliance with
26 any tax obligations of the Settlement under federal, state, and/or local law, as applicable. To verify
27 the Settlement Administrator's compliance with the foregoing withholding and reporting
28 requirements, as soon as administratively practicable, the Settlement Administrator shall furnish

1 Class Counsel and Counsel for Defendants with copies of all forms detailing the payment of taxes
2 (including all 1099 forms and returns) sufficient to prove that such payments were properly remitted.
3 The Settlement Administrator shall provide a final accounting declaration adequate to demonstrate
4 full compliance with all duties set forth in this Agreement, including but not limited to tax
5 withholding, payment, and reporting obligations.

6 **2. *Determination and Payment of Taxes***

7 The Settlement Administrator shall determine the amount of any withholding or taxes to be
8 withheld from each Authorized Claimant's settlement payment and issue form W-2's to the Class
9 Members. All such withholdings shall be remitted by the Settlement Administrator to the proper
10 governmental taxing authorities. Each Authorized Claimant shall be responsible for any tax
11 consequences of any funds paid out to each Authorized Claimant pursuant to this Agreement.

12 **N. Circular 230 Disclaimer**

13 Each party to this Agreement (for purposes of this section, the "Acknowledging Party"; and
14 each party to this Agreement other than the Acknowledging Party, an "Other Party") acknowledges
15 and agrees that (1) no provision of this Agreement, and no written communication or disclosure
16 between or among the parties or their attorneys and other advisers, is or was intended to be, nor shall
17 any such communication or disclosure constitute or be construed or be relied upon as, tax advice
18 within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended);
19 (2) the Acknowledging Party (a) has relied exclusively upon his, her, or its own, independent legal
20 and tax advisers for advice (including tax advice) in connection with this Agreement, (b) has not
21 entered into this Agreement 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 communication or disclosure by
23 any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the
24 Acknowledging Party; and (3) no attorney or adviser to any other party has imposed any limitation
25 that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of
26 whether such limitation is legally binding) upon disclosure by the Acknowledging Party of the tax
27 treatment or tax structure of any transaction, including any transaction contemplated by this
28 Agreement.

1 **V. LIMITATIONS ON USE OF THIS SETTLEMENT**

2 **A. No Admission**

3 Neither the acceptance nor the performance by Defendant of the terms contained in this
4 Agreement nor any of the related negotiations or proceedings is or shall be claimed to be, construed
5 as, or deemed a precedent or an admission by Defendant of the truth of any allegations in any version
6 of the Complaint.

7 **B. Non-Evidentiary Use**

8 Neither this Agreement nor any of its terms, nor any statements or conduct in the negotiation
9 or drafting of it, shall be offered or used as evidence by Plaintiffs, any Class Member (including any
10 individual who filed an Opt-Out), Defendant, or its or their respective counsel, in the Litigation or
11 any other proceeding, except as is reasonably necessary to effectuate its purpose and terms. This
12 Agreement may be used by Defendant and/or the Released Persons to prove or defend against any
13 claim released herein by any Class Member in any judicial, quasi-judicial, administrative, or
14 governmental proceeding.

15 **C. Nullification**

16 If the Court for any reason does not approve this Settlement, this Agreement shall be
17 considered null and void and all parties to this Settlement shall stand in the same position, without
18 prejudice, as if the Settlement had been neither entered into nor filed with the Court. Moreover, in the
19 event the Court does not approve this Settlement, Defendant will not be deemed to have waived,
20 limited, or affected in any way any of its objections, or defenses in this Action. Invalidation of any
21 material portion of this Settlement shall invalidate this Settlement in its entirety unless the Parties
22 agree in writing that the remaining provisions shall remain in full force and effect.

23 **D. Right to Withdraw**

24 Notwithstanding any other provision contained in this Agreement, if more than Ten Percent
25 (10%) of the Class Members submit timely and valid Requests for Exclusion from the Settlement
26 during the Opt-Out Period outlined herein, Defendants shall have the option but no the obligation, in
27 their sole discretion, to withdraw from this Agreement (“Right to Withdraw”), whereupon the
28 Agreement shall be null and void for any and all purposes and may not be used or introduced in the

1 Action or any other proceeding. The Parties will be restored to their respective positions in the
2 litigation as if this Agreement was never negotiated, drafted or agreed upon. However, if Defendants
3 exercises its Right to Withdraw, Defendants will be responsible for all Settlement Administration
4 Costs incurred up to the date when the Defendants exercises its Right to Withdraw. The Settlement
5 Administrator shall notify Class Counsel and Counsel for Defendants of the number of timely opt-
6 outs within five (5) calendar days after the period to file an Opt-Out has expired. If Defendants elects
7 to exercise its Right to Withdraw under this provision, Defendants will so notify Class Counsel and
8 the Court no later than five (5) calendar days after receiving notice of the number of opt-outs and/or
9 value of the valid claims made by the Authorized Claimants.

10 VI. **RELEASE**

11 It is the desire of the Representative Plaintiffs, Class Members, and Defendants to fully,
12 finally, and forever settle, compromise, and discharge disputes and claims arising from or related to
13 this Action. Upon Final Approval by the Court of this Agreement and by operation of the
14 Agreement's terms, and except as to such rights or claims as may be created by this Agreement, all
15 Authorized Claimants fully release and discharge the Released Persons from all Released Claims,
16 whether known or unknown during the Class Period. Plaintiffs and Defendant stipulate and agree that
17 the consideration paid to the Class Members pursuant to this Agreement compensates the Class
18 Members for all wages and penalties due to them arising from the claims alleged in the operative
19 Complaint.

20 VII. **MISCELLANEOUS PROVISIONS**

21 A. **Amendments**

22 The terms and provisions of this Agreement may be amended only by a written agreement,
23 which is signed by all Representative Plaintiffs, Class Counsel, Defendants, and Counsel for
24 Defendant.

25 B. **Jurisdiction of the Court to Enforce Terms of Agreement**

26 The Parties stipulate and agree that the Court will retain jurisdiction to enforce the terms of
27 this Agreement following the entry of the Judgment pursuant to *California Code of Civil Procedure*
28 section 664.6. The Parties agree to the exclusive jurisdiction of the Court to enforce the terms and

1 conditions contained herein.

2 **C. Enforcement Actions**

3 In the event one or more of the Parties to this Stipulation institutes and legal action or other
4 proceeding against any other party or parties to enforce the provisions of this Stipulation, or to declare
5 rights and/or obligations under this Stipulation, the successful party or parties shall be entitled to
6 recover from the unsuccessful party or parties reasonable attorneys' fees and costs in connection with
7 any enforcement actions.

8 **D. No Inducements**

9 Plaintiff and Defendants acknowledge that they are entering into this Agreement as a free and
10 voluntary act without duress or undue pressure or influence of any kind or nature whatsoever and that
11 neither Plaintiffs nor Defendant has relied on any promises, representations, or warranties regarding
12 the subject matter hereof other than as set forth in this Agreement.

13 **E. No Prior Assignment**

14 The Parties hereto represent, covenant, and warrant that they have not directly or indirectly,
15 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or
16 entity any portion of any liability, claim, demand, action, cause of action or rights herein released and
17 discharged except as set forth herein. If any claims are made by any Class Member between the start
18 of the Class Period and the date in which the Court approves the Settlement outlined in this Agreement
19 as final, such a claim will be deemed covered and released by the individual Class Member making
20 the claim unless such Class Member has timely exercised the right to be excluded from this
21 Agreement under the terms set forth herein. Any Class Member covered by this Agreement will be
22 barred from proceeding with any such claim.

23 **F. Representative Plaintiffs' Personal Release(s)**

24 As part of the Agreement and upon the Court granting final approval, Representative Plaintiff,
25 in his individual capacity, grants the Released Persons the Personal Release(s), as that term is defined
26 in Section II herein.

27 **G. Destruction of Informal Discovery**

28 The Parties agree that in the event the Court does not approve the Settlement for any reason,

1 or if the Settlement cannot be consummated for any reason, Class Counsel expressly agrees to either:
2 (1) return all informally produced discovery by Defendants to Defense Counsel; or (2) immediately
3 destroy all informal discovery, and provide sufficient proof (such as a declaration under oath by Class
4 Counsel) that the information was destroyed within 10 calendar days after becoming aware that the
5 Settlement has failed to become final. Retaining any copy of direct or derivative information shall be
6 a violation of this provision. Such informal discovery shall include, but is not limited to: (1) the class
7 list; (2) Defendants' Pay Plans; (3) written policies and procedures; and (4) information disclosed
8 pursuant to the mediation and/or settlement privilege. If Class Counsel fails to either destroy or return
9 such information within a reasonable time, the Parties expressly agree that Defense Counsel may
10 apply to the Court to seek enforcement of this specific provision (including any and all reasonable
11 attorney's fees and costs in seeking such enforcement).

12 If the Court approves the settlement, Plaintiffs and Class Counsel agree to maintain the
13 information provided by Defendants only for as long as it is necessary to consummate and finalize
14 the approval process of the Settlement by the Court, up to and including the Effective Date. After
15 such time, the Parties agree that Class Counsel will return the information to Defendants or Defense
16 Counsel, or destroy the information (including any derivative information) as provided herein, except
17 as provided in Plaintiffs' personnel files.

18 Plaintiffs and Class Counsel agree to treat and maintain the information disclosed
19 confidentially, protect it, and take any and all reasonable steps to maintain it confidentially and treat
20 it as a trade secret. However, the Parties expressly agree that Class Counsel may disclose such
21 information to the Court as is necessary to consummate and finalize the approval process of the
22 Settlement by the Court.

23 **H. Review of Noticed Motions And/Or Other Pleadings**

24 Class Counsel expressly agrees that prior to any filing concerning the terms herein, including
25 but not limited to the Motion for Preliminary Approval and the Motion for Final Approval, it shall e-
26 mail a draft of said motion and/or pleading to Defense Counsel at least 10 calendar days prior to its
27 filing.

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I. Counterparts

This Agreement, and any amendments hereto, may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument. This Agreement will become effective on the date when the last person signs and dates it.

J. Integration Clause

This document, along with any exhibits attached hereto, constitutes the complete and entire Agreement between the parties pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions of their Agreement. Any and all prior agreements, representations, negotiations, and understandings between the parties, oral or written, express or implied, are hereby superseded and merged herein.

SIGNATURES FOLLOW IN NEXT PAGE

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IN WITNESS WHEREOF, the parties hereto execute this Agreement and have caused this Agreement to be executed by their duly authorized representatives.

PLAINTIFF & CLASS REPRESENTATIVE

Date: _____

NELSON HERNANDEZ
Personally and as Representative Plaintiff

LEVB, INC

Date: 10.6.2020 _____

Levon Bakalian Digitally signed by Levon Bakalian
DN: cn=Levon Bakalian, o=ou,
email=info@mbvententals.com,
c=US
Date: 2020.10.06 09:24:05 -0700'
By: Levon Bakalian
Chief Executive Officer

APPROVED AS TO FORM AND CONTENT


BARKHORDARIAN LAW FIRM, PLC

Date: _____

JOHN F. LITWIN
Attorneys for Plaintiffs and the Proposed Class

LANDEGGER BARON LAW GROUP

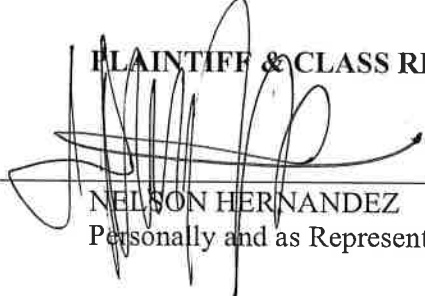
Date: 10.22.20 _____



OSCAR E. RIVAS, ESQ.
Counsel for Defendants LEVB, Inc. and
Levon Bakalian

1 **IN WITNESS WHEREOF**, the parties hereto execute this Agreement and have caused this
2 Agreement to be executed by their duly authorized representatives.

3
4
5 Date: 10-12-20

PLAINTIFF & CLASS REPRESENTATIVE


NELSON HERNANDEZ
Personally and as Representative Plaintiff

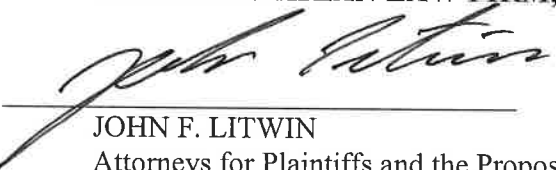
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11 Date: 10.6.2020

LEVB, INC
Digitally signed by Levon Bakalian
DN: cn=Levon Bakalian, o=, email=info@leventestments.com, c=US
Date: 2020.10.06 09:24:55 -0700

By: Levon Bakalian
Chief Executive Officer

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15 **APPROVED AS TO FORM AND CONTENT**

16
17
18 Date: 10-12-20

BARKHORDARIAN LAW FIRM, PLC


JOHN F. LITWIN
Attorneys for Plaintiffs and the Proposed Class

19
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21
22
23 Date: _____

LANDEGGER BARON LAW GROUP

OSCAR E. RIVAS, ESQ.
Counsel for Defendants LEVB, Inc. and
Levon Bakalian