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NOTE: CHANGES MADE BY THE COURT

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Attorneys for Plaintiffs

16 UNITED STATES DISTRICT COURT
 17 CENTRAL DISTRICT OF CALIFORNIA

18 JERI FARRAR, KYLE WHITNEY,
 19 GARY GRAHAM, BILL DIZON,
 20 FRANCISCO JIMENEZ, AND GINA
 21 MCMAHON,

Case No. 2:16-cv-09066-DDP-JPRx

Plaintiffs,

STIPULATED PROTECTIVE
ORDER

v.

22 CATALINA RESTAURANT
 23 GROUP, INC., and FOOD
 24 MANAGEMENT PARTNERS, INC.,

Defendants.

25 1. A. PURPOSES AND LIMITATIONS

26 As discovery in this action is likely to involve production of confidential,
 27 proprietary, or private information for which special protection from public
 28

1 disclosure and from use for any purpose other than prosecuting this litigation may
2 be warranted, the parties hereby stipulate to and petition the Court to enter the
3 following Stipulated Protective Order. The parties acknowledge this Order does not
4 confer blanket protections on all disclosures or responses to discovery. The
5 protection it affords from public disclosure and use extends only to the limited
6 information or items that are entitled to confidential treatment under the applicable
7 legal principles. Further, as set forth in Section 12.3, below, this Protective Order
8 does not entitle the parties to file confidential information under seal. Rather, when
9 the parties seek permission from the court to file material under seal, the parties
10 must comply with Civil Local Rule 79-5 and with any pertinent orders of the
11 assigned District Judge and Magistrate Judge.

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15 **B. GOOD CAUSE STATEMENT**

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17 In light of the nature of the claims and allegations in this case and the parties'
18 representations that discovery in this case will involve the production of confidential
19 records, and in order to expedite the flow of information, to facilitate the prompt
20 resolution of disputes over confidentiality of discovery materials, to adequately
21 protect information the parties are entitled to keep confidential, to ensure that the
22 parties are permitted reasonable necessary uses of such material in connection with
23 this action, to address their handling of such material at the end of the litigation, and
24 to serve the ends of justice, a protective order for such information is justified in this
25 matter. The parties shall not designate any information/documents as confidential
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1 without a good faith belief that such information/documents have been maintained
2 in a confidential, non-public manner, and that there is good cause or a compelling
3 reason why it should not be part of the public record of this case.
4

5 2. DEFINITIONS

6 2.1 Action: The above-captioned action.

7 2.2 Challenging Party: a Party or Non-Party that challenges the
8 designation of information or items under this Order.
9

10 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
11 how it is generated, stored or maintained) or tangible things that qualify for
12 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
13 the Good Cause Statement.
14

15 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
16 their support staff).
17

18 2.5 Designating Party: a Party or Non-Party that designates information or
19 items that it produces in disclosures or in responses to discovery as
20 “CONFIDENTIAL.”
21

22 2.6 Disclosure or Discovery Material: all items or information, regardless
23 of the medium or manner in which it is generated, stored, or maintained (including,
24 among other things, testimony, transcripts, and tangible things), that are produced or
25 generated in disclosures or responses to discovery in this matter.
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1 2.7 Expert: a person with specialized knowledge or experience in a matter
2 pertinent to the litigation who has been retained by a Party or its counsel to serve as
3 an expert witness or as a consultant in this Action.
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5 2.8 House Counsel: attorneys who are employees of a party to this Action.
6 House Counsel does not include Outside Counsel of Record or any other outside
7 counsel.
8

9 2.9 Non-Party: any natural person, partnership, corporation, association, or
10 other legal entity not named as a Party to this action.
11

12 2.10 Outside Counsel of Record: attorneys who are not employees of a
13 party to this Action but are retained to represent or advise a party to this Action and
14 have appeared in this Action on behalf of that party or are affiliated with a law firm
15 which has appeared on behalf of that party, and includes support staff.
16

17 2.11 Party: any party to this Action, including all of its officers, directors,
18 employees, consultants, retained experts, and Outside Counsel of Record (and their
19 support staffs).
20

21 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
22 Discovery Material in this Action.
23

24 2.13 Professional Vendors: persons or entities that provide litigation
25 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
26 demonstrations, and organizing, storing, or retrieving data in any form or medium)
27 and their employees and subcontractors.
28

1 2.14 Protected Material: any Disclosure or Discovery Material that is
2 designated as “CONFIDENTIAL.”

3 2.15 Receiving Party: a Party that receives Disclosure or Discovery
4 Material from a Producing Party.
5

6 3. SCOPE

7 The protections conferred by this Order cover not only Protected Material (as
8 defined above), but also (1) any information copied or extracted from Protected
9 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
10 and (3) any deposition testimony, conversations, or presentations by Parties or their
11 Counsel that might reveal Protected Material, other than during a court hearing or at
12 trial.
13

14 Any use of Protected Material during a court hearing or at trial shall be
15 governed by the orders of the presiding judge. This Order does not govern the use
16 of Protected Material during a court hearing or at trial.
17

18 4. DURATION

19 Even after final disposition of this litigation, the confidentiality obligations
20 imposed by this Order shall remain in effect until a Designating Party agrees
21 otherwise in writing or a court order otherwise directs. Final disposition shall be
22 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
23 or without prejudice; and (2) final judgment herein after the completion and
24 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
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1 including the time limits for filing any motions or applications for extension of time
2 pursuant to applicable law.

3 5. DESIGNATING PROTECTED MATERIAL

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5 5.1 Exercise of Restraint and Care in Designating Material for Protection.

6 Each Party or Non-Party that designates information or items for protection under
7 this Order must take care to limit any such designation to specific material that
8 qualifies under the appropriate standards. The Designating Party must designate for
9 protection only those parts of material, documents, items, or oral or written
10 communications that qualify so that other portions of the material, documents,
11 items, or communications for which protection is not warranted are not swept
12 unjustifiably within the ambit of this Order.

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15 Mass, indiscriminate, or routinized designations are prohibited. Designations
16 that are shown to be clearly unjustified or that have been made for an improper
17 purpose (e.g., to unnecessarily encumber the case development process or to impose
18 unnecessary expenses and burdens on other parties) may expose the Designating
19 Party to sanctions.
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21

22 If it comes to a Designating Party's attention that information or items that it
23 designated for protection do not qualify for protection, that Designating Party must
24 promptly notify all other Parties that it is withdrawing the inapplicable designation.
25

26 5.2 Manner and Timing of Designations. Except as otherwise provided in
27 this Order (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise
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1 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
2 under this Order must be clearly so designated before the material is disclosed or
3 produced.

4 Designation in conformity with this Order requires:

5 (a) for information in documentary form (e.g., paper or electronic
6 documents, but excluding transcripts of depositions), that the Producing Party affix
7 at a minimum, the legend “CONFIDENTIAL” (hereinafter “CONFIDENTIAL
8 legend”), to each page that contains protected material. If only a portion or portions
9 of the material on a page qualifies for protection, the Producing Party also must
10 clearly identify the protected portion(s) (e.g., by making appropriate markings in the
11 margins).

12 A Party or Non-Party that makes original documents available for inspection
13 need not designate them for protection until after the inspecting Party has indicated
14 which documents it would like copied and produced. During the inspection and
15 before the designation, all of the material made available for inspection shall be
16 deemed “CONFIDENTIAL.” After the inspecting Party has identified the
17 documents it wants copied and produced, the Producing Party must determine which
18 documents, or portions thereof, qualify for protection under this Order. Then, before
19 producing the specified documents, the Producing Party must affix the
20 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
21 portion or portions of the material on a page qualifies for protection, the Producing
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1 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
2 markings in the margins).

3 (b) for testimony given in depositions that the Designating Party identifies
4 on the record, before the close of the deposition as protected testimony.

5
6 (c) for information produced in some form other than documentary and
7 for any other tangible items, that the Producing Party affix in a prominent place on
8 the exterior of the container or containers in which the information is stored the
9 legend "CONFIDENTIAL." If only a portion or portions of the information
10 warrants protection, the Producing Party, to the extent practicable, shall identify the
11 protected portion(s).
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14 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
15 failure to designate qualified information or items does not, standing alone, waive
16 the Designating Party's right to secure protection under this Order for such material.
17 Upon timely correction of a designation, the Receiving Party must make reasonable
18 efforts to assure that the material is treated in accordance with the provisions of this
19 Order.
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22 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

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24 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
25 designation of confidentiality at any time that is consistent with the Court's
26 Scheduling Order.
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1 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
2 resolution process under Local Rule 37-1 et seq.

3 6.3 The burden of persuasion in any such challenge proceeding shall be on
4 the Designating Party. Frivolous challenges, and those made for an improper
5 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
6 parties) may expose the Challenging Party to sanctions. Unless the Designating
7 Party has waived or withdrawn the confidentiality designation, all parties shall
8 continue to afford the material in question the level of protection to which it is
9 entitled under the Producing Party's designation until the Court rules on the
10 challenge.
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14 7. ACCESS TO AND USE OF PROTECTED MATERIAL

15 7.1 Basic Principles. A Receiving Party may use Protected Material that is
16 disclosed or produced by another Party or by a Non-Party in connection with this
17 Action only for prosecuting, defending, or attempting to settle this Action. Such
18 Protected Material may be disclosed only to the categories of persons and under the
19 conditions described in this Order. When the Action has been terminated, a
20 Receiving Party must comply with the provisions of Section 13 below.
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23 Protected Material must be stored and maintained by a Receiving Party at a
24 location and in a secure manner that ensures that access is limited to the persons
25 authorized under this Order.
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1 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
2 otherwise ordered by the court or permitted in writing by the Designating Party, a
3 Receiving Party may disclose any information or item designated
4 “CONFIDENTIAL” only to:

5
6 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
7 well as employees of said Outside Counsel of Record to whom it is reasonably
8 necessary to disclose the information for this Action;

9
10 (b) the officers, directors, and employees (including House Counsel) of
11 the Receiving Party to whom disclosure is reasonably necessary for this Action;

12
13 (c) Experts (as defined in this Order) of the Receiving Party to whom
14 disclosure is reasonably necessary for this Action and who have signed the
15 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

16
17 (d) the court and its personnel;

18 (e) court reporters and their staff;

19 (f) professional jury or trial consultants, mock jurors, and Professional
20 Vendors to whom disclosure is reasonably necessary for this Action and who have
21 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

22
23 (g) the author or recipient of a document containing the information or a
24 custodian or other person who otherwise possessed or knew the information;

25
26 (h) during their depositions, witnesses, and attorneys for witnesses, in the
27 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
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1 requests that the witness sign the “Acknowledgment and Agreement to Be Bound”
2 form attached as Exhibit A hereto; and (2) they will not be permitted to keep any
3 confidential information unless they sign the “Acknowledgment and Agreement to
4 Be Bound” attached as Exhibit A, unless otherwise agreed by the Designating Party
5 or ordered by the court. Pages of transcribed deposition testimony or exhibits to
6 depositions that reveal Protected Material may be separately bound by the court
7 reporter and may not be disclosed to anyone except as permitted under this
8 Protective Order; and

11 (i) any mediator or settlement officer, and their supporting personnel,
12 mutually agreed upon by any of the parties engaged in settlement discussions or
13 appointed by the Court.

15 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
16 IN OTHER LITIGATION

18 If a Party is served with a subpoena or a court order issued in other litigation
19 that compels disclosure of any information or items designated in this Action as
20 “CONFIDENTIAL,” that Party must:

22 (a) promptly notify in writing the Designating Party. Such notification
23 shall include a copy of the subpoena or court order unless prohibited by law;

25 (b) promptly notify in writing the party who caused the subpoena or order
26 to issue in the other litigation that some or all of the material covered by the
27 subpoena or order is subject to this Protective Order. Such notification shall include
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1 a copy of this Protective Order; and

2 (c) cooperate with respect to all reasonable procedures sought to be
3 pursued by the Designating Party whose Protected Material may be affected.
4

5 If the Designating Party timely seeks a protective order, the Party served with
6 the subpoena or court order shall not produce any information designated in this
7 action as “CONFIDENTIAL” before a determination by the court from which the
8 subpoena or order issued, unless the Party has obtained the Designating Party’s
9 permission, or unless otherwise required by the law or court order. The Designating
10 Party shall bear the burden and expense of seeking protection in that court of its
11 confidential material and nothing in these provisions should be construed as
12 authorizing or encouraging a Receiving Party in this Action to disobey a lawful
13 directive from another court.
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17 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
18 PRODUCED IN THIS LITIGATION

19 (a) The terms of this Order are applicable to information produced by a
20 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
21 produced by Non-Parties in connection with this litigation is protected by the
22 remedies and relief provided by this Order. Nothing in these provisions should be
23 construed as prohibiting a Non-Party from seeking additional protections.
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26 (b) In the event that a Party is required, by a valid discovery request, to
27 produce a Non-Party’s confidential information in its possession, and the Party is
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1 subject to an agreement with the Non-Party not to produce the Non-Party's
2 confidential information, then the Party shall:

3 (1) promptly notify in writing the Requesting Party and the Non-Party
4 that some or all of the information requested is subject to a confidentiality
5 agreement with a Non-Party;
6

7 (2) promptly provide the Non-Party with a copy of the Protective
8 Order in this Action, the relevant discovery request(s), and a reasonably specific
9 description of the information requested; and
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11 (3) make the information requested available for inspection by the
12 Non-Party, if requested.
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14 (c) If a Non-Party represented by counsel fails to commence the process
15 called for by Local Rules 45-1 and 37-1, et seq. within 14 days of receiving the
16 notice and accompanying information or fails contemporaneously to notify the
17 Receiving Party that it has done so, the Receiving Party may produce the Non-
18 Party's confidential information responsive to the discovery request. If an
19 unrepresented Non-Party fails to seek a protective order from this court within 14
20 days of receiving the notice and accompanying information, the Receiving Party
21 may produce the Non-Party's confidential information responsive to the discovery
22 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
23 not produce any information in its possession or control that is subject to the
24 confidentiality agreement with the Non-Party before a determination by the court
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1 unless otherwise required by the law or court order. Absent a court order to the
2 contrary, the Non-Party shall bear the burden and expense of seeking protection in
3 this court of its Protected Material.
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5 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

6 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
7 Protected Material to any person or in any circumstance not authorized under this
8 Protective Order, the Receiving Party must immediately (a) notify in writing the
9 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
10 all unauthorized copies of the Protected Material, (c) inform the person or persons to
11 whom unauthorized disclosures were made of all the terms of this Order, and (d)
12 request such person or persons to execute the “Acknowledgment and Agreement to
13 Be Bound” that is attached hereto as Exhibit A.
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17 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
18 PROTECTED MATERIAL

19 When a Producing Party gives notice to Receiving Parties that certain
20 inadvertently produced material is subject to a claim of privilege or other protection,
21 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
22 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
23 may be established in an e-discovery order that provides for production without
24 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar
25 as the parties reach an agreement on the effect of disclosure of a communication or
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1 information covered by the attorney-client privilege or work product protection, the
2 parties may incorporate their agreement into this Protective Order provided the
3 Court so allows.

4
5 12. MISCELLANEOUS

6 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
7 person to seek its modification by the Court in the future.

8
9 12.2 Right to Assert Other Objections. No Party waives any right it
10 otherwise would have to object to disclosing or producing any information or item
11 on any ground not addressed in this Protective Order. Similarly, no Party waives
12 any right to object on any ground to use in evidence of any of the material covered
13 by this Protective Order.

14
15 12.3 Filing Protected Material. A Party that seeks to file under seal any
16 Protected Material must comply with Civil Local Rule 79-5 and with any pertinent
17 orders of the assigned District Judge and Magistrate Judge. If a Party's request to
18 file Protected Material under seal is denied by the court, then the Receiving Party
19 may file the information in the public record unless otherwise instructed by the
20 court.
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23 13. FINAL DISPOSITION

24
25 After the final disposition of this Action, as defined in Section 4, within 60
26 days of a written request by the Designating Party, each Receiving Party must return
27 all Protected Material to the Producing Party or destroy such material. As used in
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1 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
2 summaries, and any other format reproducing or capturing any of the Protected
3 Material. Whether the Protected Material is returned or destroyed, the Receiving
4 Party must submit a written certification to the Producing Party (and, if not the same
5 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
6 (by category, where appropriate) all the Protected Material that was returned or
7 destroyed and (2) affirms that the Receiving Party has not retained any copies,
8 abstracts, compilations, summaries or any other format reproducing or capturing any
9 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
10 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
11 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
12 reports, attorney work product, and consultant and expert work product, even if such
13 materials contain Protected Material. Any such archival copies that contain or
14 constitute Protected Material remain subject to this Protective Order as set forth in
15 Section 4.
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21 14. Any violation of this Order may be punished by any and all appropriate
22 measures including, without limitation, contempt proceedings and/or monetary
23 sanctions.
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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:

DATED: October 4, 2017

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

s/Marlene M. Moffitt

Spencer C. Skeen
Marlene M. Moffitt
Tim L. Johnson
Attorneys for Defendants CATALINA
RESTAURANT GROUP, INC. and FOOD
MANAGEMENT PARTNERS, INC.

DATED: October 4, 2017

EIGHT & SAND

s/Jeff R. Dingwall

Jeff R. Dingwall

TRAN LAW FIRM L.L.P.

Trang Q. Tran

ATTORNEYS FOR PLAINTIFFS

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: October 16, 2017



Honorable Jean P. Rosenbluth
United States Magistrate Judge

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [print or type full name], of
5 _____ [print or type full address], declare under penalty of perjury
6 that I have read in its entirety and understand the Protective Order that was issued
7 by the United States District Court for the Central District of California on
8 _____ in the case of Jeri Farrar, et al. v. Catalina Restaurant
9 Group, Inc., et al., United States District Court for the Central District of California,
10 Case No. 16-cv-09066-DDP-JPRx . I agree to comply with and to be bound by all
11 the terms of this Protective Order and I understand and acknowledge that failure to
12 so comply could expose me to sanctions and punishment in the nature of contempt. I
13 solemnly promise that I will not disclose in any manner any information or item that
14 is subject to this Protective Order to any person or entity except in strict compliance
15 with the provisions of this Order.

16 I further agree to submit to the jurisdiction of the United States District Court
17 for the Central District of California for the purpose of enforcing the terms of this
18 Protective Order, even if such enforcement proceedings occur after termination of
19 this action. I hereby appoint _____ [print or type full
20 name] of _____ [print or type full address
21 and telephone number] as my California agent for service of process in connection
22 with this action or any proceedings related to enforcement of this Protective Order.

23 Date: _____

24 City and State where sworn and signed: _____

25
26 Printed name: _____

27
28 Signature: _____

1 **SIGNATURE CERTIFICATION**

2 Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative
3 Policies and Procedures Manual, I hereby certify that the content of this document
4 is acceptable to Marlene M. Moffitt, counsel for Defendants, and that I have
5 obtained Ms. Moffitt’s authorization to affix her electronic signature to this
6 document.
7

8
9 DATED: October 4, 2017

EIGHT & SAND

10 *s/ Jeff R. Dingwall*
11 _____
12 Jeff R. Dingwall

13 TRAN LAW FIRM L.L.P.
14 Trang Q. Tran

15 ATTORNEYS FOR PLAINTIFFS
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