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11 ANTONIA LUNA

12 * Defendants and their respective counsel are listed after the caption.

13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA**

15 **ANTONIA LUNA,**

16 **Plaintiff,**

17 **vs.**

18 **HOA TRUNG VO dba SAVE MORE**
19 **98 DISCOUNT STORE; BLIATOUT**
20 **LLC; AND DOES 1-10 INCLUSIVE**

21 **Defendants**

22 **1:08-CV-01962-AWI-SMS**

23 **STIPULATED JUDGMENT AND**
24 **ORDER**

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STIPULATED JUDGMENT AND [PROPOSED] ORDER
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1 Attorneys for Defendant
2 BLIATOUT LLC

3 This Stipulated Judgment is entered into by and between the Plaintiff
4 ANTONIA LUNA (“Plaintiff”), on the one hand, and Defendants HOA TRUNG
5 VO dba SAVE MORE 98 DISCOUNT STORE and BLIATOUT LLC (together
6 “Defendants”), on the other hand (Plaintiff and Defendants referred to as the
7 “Parties”).

8 **I. INTRODUCTION**

9 A. On December 19, 2008, Plaintiff filed a complaint against Defendants
10 in the United States District Court for the Eastern District of California for
11 preliminary and permanent injunctive relief and damages, alleging violations of the
12 following: (1) California Health & Safety Code §§ 19955 *et seq.*, California Civil
13 Code §§ 54.1 *et seq.*; (2) the Unruh Civil Rights Act of California (Cal. Civ. Code
14 § 51 *et seq.*); and (3) the Americans with Disabilities Act of 1990 (42 USC §
15 12101 *et seq.*) (“the Action”).

16 B. On August 27, 2009, the Court executed and filed a Consent Decree
17 and Order (Docket No. 24) entered into by the Parties resolving all injunctive relief
18 issues in this Action. This Consent Decree did not contain any stipulation to or
19 admission of liability for any damages on the part of any Defendant.

20 C. On October 8, 2010, following extensive discovery proceedings,
21 settlement negotiations, two settlement conferences, and efforts to “meet and
22 confer” with Defendants, Plaintiff filed a Motion for Summary Judgment (Docket
23 No. 35).

24 D. The Court’s November 17, 2010 Order on Plaintiff’s Motion for
25 Summary Judgment and Related Orders (the “Order” -- Docket No. 46) indicated
26 that the filing of Plaintiff’s motion for summary judgment should have been
27 unnecessary, given “the lack of dispute as to the factual basis for Plaintiff’s motion
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1 and the lack of contention as to the application of law.” Order at 3:19-20.
2 However, the Parties did not reach such an agreement until *after* Plaintiff filed her
3 motion for summary judgment and the Court issued its Order. The Order also
4 suggested that the “natural path to the conclusion of this action is by way of
5 stipulated judgment.” Order at 3:20-21.

6 E. After further discussion following the entrance of the Court’s Order,
7 the Parties have agreed to settle the issue of Plaintiff’s statutory damages in this
8 Action by way of this Stipulated Judgment. The parties have also agreed, subject
9 to the approval of the Court, on a procedure and timetable to determine Plaintiff’s
10 claims for statutory attorneys’ fees, litigation expenses, and costs.

11
12 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**
13 **by and among the Parties, through their respective counsel, as follows:**
14

15 **II. SETTLEMENT RELIEF**

16 **A. Injunctive Relief:** As mentioned above, all injunctive relief issues in
17 this Action have been resolved by way of Consent Decree and Order (Docket No.
18 24).

19 **B. Monetary Relief/Damages:** Judgment can be entered in this Action,
20 and the Court is requested to enter Judgment, against Defendants Hoa Trung Vo
21 dba Save More 98 Discount Store and Bliatout LLC in the amount of \$8,000
22 compensatory damages, per § 52 Civil Code. Payment to Plaintiff shall be made
23 within 30 days of entry of judgment by the Court.

24 **C. Attorneys’ Fees and Expenses:** Attorneys fees, litigation expenses,
25 and costs shall be determined as follows: (1) by negotiation of the Parties within
26 thirty (30) days of the date this Stipulated Judgment is entered; or (2) by motion to
27

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1 the Court to be filed by Plaintiff within sixty (60) days of the termination of the
2 thirty-day negotiation period for attorneys' fees, litigation expenses, and costs.

3
4 **III. JURISDICTION**

5 **Continuing Jurisdiction:** The Court shall maintain continuing jurisdiction
6 over this Action until resolution of Plaintiff's claims for attorney fees, litigation
7 expenses, and costs.

8
9 **IV. SCOPE AND ENFORCEABILITY OF THE STIPULATED**
10 **JUDGMENT**

11 **A. Authority to Bind**

12 The undersigned each represents and warrants that they are authorized to
13 sign on behalf of, and to bind, Plaintiff and Defendants.

14 **B. Cooperation**

15 The Parties agree to cooperate and execute any documents or take any action
16 to effectuate this Stipulated Judgment in a timely and expeditious manner. The
17 Parties agree to cooperate in obtaining Court approval of the Stipulated Judgment
18 and complying with the provisions herein in a timely and expeditious manner.

19 **C. Independent Advice of Counsel**

20 The Parties represent and declare that in executing the Stipulated Judgment
21 they relied solely upon their own judgment, belief and knowledge, and the advice
22 and recommendations of their own independently selected counsel, concerning the
23 nature, extent and duration of their rights and claims, and that they have not been
24 influenced to any extent whatsoever in executing the same by any representations
25 or statements not expressly contained or referred to in the Stipulated Judgment.

26 **D. Counterparts**

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1 The Stipulated Judgment may be executed in counterparts. Counterparts
2 may be made by facsimile. When each Party has signed and delivered at least one
3 such counterpart, each counterpart shall be deemed an original, and each
4 counterpart taken together shall constitute one and the same Stipulated Judgment.
5 The Stipulated Judgment shall be deemed duly executed, effective, and binding,
6 upon the signing and delivery of the last counterpart by the Parties hereto.
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10 **SIGNATURES OF THE PARTIES**

11
12 Dated: December 27, 2010

13 _____
14 Plaintiff Antonia Luna

15
16 Dated: January 3, 2011

17 _____
18 Defendant Hoa Trung Vo dba Save More 98
19 Discount Store

20
21 Dated: December 22, 2010

22 Defendant Bliatout, LLC

23 By: _____

24 Print name: _____

25 Title/position: _____
26
27

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APPROVED AS TO FORM

Dated: December 21, 2010

LAW OFFICES OF PAUL L. REIN

/s/ Catherine M. Cabalo
By: CATHERINE M. CABALO, ESQ.
Attorneys for Plaintiff
ANTONIA LUNA

Dated: December 21, 2010

/s/ Robert C. Lorbeer
ROBERT C. LORBEER, ESQ.
Attorney for DEFENDANT HOA TRUNG
VO DBA SAVE MORE 98 DISCOUNT
STORE

Dated: December 20, 2010

COOPER & COOPER

/s/ Joseph D. Cooper, Sr.
By: JOSEPH D. COOPER, SR., ESQ.
Attorneys for Defendant
BLIATOUT LLC

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1 **JUDGMENT AND ORDER**

2 Judgment in the amount of \$8,000 statutory damages shall be entered against
3 Defendants Hoa Trung Vo dba Save More 98 Discount Store and Bliatout, LLC
4 under the terms of the stipulation hereinabove.
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10 IT IS SO ORDERED.

11 Dated: January 4, 2011

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13 _____
14 CHIEF UNITED STATES DISTRICT JUDGE
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