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6 TACAZA II, INC. dba FAMOUS DAVE'S,
ANAND D. GALA, and JONATHAN LITT
7

8 *Counsel for Plaintiffs on following page*

9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA
11 FRESNO DIVISION

12 MARCUS T. AREYANO, an
13 individual; FRANK W. BARTLETT, an
individual; GUADALUPE
14 GONZALEZ, an individual; MARY
PEARL RIVERA, an individual;
15 BRIAN RIGGINS, an individual; JUDD
ROGERS, an individual; DARREN
16 CAMPBELL, an individual; and
VINCENT CLINE, an individual,

17 Plaintiffs,

18 vs.

19 TACAZA, INC. dba FAMOUS
20 DAVE'S, a California corporation;
TACAZA II, INC. dba FAMOUS
21 DAVE'S, a California corporation;
ANAND D. GALA, an individual;
22 JONATHAN LITT, an individual; and
DOES 1 to 100, inclusive,

23 Defendants.
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) Case No. 1:11CV00171 LJO DLB

) **STIPULATION TO AMEND
COMPLAINT; ORDER**

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8 W. BARTLETT, GUADALUPE
GONZALEZ, MARY PEARL RIVERA,
9 BRIAN RIGGINS, JUDD ROGERS,
DARREN CAMPBELL, VINCENT CLINE

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1 **STIPULATION**

2 This Stipulation is made and entered into between Plaintiffs Marcus T.
3 Areyano, Frank W. Bartlett, Guadalupe Gonzalez, Mary Pearl Rivera, Brian Riggins,
4 Judd Rogers, Darren Campbell, and Vincent Cline (collectively, “Plaintiffs”) and
5 Defendants Tacaza, Inc. dba Famous Dave’s, Tacaza II, Inc. dba Famous Dave’s,
6 Anand D. Gala, and Jonathan Litt (collectively, “Defendants”), by and through their
7 respective counsel, with reference to the following:

8 1. WHEREAS, on November 15, 2010, Plaintiffs filed their Complaint in
9 the above-referenced matter in Fresno County Superior Court, Case No. 10 CE CG
10 03994;

11 2. WHEREAS, on December 20, 2010, Plaintiffs filed their First Amended
12 Complaint (the “Complaint”) in the above-referenced matter in Fresno County
13 Superior Court;

14 3. WHEREAS, on January 31, 2011, Defendants removed this action to this
15 Court;

16 4. WHEREAS, Plaintiffs and Defendants met and conferred regarding
17 potential amendments and revisions to the Complaint in order to avoid unnecessary
18 motion practice;

19 5. WHEREAS, Plaintiffs and Defendants have agreed that defendants
20 Anand D. Gala and Jonathan Litt cannot be personally liable for the alleged violations
21 of California wage and hour laws, if any, and therefore Plaintiffs cannot bring their
22 seventh cause of action, for violation of California’s Business & Professions Code §
23 17200 *et seq.* against defendants Anand D. Gala and Jonathan Litt;

24 6. WHEREAS, Plaintiffs have agreed to dismiss defendants Anand D. Gala
25 and Jonathan Litt as to the seventh cause of action;

26 7. WHEREAS, Plaintiffs and Defendants have further agreed that Plaintiffs
27 cannot recover punitive damages for statutory wage and hour violations;

1 8. WHEREAS, Plaintiffs have agreed to strike paragraph 5 of their Prayer
2 for Relief in the Complaint;

3 9. WHEREAS, Plaintiffs and Defendants have further agreed that Plaintiffs
4 cannot recover penalties pursuant to California Labor Code § 210, which permits the
5 recovery of penalties by the California Labor Commissioner only, or Labor Code §
6 510, which does not allow for the recovery of penalties at all;

7 10. WHEREAS, Plaintiffs have agreed to strike paragraph 9 and 10 of their
8 Prayer for Relief in the Complaint;

9 THEREFORE, Plaintiffs and Defendants hereby stipulate that defendants
10 Anand D. Gala and Jonathan Litt shall be dismissed as to Plaintiffs' Seventh Cause of
11 Action. Plaintiffs and Defendants further stipulate that paragraphs 5, 9, and 10 of
12 Plaintiffs' Prayer for Relief in the Complaint shall be stricken. A proposed order and
13 proposed copy of the Second Amended Complaint are attached hereto.

14 IT IS SO STIPULATED.

15
16 Dated: February 25, 2011

SIDLEY AUSTIN LLP

17
18 By: /s/ Geoffrey D. DeBoskey

19 Geoffrey D. DeBoskey
20 Heidi Larson Howell
21 Attorneys for Defendants
22 TACAZA, INC. dba FAMOUS
23 DAVE'S, TACAZA II, INC. dba
24 FAMOUS DAVE'S, ANAND D.
25 GALA, and JONATHAN LITT

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Dated: February 25, 2011

FITZPATRICK, SPINI & SWANSTON

By: /s/ B. James Fitzpatrick
B. James Fitzpatrick

Attorneys for Plaintiffs
MARCUS T. AREYANO, FRANK W.
BARTLETT, GUADALUPE
GONZALEZ, MARY PEARL
RIVERA, BRIAN RIGGINS, JUDD
ROGERS, DARREN CAMPBELL;
VINCENT CLINE

1 **ORDER**

2 Pursuant to the parties' stipulation, and for good cause shown, it is hereby
3 ordered that Plaintiffs may file a Second Amended Complaint eliminating defendants
4 Anand D. Gala and Jonathan Litt, with prejudice, as to Plaintiffs' Seventh Cause of
5 Action for Unfair Business Practices in Violation of California Business &
6 Professions Code § 17200 *et seq.* and eliminating paragraphs 5, 9, and 10 of Plaintiffs'
7 Prayer for Relief.

8 IT IS SO ORDERED.
9

10 Dated: March 2, 2011

/s/ Dennis L. Beck
11 UNITED STATES MAGISTRATE JUDGE