

HOFFMAN EMPLOYMENT LAWYERS
100 Pine Street, Ste. 1550
San Francisco, CA 94111
(415) 362-1111

1 BRADLEY W. KAMPAS (SBN 111639)
2 JOANNA L. BROOKS (SBN 182986)
3 DOUGLAS M. BRIA (SBN 226966)
4 JACKSON LEWIS LLP
5 199 Fremont Street, 10th Floor
6 San Francisco, California 94105
7 Telephone: (415) 394-9400
8 Facsimile: (415) 394-9401
9 Email: kampasb@jacksonlewis.com
10 brooksj@jacksonlewis.com
11 briad@jacksonlewis.com

12 Attorneys for Defendant
13 WAREHOUSE DEMO SERVICES, INC.

MICHAEL HOFFMAN (SBN 154481)
ALEC SEGARICH (SBN 260189)
HOFFMAN EMPLOYMENT LAWYERS, LLP
100 Pine Street, Suite 1550
San Francisco, California 94111
Telephone: (415) 362-1111
Facsimile: (415) 362-1112
Email: mhoffman@employment-lawyers.com
asegarich@sfemployment-lawyers.com

Attorneys for Plaintiffs
JACQUELINE DOMNITZ, PAMELA
TADDEI, AND IMELDA KANTERE

GENE STONEBARGER (SBN 209461)
RICHARD LAMBERT (SBN 251148)
STONEBARGER LAW
A Professional Corporation
75 Iron Point Circle, Suite 145
Folsom, California 95630
Email: gstonebarger@stonebargerlaw.com
rlambert@stonebargerlaw.com

Attorneys for Plaintiff NICK MARTIN

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JACQUELINE DOMNITZ, PAMELA
TADDEI, AND IMELDA KANTERE, on
behalf of themselves, all others similarly
situated, and the general public,

Plaintiffs,

v.

WAREHOUSE DEMO SERVICES, INC.,
a Washington Corporation; and DOES 1
through 10, inclusive,

Defendants.

) Case No: CV-09-05305 MMC
) and Related Action
) Case No. CV-10-04539 MMC
) (*Martin v. Warehouse Demo Services, Inc.*)

**STIPULATION AND [PROPOSED]
ORDER CONSOLIDATING CASES**

1 WHEREAS, on October 8, 2009, Plaintiff Jacqueline Domnitz filed a complaint against
2 Defendants Warehouse Demo Services, Inc. (“WDS”) and Costco Corporation (“Costco”) in the
3 Alameda County Superior Court, Case No. RG09478489, alleging violations of the California
4 Labor Code in an individual and representative capacity (the “*Domnitz* Action”). On November
5 9, 2009, Defendant removed the case to the United States District Court for the Northern District
6 of California pursuant to 28 U.S.C. §§ 1332 (as amended by the Class Action Fairness Act of
7 2005, Pub. L. 109-2, section 4(a) (“CAFA”)), 1441(a) and (b) and 1446.

8 WHEREAS on April 9, 2010, Ms. Domnitz amended her complaint, adding two
9 additional class representatives, Pamela Taddei and Imelda Kantere, and adding a cause of action
10 for failure to compensate employees for reporting time pay. Plaintiffs’ operative Second
11 Amended Complaint includes an additional cause of action for penalties pursuant to the
12 California Labor Code’s Private Attorney General Act (Labor Code § 2698) (“PAGA”).

13 WHEREAS on July 28, 2010, Nick Martin filed a class action complaint against
14 Defendant in the United States District Court for the Eastern District of California, case number
15 2:10-CV-02018-WBS-DAD (the “*Martin*” Action). On November 10, 2010, the Court granted
16 the Parties’ motion to relate the *Martin* Action with the earlier-filed *Domnitz* Action on the
17 grounds that the claims asserted in the *Martin* Action overlap with the claims asserted in the
18 *Domnitz* Action.

19 WHEREAS a joint confidential settlement agreement has been executed by all
20 parties in both the *Domnitz* and *Martin* actions. The Parties in both the *Domnitz* and *Martin*
21 Actions have conferred, and the Parties agree the *Martin* Action should be consolidated with the
22 *Domnitz* Action because the cases involve the same common questions of law and fact, and
23 because consolidation would advance the interests of judicial economy. The Parties request
24 consolidation to seek joint approval of the settlement.

25 IT IS HEREBY STIPULATED, by and between the Parties through their respective
26 counsel, that:

- 27 1. Pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, the *Martin* Action and the
28 *Domnitz* Action are hereby consolidated.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. The *Martin* Action and the *Domnitz* Action shall be consolidated for purposes of class action settlement approval, briefing, scheduling, discovery, pretrial proceedings, trial, class certification, and any post-trial motions or proceedings. Plaintiffs in the actions reserve the right to file separate briefing on motions, but will coordinate among themselves to avoid unnecessary duplication of arguments. Said actions shall be consolidated for purposes of judgment or appeal.
3. A copy of this Order shall be filed in each of the above-captioned cases, but all further pleadings and papers in these cases shall be filed only under Northern District Case No. CV-09-05305 MMC which shall be designated as the "Lead Case" file. In such subsequent pleadings and papers, the case number shall appear on the face of all pleadings and papers as follows:

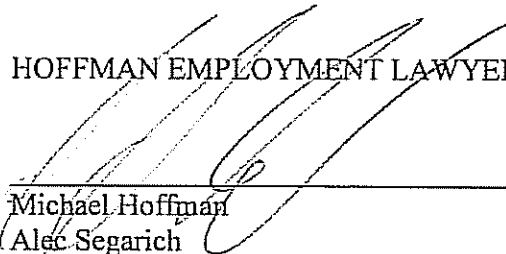
**LEAD CASE No. CV-09-05305 MMC
Consolidated With Case No. CV-10-04539 MMC**

4. Except on initial pleadings (i.e., complaints or answers), or as otherwise required by the Federal Rules of Civil Procedure or the Northern District of California's Local Rules, the caption used on all subsequent pleadings and papers may be of the "short form," listing the first Plaintiff and Defendant in the Lead Case, and referring collectively to all additional parties in the Lead Case and to all of the other cases consolidated for purposes of trial as "and Related Consolidated Action."

IT IS SO STIPULATED.

DATED: January 12, 2011

HOFFMAN EMPLOYMENT LAWYERS, LLP



Michael Hoffman
Alec Segarich
Attorneys for Plaintiffs JACQUELINE DOMNITZ
et al.

HOFFMAN EMPLOYMENT LAWYERS

100 Pine Street, Ste. 1550
San Francisco, CA 94111
(415) 362-1111

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: January __, 2011

STONEBARGER LAW, APC



Gene Stonebarger
Richard Lambert
Attorney for Plaintiff Nick Martin

DATED: January 13, 2011

JACKSON LEWIS, LLP



JoAnna L. Brooks
Douglas M. Bria
Attorneys for Defendant WDS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[PROPOSED] ORDER

The Court having reviewed the foregoing Stipulation, and good cause appearing therefore:

IT IS HEREBY ORDERED that, pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, the following actions are hereby consolidated:

1. *Domnitz v. Warehouse Demo Services, Inc.*, Case No: CV-09-05305 MMC (the “*Domnitz Action*”); and
2. Related Action *Martin v. Warehouse Demo Services, Inc.*, Case No. CV-10-04539 MMC (the “*Martin Action*”).

IT IS ALSO ORDERED that the *Domnitz* Action and the *Martin* Action shall be consolidated for purposes of class action settlement approval, briefing, scheduling, discovery, pretrial proceedings, trial, class certification, and any post-trial motions or proceedings. Plaintiffs in the actions reserve the right to file separate briefing on motions, but they will coordinate among themselves to avoid unnecessary duplication of arguments. Said actions shall be consolidated for purposes of judgment or appeal.

IT IS ALSO ORDERED that the consolidation is for the purpose of advancing judicial economy but “does not affect any of the substantive rights of the parties,” *J.G. Link & Co. v. Continental Cas. Co.*, 470 F.2d 1133, 1138 (9th Cir. 1972), and does not merge these separate lawsuits into a single action. *Geddes v. United Fin. Group*, 559 F.2d 557, 561 (9th Cir. 1977).

IT IS FURTHER ORDERED that a copy of this Order shall be filed in each of the above-captioned cases, but all further pleadings and papers in these cases shall be filed only under Northern District Case No. CV-09-05305 MMC, which shall be designated as the “Lead Case” file. In such subsequent pleadings and papers, the case number shall appear on the face of all pleadings and papers as follows:

**LEAD CASE No. CV-09-05305 MMC
Consolidated With Case No. CV-10-04539 MMC**

IT IS FURTHER ORDERED that, except on initial pleadings (i.e., complaints or answers), or as otherwise required by the Federal Rules of Civil Procedure or the Northern

HOFFMAN EMPLOYMENT LAWYERS

100 Pine Street, Ste. 1550
San Francisco, CA 94111
(415) 362-1111

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

District of California’s Local Rules, the caption used on all subsequent pleadings and papers may be of the “short form,” listing the first Plaintiff and Defendant in the Lead Case, and referring collectively to all additional parties in the Lead Case and to all of the other cases consolidated for purposes of trial as “and Related Consolidated Action.”

IT IS SO ORDERED.

DATED: _____ January 18 __, 2011



Hon. Maxine M. Chesney
Judge of the United States District Court