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Attorneys for Plaintiffs and the Class

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

NICK MARTIN, an individual, on behalf of himself and all others similarly situated,	) CASE NO. CV-10-02018-WBS-DAD
	)
Plaintiffs,	) **CLASS ACTION**
	)
vs.	) **JOINT STIPULATION AND**
	) **[~~PROPOSED~~] ORDER FOR CHANGE**
WAREHOUSE DEMO SERVICES, INC.; and	) **OF VENUE PURSUANT TO 28 U.S.C. §**
DOES 1 through 50, inclusive	) **1404**
	)
Defendants.	)

Plaintiff, Nick Martin ("Plaintiff"), and Defendant, Warehouse Demo Services, Inc.

("WDS") (collectively the "Parties"), by and through their respective attorneys, respectfully

submit this Joint Stipulation and [Proposed] Order for Change of Venue Pursuant to 28 U.S.C.

§1404, relating to the above-referenced matter (the "*Martin* action").

JOINT STIPULATION

1.   On August 17, 2010, the Parties attended a mediation session before Mark S.

Rudy, Esq., a well-respected mediator with significant experience in wage and hour class

actions. With the assistance of Mr. Rudy, the parties reached a tentative settlement.

2.   On or about August 19, 2010, Mr. Rudy submitted to the Parties a Mediator's

Proposal which sought to resolve the *Martin* case as well as the related action entitled *Domnitz,*

et al. v. Warehouse Demo Services, Inc., Northern District of California, Case No. CV-09-05305

(the "*Domnitz* action"), collectively.

3.   On or about August 30, 2010, Mr. Rudy informed all parties that each party had independently accepted and agreed to the terms of the Mediator's Proposal.

4.   Based on the fact that the parties have agreed to the material terms necessary to settle both the *Martin* and *Domnitz* actions, and the fact that the *Martin* and *Domnitz* actions are currently pending in different Courts, the Parties stipulate, agree and respectfully request that the Court enter an order providing that this Court transfer the venue of the *Martin* action, which has been settled in conjunction with the *Domnitz* action, to Judge Chesney, in the Northern District of California for consolidation with the *Domnitz* action, preliminary approval of the settlement and all subsequent proceedings.

5.   Change of venue is proper here pursuant to 28 U.S.C. 1404(a) to the Northern District, where the first action (*Domnitz*) was filed and where the more comprehensive putative class is featured, for reasons of judicial economy and the convenience of the Court and the parties.

6.   Furthermore, change of venue is proper in the interest of justice, in that it would be unnecessarily duplicative to seek review and approval of the proposed Settlement Agreement in two separate courts, and it would unduly delay resolution of the cases. Similarly, the Courts would unnecessarily expend judicial resources by addressing the same legal and factual issues, which potentially could lead to inconsistent rulings.

7.   This Court has the authority to enter an order for a change of venue, because the Court may transfer any civil action to any other district where it might have been brought pursuant to 28 U.S.C. 1404(a). The *Martin* action could have been brought in the Northern District of California, as WDS conducts business operations within that District.

SO STIPULATED BY PLAINTIFF.

Dated: September 30, 2010   STONEBARGER LAW, APC

                                                     By: /s/ Gene J. Stonebarger
                                                           Gene J. Stonebarger
                                                           Attorneys for Plaintiff Nick Martin

SO STIPULATED BY DEFENDANT.

Dated: September 30, 2010   JACKSON LEWIS LLP

By: <u>/s/ Joanna L. Brooks (as authorized on 9/29/10)</u>
      Joanna L. Brooks
      Attorneys for Defendant Warehouse Demo
      Services, Inc.

IT IS SO ORDERED that this action is transferred to the United States District Court for the

Northern District of California.

Dated: September 30, 2010

WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE