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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TETSUO AKAOSUGI, HIEU NGUYEN, on
behalf of themselves and all others similarly
situated,

Plaintiff,

v.

BENIHANA INC., d/b/a BENIHANA
NATIONAL CORPORATION, and DOES 1
through 50,

Defendant.

No. C 11-01272 WHA

**ORDER REGARDING
PROPOSED CLASS LETTER**

On October 3, 2011, there was a discovery dispute hearing regarding production of a class list. The order regarding the discovery dispute is filed concurrently herewith. The parties were ordered to submit a draft of a letter to be sent to prospective class members in compliance with the Court's instructions set forth at the hearing. Unfortunately, the parties were unable to reach agreement on the draft letter. Based upon review of the draft letters submitted, the following language for the letter is approved:

RE: Tetsuo Akaosugi and Hieu Nguyen v. Benihana National Corp., et al.

[USDC N.D. No. CV 11-1272]

The Court has given me permission to write you this letter to determine whether you would be willing to speak with me in connection with a prospective class action lawsuit against Benihana National Corp. ("Benihana"), in which Managers and General Managers who worked

1 for Benihana in California at any time since February 14, 2007 would be prospective class
2 members.

3 My firm represents the plaintiffs who brought the case — Tetsuo Akaosugi and Hieu
4 Nguyen — who claim that Benihana’s managers were improperly classified as exempt from
5 California’s overtime and meal and rest break laws. We believe you may be owed overtime
6 wages for hours worked in excess of 8 hours in a day or 40 hours in a week as well as wages for
7 missed meal and rest breaks. Plaintiffs also claim that Benihana had an unlawful “use it or lose
8 it” vacation policy. Benihana denies these claims and contends that it properly compensated its
9 managers.

10 We are at a very important stage of the case where the judge must decide whether the case
11 should proceed as a class action. You are under no obligation to speak with me, but, if you are
12 willing to spare a few minutes, we would very much like to ask you about your job duties and
13 how you were paid.


14 If you are willing to speak to me, please call me at [insert contact information], so we can
15 arrange a time to talk.

16 * * *

17 Distribution of the letter shall comply with the Court’s instructions set forth at the
18 discovery dispute hearing on October 3, 2011 and summarized in the order file concurrently
19 herewith.

20
21 **IT IS SO ORDERED.**

22
23 Dated: October 13, 2011.

24 
25 _____
26 WILLIAM ALSUP
27 UNITED STATES DISTRICT JUDGE
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