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13 Attorneys for Defendant
 14 OFFICE DEPOT, INC.

15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
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18 CHARLES COLEMAN, KEITH CRAFT,
 19 JORGE “GEORGE” ROMERO, GARY
 TSANG, ADRIAN VILCHEZ, and MARKISS
 20 YBARRA,

21 Plaintiffs,

22 vs.

23 OFFICE DEPOT, INC., and DOES 1
 24 THROUGH 20, inclusive,

25 Defendants.

Case No. 12-CV-00427 CRB

**ADMINISTRATIVE MOTION TO
 CONSIDER WHETHER CASES
 SHOULD BE RELATED;
 STIPULATION REGARDING SAME**

AND ORDER

1 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** the parties in the above-entitled action, pursuant to
3 Northern District of California Civil Local Rules 3-12 and 7-11, hereby move this Court for an
4 order relating the case entitled *Salazar v. Office Depot, Inc.*, Case No. 12-CV-05244 KAW,
5 pending before Magistrate Judge Kandis A. Westmore (the “*Salazar* Action”), to the above
6 entitled action and re-assigning the *Salazar* Action from Magistrate Judge Kandis A. Westmore’s
7 docket to Judge Charles R. Breyer’s docket. In addition, the parties hereby move this Court for
8 an order consolidating the *Salazar* Action with the above-entitled action for all purposes.

9 This Administrative Motion is based on the accompanying Stipulation.

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11 Dated: November 13, 2012

KLETTER LAW FIRM
CARY KLETTER
SALLY TRUNG NGUYEN

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14 By: /s/ Cary Kletter
Cary Kletter

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16 Attorneys for Plaintiffs
CHARLES COLEMAN, KEITH CRAFT,
17 JORGE “GEORGE” ROMERO, GARY
TSANG, ADRIAN VILCHEZ, MARKISS
18 YBARRA, STEVEN RHODES, and DEE
SALAZAR

19 Dated: November 13, 2012

MORGAN, LEWIS & BOCKIUS LLP
BARBARA J. MILLER
JENNIFER L. BRADFORD

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22 By: /s/ Jennifer L. Bradford
Jennifer Bradford

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24 Attorneys for Defendant
OFFICE DEPOT, INC.

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STIPULATION

Plaintiffs CHARLES COLEMAN, KEITH CRAFT, GARY TSANG, ADRIAN VILCHEZ, JORGE “GEORGE” ROMERO, MARKIS YBARRA, STEVEN RHODES and DEE SALAZAR and Defendant OFFICE DEPOT, INC., through their counsel of record, hereby stipulate as follows:

WHEREAS, Plaintiffs CHARLES COLEMAN, KEITH CRAFT, GARY TSANG, ADRIAN VILCHEZ, JORGE “GEORGE” ROMERO and MARKIS YBARRA have a suit against Defendant OFFICE DEPOT, INC. currently pending in this Court before Judge Charles R. Bryer, entitled *Tsang, et al. v. Office Depot, Inc.*, Case No. 12-CV-00427 CRB (the “Previously Filed Action”);

WHEREAS, Plaintiff STEVEN RHODES has a suit against Defendant OFFICE DEPOT, INC. currently pending in this Court before Judge Charles R. Bryer, entitled *Rhodes v. Office Depot, Inc.*, Case No. 12-CV-02767 CRB (the “Rhodes Action”);

WHEREAS, this Court previously entered an order relating the *Rhodes* Action to the Previously Filed Action;

WHEREAS, Plaintiff DEE SALAZAR has a suit against OFFICE DEPOT, INC. currently pending in this Court before Magistrate Judge Kandis A. Westmore, entitled *Salazar v. Office Depot, Inc.*, Case No. 12-CV-05244 KAW (the “*Salazar* Action”);

WHEREAS, Plaintiff DEE SALAZAR has asserted misclassification and other wage and hour claims in the *Salazar* action that are substantially the same as those asserted by Plaintiffs CHARLES COLEMAN, KEITH CRAFT, GARY TSANG, ADRIAN VILCHEZ, JORGE “GEORGE” ROMERO, MARKIS YBARRA and STEVEN RHODES in the Previously Filed Action and the *Rhodes* Action;

WHEREAS, Plaintiffs CHARLES COLEMAN, KEITH CRAFT, GARY TSANG, ADRIAN VILCHEZ, JORGE “GEORGE” ROMERO and MARKIS YBARRA’s Second Amended Complaint in the Previously Filed Action includes, *inter alia*, the following claims: (1) Failure to Pay Wages for All Hours Worked in Violation of California Labor Code Sections 201,

1 202, and 203; (2) Failure to Pay All Overtime Earned for Hours Worked in Violation of
2 California Labor Code Sections 510 and 1194 and IWC Wage Orders; (3) Failure to Provide Meal
3 and Rest Periods in Violation of California Labor Code Sections 226.7 and 512 and IWC Wage
4 Orders; (4) Violation of California Labor Code Sections 204 and 210; (5) Failure to Provide an
5 Itemized Wage Statement in Violation of Labor Code Section 226(e); (6) Civil Penalties Under
6 California Labor Code Section 558; (7) Unlawful, Unfair, and Fraudulent Business Practices in
7 Violation of California Business and Professions Code Sections 17200 and 17203, *et. seq.*; (8)
8 Breach of Employment Contract; (9) Violation of the California Labor Code Private Attorneys
9 General Act of 2004, California Labor Code Section 2698, *et seq.*; (10) Breach of the Covenant of
10 Good Faith and Fair Dealing; and (11) Liquidated Damages Pursuant to California Labor Code
11 Section 1194.2;

12 WHEREAS, Plaintiff STEVEN RHODES's Complaint in the *Rhodes* Action includes the
13 following claims: (1) Failure to Pay Wages for All Hours Worked in Violation of California
14 Labor Code Sections 201, 202, and 203; (2) Failure to Pay All Overtime Earned for Hours
15 Worked in Violation of California Labor Code Sections 510 and 1194 and IWC Wage Orders; (3)
16 Failure to Provide Meal and Rest Periods in Violation of California Labor Code Sections 226.7
17 and 512 and IWC Wage Orders; (4) Violation of California Labor Code Sections 204 and 210; (5)
18 Failure to Provide an Itemized Wage Statement in Violation of Labor Code Section 226(e); (6)
19 Civil Penalties Under California Labor Code Section 558; (7) Unlawful, Unfair, and Fraudulent
20 Business Practices in Violation of California Business and Professions Code Sections 17200 and
21 17203, *et. seq.*; (8) Breach of Employment Contract; (9) Breach of the Covenant of Good Faith
22 and Fair Dealing; and (10) Liquidated Damages Pursuant to California Labor Code Section
23 1194.2;

24 WHEREAS, Plaintiff DEE SALAZAR's Complaint in the *Salazar* Action includes the
25 following claims: (1) Failure to Pay Wages for All Hours Worked in Violation of California
26 Labor Code Sections 201, 202, and 203; (2) Failure to Pay All Overtime Earned for Hours
27 Worked in Violation of California Labor Code Sections 510 and 1194 and IWC Wage Orders; (3)
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1 Failure to Provide Meal and Rest Periods in Violation of California Labor Code Sections 226.7
2 and 512 and IWC Wage Orders; (4) Violation of California Labor Code Sections 204 and 210; (5)
3 Failure to Provide an Itemized Wage Statement in Violation of Labor Code Section 226(e); (6)
4 Civil Penalties Under California Labor Code Section 558; (7) Unlawful, Unfair, and Fraudulent
5 Business Practices in Violation of California Business and Professions Code Sections 17200 and
6 17203, *et. seq.*; (8) Breach of Employment Contract; (9) Breach of the Covenant of Good Faith
7 and Fair Dealing; and (10) Liquidated Damages Pursuant to California Labor Code Section
8 1194.2;

9 WHEREAS, the basis for Plaintiffs CHARLES COLEMAN, KEITH CRAFT, GARY
10 TSANG, ADRIAN VILCHEZ, JORGE “GEORGE” ROMERO and MARKIS YBARRA’s wage
11 and hour claims in the Previously Filed Action is that Defendant OFFICE DEPOT, INC.
12 purportedly misclassified them as exempt employees when they held the position of Store
13 Manager;

14 WHEREAS, the basis for Plaintiff STEVEN RHODES’s wage and hour claims in the
15 *Rhodes* Action is that Defendant OFFICE DEPOT, INC. purportedly misclassified him as an
16 exempt employee when he held the position of Store Manager;

17 WHEREAS, the basis for Plaintiff DEE SALAZAR’s wage and hour claims in the
18 *Salazar* Action is that Defendant OFFICE DEPOT, INC. purportedly misclassified her as an
19 exempt employee when she held the position of Store Manager;

20 WHEREAS, Plaintiff DEE SALAZAR is represented in the *Salazar* Action by the same
21 counsel, Kletter Law Firm, as is representing Plaintiffs CHARLES COLEMAN, KEITH CRAFT,
22 GARY TSANG, ADRIAN VILCHEZ, JORGE “GEORGE” ROMERO, MARKIS YBARRA,
23 and STEVEN RHODES in the Previously Filed Action and the *Rhodes* Action;

24 WHEREAS, Defendant OFFICE DEPOT, INC. is represented in the *Salazar* Action by
25 the same counsel, Morgan, Lewis & Bockius LLP, as is representing Defendant OFFICE DEPOT,
26 INC. in the Previously Filed Action and the *Rhodes* Action;

27 WHEREAS, substantially the same issues of fact and law exist in the *Salazar* Action as
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1 exist in the Previously Filed Action and the *Rhodes* Action;

2 WHEREAS, there will be an unduly burdensome duplication of labor and expense or
3 conflicting results if the cases are conducted before different Judges;

4 WHEREAS, the Previously Filed Action and this action are related cases as defined in
5 Northern District of California Civil Local Rule 3-12;

6 WHEREAS, as matters of judicial economy and avoiding inconsistent rulings on
7 substantially the same questions of fact and law favor consolidation of the *Salazar* Action into the
8 Previously Filed Action;

9 WHEREAS, counsel for all parties in both actions have agreed to consolidate the newly
10 filed *Salazar* Action into the Previously Filed Action;

11 WHEREAS, no trial date has been set in either action; and

12 WHEREAS, none of the parties would be prejudiced by this consolidation.

13 THEREFORE, IT IS HEREBY STIPULATED AND AGREED pursuant to Northern
14 District of California Civil Local Rules 3-12 and 7-11:

- 15 1. That the *Salazar* Action and the Previously Filed Action are related;
- 16 2. That the *Salazar* Action shall be re-assigned from Magistrate Judge Kandis A.
17 Westmore's docket to Judge Charles R. Breyer's docket; and
- 18 3. That the *Salazar* Action shall be consolidated with the Previously Filed Action before
19 Judge Charles R. Breyer for all purposes.
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1 Dated: November 13, 2012

KLETTER LAW FIRM
CARY KLETTER
SALLY TRUNG NGUYEN

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By: /s/ Cary Kletter
Cary Kletter

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Attorneys for Plaintiffs
CHARLES COLEMAN, KEITH CRAFT,
JORGE "GEORGE" ROMERO, GARY
TSANG, ADRIAN VILCHEZ, MARKISS
YBARRA, STEVEN RHODES, and DEE
SALAZAR

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8

9 Dated: November 13, 2012

MORGAN, LEWIS & BOCKIUS LLP
BARBARA J. MILLER
JENNIFER L. BRADFORD

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By: /s/ Jennifer L. Bradford
Jennifer L. Bradford

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Attorneys for Defendant
OFFICE DEPOT, INC.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CHARLES COLEMAN, KEITH CRAFT,
JORGE "GEORGE" ROMERO, GARY
TSANG, ADRIAN VILCHEZ, and
MARKISS YBARRA,

Plaintiffs,

vs.

OFFICE DEPOT, INC., and DOES 1
THROUGH 20, inclusive,

Defendants.

Case No. 12-CV-00427 CRB

~~PROPOSED~~ ORDER REGARDING
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED

Pursuant to the stipulation of the parties, and for good cause shown, IT IS HEREBY
ORDERED as follows:

1. The case entitled *Salazar v. Office Depot, Inc.*, Case No. C 12-CV-05244 KAW, pending before Magistrate Judge Kandis A. Westmore (the "*Salazar* Action"), is related to the above-entitled case;
2. The *Salazar* Action is re-assigned from Magistrate Judge Kandis A. Westmore's docket to Judge Charles R. Breyer's docket; and
3. The *Salazar* Action is consolidated with the above-entitled case for all purposes.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: November 26, 2012

The Honorable Charles R. Breyer
United States District Court Judge