

1 TIMOTHY J. LONG, CSBN 137591  
tjlong@orrick.com  
2 ORRICK, HERRINGTON & SUTCLIFFE LLP  
400 Capitol Mall  
3 Suite 3000  
Sacramento, California 95814  
4 Telephone: 916.329.7919  
Facsimile: 916.329.4900

5 Attorneys for Defendants

ALLEN RYAN VAUGHT, *Pro Hac Vice*  
avaught@baronbudd.com  
BARON & BUDD, P.C.  
15910 Ventura Boulevard  
Encino Plaza, Suite 1600  
Encino, CA 91436  
Telephone: 818.839.2333  
Facsimile: 818.986.9798

JAHAN C. SAGAFI, CSBN 224887  
jsagafi@outtengolden.com  
CHRISTOPHER M. MCNERNEY  
cmcnerney@outtengolden.com  
OUTTEN & GOLDEN LLP  
One Embarcadero Center, 35<sup>th</sup> Floor  
San Francisco, CA 94111  
Telephone: 415.638.8800  
Facsimile: 415.638.8810

KELLY M. DERMODY, CSBN 171716  
kdermody@lchb.com  
DANIEL M. HUTCHINSON, CSBN  
239458  
dhutchinson@lchb.com  
LIEFF, CABRASER, HEIMANN &  
BERNSTEIN, LLP  
Embarcadero Center West  
285 Battery Street, 29<sup>th</sup> Floor  
San Francisco, CA 94111-3339  
Telephone: 415.956.1000  
Facsimile: 415.956.1008

LEWIS LYNN ELLSWORTH, CSBN  
79998  
lellsworth@gth-law.com  
WARREN EVANS MARTIN, WSBN  
17235  
wmartin@gth-law.com  
GORDON THOMAS HONEYWELL  
P.O. Box 1157  
Tacoma, WA 98401-1157  
Telephone: 253.620-6505  
Facsimile: 253-620-6565

RICHARD H. WOOSTER, WSBN 13752  
rich@kjmmlaw.com  
KRAM & WOOSTER  
1901 South "I" Street  
Tacoma, WA 98405  
Telephone: 253.572.4161  
Facsimile: 253.572.4167

Attorneys for Plaintiffs



1           **IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned  
2 attorneys of record for Plaintiffs and Defendants MHN Government Services Inc., Health Net  
3 Inc., MHN Services, MHN Services Corporation, Managed Health Network, Inc. (“Defendants”)  
4 that *Zaborowski, et al., v. MHN Government Services, Inc., et al.*, USDC, Northern District of  
5 California Case No. 12-05109, *Hiett, et al., v. MHN Government Services, Inc., et al.*, USDC,  
6 Northern District of California Case No. 13-03016, and *Brown, et al., v. MHN Government*  
7 *Services, Inc., et al.*, USDC, Northern District of California Case No. 14-01149, shall be  
8 dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2).  
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10       **I. BACKGROUND**

11           On or about June 14, 2011, a lawsuit, *Brown, et al. v. MHN Government Services, Inc., et*  
12 *al.*, Wash. Sup. Ct., Case No. 11-2-10229-2, was filed in Pierce County Superior Court in  
13 Washington State, in which plaintiffs asserted various violations of Washington state wage and  
14 hour laws (“*Brown*”). That lawsuit was later removed to the United States District Court for the  
15 Western District of Washington on February 27, 2015, and then transferred to this Court on  
16 March 25, 2015. On or about May 15, 2002, a lawsuit, *Hiett, et al. v. MHN Government Services,*  
17 *Inc., et al.*, N.D. Cal. No. 3:13-cv-03016-SI, was filed in United States District Court for the  
18 Western District of Washington, alleging various violations of the FLSA (“*Hiett*”). That lawsuit  
19 was transferred to this Court on July 1, 2013. On or about July 22, 2014, a lawsuit, *Zaborowski,*  
20 *et al., v. MHN Government Services, Inc., et al.*, N.D. Cal. Case No. 3:12-cv-05109-SI, was filed  
21 in this Court, alleging various violations of the FLSA and California state wage and hour laws  
22 (“*Zaborowski*”). *Zaborowski* was later amended to assert various violations of other states’ wage  
23 and hour laws. *Hiett* was related to *Zaborowski* on or about September 9, 2013. *Brown, Hiett*  
24 and *Zaborowski* are referred to collectively as the “Cases.”  
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1 On or about November 1, 2012, Defendant filed a motion to compel arbitration in  
2 *Zaborowski*. This motion was denied by this Court and thereafter appealed by Defendant to the  
3 Ninth Circuit Court of Appeals, which affirmed this Court’s decision. Defendant thereafter filed  
4 a petition for certiorari with the United States Supreme Court (“SCOTUS”), which granted that  
5 petition on or about October 1, 2015. *Hiatt* and *Brown* have been stayed pending the appeal in  
6 *Zaborowski*.  
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8 The Parties attended and participated in two private mediation sessions before Mark Rudy  
9 on January 20, 2014 and June 18, 2015. Following extensive additional negotiations under Mr.  
10 Rudy’s supervision, the Parties signed a Settlement Agreement.

11 Pursuant to the terms of that Settlement Agreement, Plaintiffs in the Cases filed a claim in  
12 arbitration with JAMS on behalf of themselves and all allegedly similarly situated individuals (as  
13 also alleged in the Cases), to include all Covered Class Members (the “Action”). The Action  
14 sought adjudication of all the claims asserted in the Cases on behalf of all individuals covered by  
15 the Cases (i.e., the named Plaintiffs and all Opt-Ins) and all individuals potentially covered by the  
16 Cases (i.e., the members of the asserted but uncertified Rule 23 classes). The Parties stipulated to  
17 the appointment of the Honorable William J. Cahill (Ret.) of JAMS, who acted as the Arbitrator  
18 of the Action. On December 29, 2015, Plaintiffs filed a motion for preliminary approval of the  
19 settlement, which Judge Cahill heard on December 31, 2015. On January 4, 2016, Judge Cahill  
20 granted Plaintiffs’ motion for preliminary approval of the settlement, certifying a class for  
21 settlement purposes, which included all members of the putative classes alleged in the Cases.  
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24 Judge Cahill then oversaw a scrupulous and conscientious settlement administration  
25 procedure utilized by the Parties to ensure a full and fair opportunity for all settlement class  
26 members to participate, object to or exclude themselves from the settlement. The Parties  
27 provided notice via U.S. mail and email of the settlement to all settlement class members through  
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1 a third party settlement administrator and maintained a website through which settlement class  
2 members could file claims online and get information about the settlement. Settlement class  
3 members were given 30 days to object or opt out and 45 days to file claims. The settlement  
4 administration process also included reminders to all settlement class members who had not yet  
5 responded. The Parties worked collaboratively and diligently through each step in the settlement  
6 process in an effort to provide class members ample opportunity to participate in the settlement.  
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8 These efforts results in a strongly positive response rate from participating class members.  
9 Class notices were sent to all 2,910 Covered Class Members. Of those, approximately 1,900 filed  
10 valid claim forms.<sup>1</sup> Notably, only nine Class Members opted out and not a single person  
11 submitted any objection (timely or untimely). On April 7, 2016, Judge Cahill granted Plaintiffs'  
12 motions for final approval of the settlement. Judge Cahill noted at the final approval hearing that  
13 he is happy to answer any questions that the Court may have regarding the settlement process and  
14 substance.  
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16 Pursuant to the terms of the Settlement Agreement, the parties then dismissed the appeal  
17 (without prejudice) pending before SCOTUS, requesting that SCOTUS remand *Zaborowski* to  
18 this Court in light of the Parties' settlement for dismissal with prejudice along with *Hiatt* and  
19 *Brown*.  
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## 21 **II. STIPULATION OF DISMISSAL WITH PREJUDICE**

22 The Parties have stipulated and agreed that the Cases against Defendants should be  
23 dismissed with prejudice and respectfully submit this Stipulation for approval by the Court for  
24 dismissal of the Cases with prejudice.

25 If and when this Court dismisses the Cases with prejudice, the remaining steps of the  
26 settlement will be implemented.

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28 <sup>1</sup> The deadline for 79 Class Members to submit claims forms will be April 18, 2016.

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**IT IS SO STIPULATED.**

DATED: April 15, 2016

/s/ Allen R. Vaught  
Allen R. Vaught  
BARON & BUDD LLP  
Attorney for Plaintiffs

DATED: April 15, 2016

/s/ Jahan C. Sagafi  
Jahan C. Sagafi  
OUTTEN & GOLDEN LLP  
Attorney for Plaintiffs

DATED: April 15, 2016

/s/ Daniel M. Hutchinson  
Daniel M. Hutchinson  
Lief, Cabraser, Heimann & Bernstein LLP  
Attorney for Plaintiffs

DATED: April 15, 2016

/s/ Warren Martin  
Warren Martin  
GORDON THOMAS HONEYWELL  
Attorney for Plaintiffs

DATED: April 15, 2016

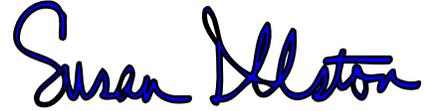
/s/ Richard Wooster  
Richard Wooster  
KRAM & WOOSTER LLP  
Attorney for Plaintiffs

DATED: April 15, 2016

/s/ Timothy J. Long  
Timothy J. Long  
ORRICK, HERRINGTON & SUTCLIFFE  
LLP  
Attorney for Defendants

1 PURSUANT TO THE STIPULATION BETWEEN THE PARTIES, THE COURT HERBY  
2 DISMISSES *Zaborowski, et al., v. MHN Government Services, Inc., et al.*, USDC, Northern  
3 District of California Case No. 12-05109, *Hiatt, et al., v. MHN Government Services, Inc., et*  
4 *al.*, USDC, Northern District of California Case No. 13-03016, and *Brown, et al., v. MHN*  
5 *Government Services, Inc., et al.*, USDC, Northern District of California Case No. 14-01149  
6 WITH PREJUDICE.

7 DATED: April 18, 2016



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HON. SUSAN ILLSTON  
UNITED STATES DISTRICT COURT  
JUDGE

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9  
10 **ATTESTATION**

11 I hereby attest that I have on file all holographic signatures corresponding to any  
12 signatures indicated by a conformed signature (/s/) within this e-filed document.

13 /s/ Jahan C. Sagafi