

1 John M. Padilla (Cal. Bar No. 279815)
 2 jpadilla@pandrlaw.com
 3 PADILLA & RODRIGUEZ, L.L.P.
 4 601 South Figueroa Street, Suite 4050
 5 Los Angeles, California 90017
 6 Telephone: (213) 244-1401
 7 Facsimile: (213) 244-1402

Jahan C. Sagafi (Cal. Bar No. 224887)
jsagafi@outtengolden.com
 Outten & Golden LLP
 One Embarcadero Center, 38th Floor
 San Francisco, California 94111
 Telephone: (415) 638-8800
 Facsimile: (415) 638-8810

6 Galvin B. Kennedy (admitted pro hac vice)
 7 gkennedy@kennedyhodges.com
 8 Gabriel Assaad (admitted pro hac vice)
 9 gassaad@kennedyhodges.com
 10 KENNEDY HODGES, L.L.P.
 11 711 W. Alabama Street
 12 Houston, Texas 77007
 13 Telephone: (713) 523-0001
 14 Facsimile: (713) 523-1116

Christopher McNerney (admitted pro hac vice)
cmcnerney@outtengolden.com
 Outten & Golden LLP
 3 Park Avenue, 29th Floor
 New York, New York 10016
 Telephone: (212) 245-1000
 Facsimile: (646) 509-2060

15 *Attorneys for Plaintiffs and Proposed Class*

16 MARGARET A. KEANE (Cal. Bar No.
 17 255378)
 18 margaret.keane@dlapiper.com
 19 **DLA PIPER LLP (US)**
 20 555 Mission Street, Suite 2400
 21 San Francisco, California 94105
 22 Telephone: (415) 836-2500
 23 Facsimile: (415) 836-2501

KATHARINE J. LIAO (Cal. Bar No.
 24 255157)
 25 katharine.liao@dlapiper.com
 26 **DLA PIPER LLP (US)**
 27 2000 Avenue of the Stars,
 28 Suite 400 North Tower
 Los Angeles, California 90067
 Telephone: (310) 595-3000
 Facsimile: (310) 595-3300

29 *Attorneys for Defendants*

30 **UNITED STATES DISTRICT COURT**
 31 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 32 **SAN FRANCISCO DIVISION**

33 LYLE E. GALEENER, Individually and
 34 On Behalf of All Others Similarly Situated,

35 Plaintiff,

36 v.

37 SOURCE REFRIGERATION & HVAC,
 38 INC.,

Defendant.

Case Number: 3:13-cv-04960-VC

**STIPULATION AND [PROPOSED]
 ORDER GRANTING LEAVE TO FILE
 FIRST AMENDED COMPLAINT**

1 WHEREAS, in an effort to effectuate the parties’ settlement of all claims in this and
2 related litigation, Plaintiffs wish to amend their class and collective action complaint to add (1)
3 nationwide Fair Labor Standards Act (“FLSA”) collective action claims (where before the FLSA
4 claims were limited to three states); (2) Lyle Galeener as a proposed Class Representative
5 asserting claims under Arizona state law on behalf of himself and a proposed Class of Arizona
6 employees; (3) Mathew Vargas as a proposed Class Representative asserting claims under
7 Colorado state law on behalf of himself and a proposed Class of Colorado employees; (4) Erik
8 Brown as a proposed Class Representative asserting claims under Florida state law on behalf of
9 himself and a proposed Class of Florida employees; (5) Erik Brown as a proposed Class
10 Representative asserting claims under Georgia state law on behalf of himself and a proposed
11 Class of Georgia employees; (6) Jesse Howell as a proposed Class Representative asserting
12 claims under Idaho state law on behalf of himself and a proposed Class of Idaho employees; (7)
13 Lyle Galeener as a proposed Class Representative asserting claims under Nevada state law on
14 behalf of himself and a proposed Class of Nevada employees; (8) Keith Brown as a proposed
15 Class Representative asserting claims under New Mexico state law on behalf of himself and a
16 proposed Class of New Mexico employees; (9) Erik Brown as a proposed Class Representative
17 asserting claims under Oregon state law on behalf of himself and a proposed Class of Oregon
18 employees; (10) Sean Hamer as a proposed Class Representative asserting claims under the
19 principles of quantum meruit, on behalf of himself and a proposed Class of employees from
20 Texas, Alabama, Minnesota, Montana, Oklahoma Nebraska, North Carolina, South Carolina,
21 Tennessee, Utah, and Wyoming; (11) Joseph Metko as a proposed Class Representative asserting
22 claims under Washington state law on behalf of himself and a proposed Class of Washington
23 employees;
24
25
26
27

28 WHEREAS, pursuant to the parties’ settlement agreement, plaintiffs in the related cases

1 of *Vargas v. Source Refrigeration & HVAC, Inc.*, Case No. 2013-CV-32936-00712145-CU-OE-
2 CXC (Colorado state court) (“*Vargas*”) and *Hamer v. Source Refrigeration & HVAC, Inc.*, Case
3 No. 1:14-CV-570-55 (W.D. Tex.) (“*Hamer*”) will dismiss their claims within seven days of this
4 Court granting them leave to serve as class representatives in this action;

5
6 WHEREAS, pursuant to that settlement agreement, Defendant Source Refrigeration &
7 HVAC, Inc. (“Source”) agrees that the Colorado claims now asserted in this action shall be
8 deemed to have been asserted on the day *Vargas* was first filed, and the Colorado class members’
9 claims deemed tolled as of that date; and

10 WHEREAS, pursuant to that settlement agreement, Defendant Source agrees that Mr.
11 Hamer and the opt-ins in *Hamer* shall be deemed to have opted into this action on the day each of
12 them filed or opted into *Hamer*, respectively, and their FLSA claims deemed tolled as of those
13 filing and opt-in dates, respectively.
14

15 **THEREFORE**, the parties respectfully request that the Court order that:

- 16 1. Plaintiffs may file the First Amended Complaint, attached hereto as Exhibit A;
- 17 2. The Colorado claims asserted by Plaintiffs will be deemed to have been filed
18 on the date that *Vargas* was first filed in Colorado state court; and
- 19 3. Mr. Hamer and the opt-ins in *Hamer* will be deemed to have opted into this
20 action on the day each of them filed or opted into *Hamer*.

21 **IT IS SO STIPULATED.**

22 Dated: February 18, 2015

23 DLA PIPER LLP (US)

24 By: /s/ Margaret A. Keane
25 MARGARET A. KEANE (SBN 255378)
26 **DLA PIPER LLP (US)**
27 555 Mission Street, Suite 2400
28 San Francisco, CA 94105-2933
Tel.: (415) 836.2500
Fax: (415) 836-2501
margaret.keane@dlapiper.com

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

Attorneys for Defendant

Dated: February 18, 2015

KENNEDY HODGES, L.L.P.

By: /s/ Galvin B. Kennedy
GALVIN B. KENNEDY
KENNEDY HODGES, L.L.P.
711 W. Alabama Street
Houston, Texas 77007
Telephone: (713) 523-0001
Facsimile: (713) 523-1116
gkennedy@kennedyhodges.com

Attorneys for Plaintiff and Proposed Class

s

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

ORDER

IT IS HEREBY ORDERED that:

- (1) Plaintiffs may file the First Amended Complaint;
- (2) The Colorado claims asserted by Plaintiffs will be deemed to have been filed on the date that *Vargas* was first filed in Colorado state court; and
- (3) Mr. Hamer and the opt-ins in *Hamer* will be deemed to have opted into this action on the day each of them filed or opted into *Hamer*.

IT IS SO ORDERED.

Dated: February 19, 2015



THE HONORABLE VINCE CHHABRIA
UNITED STATES DISTRICT JUDGE