Irene Karbelashvili, State Bar Number 232223 1 Law Office of Irene Karbelashvili 2 12 South First Street, Suite 413 San Jose, CA 95113 3 Telephone: (408) 295-0137 Fax: (408) 295-0142 4 5 Kenneth J. Pinto, State Bar Number 221422 Law Office of Kenneth J. Pinto 6 12 South First Street, Suite 713 San Jose, CA 95113 7 Telephone: (408) 289-1765 8 Fax: (408) 289-1754 9 Attorney for RICHARD JOHNSON, Plaintiff 10 UNITED STATES DISTRICT COURT 11 NORTHERN DISTRICT OF CALIFORNIA 12 13 Case No. 15-cv-04632-LB 14 RICHARD JOHNSON, Plaintiff, Civil Rights 15 **CERTIFICATION BY** VS. 16 PLAINTIFF THAT AGREED 17 ALBERT A. BERGER, an individual, and **CONSIDERATION HAS NOT** PAUL K. BERGER, an individual **BEEN DELIVERED** 18 collectively d/b/a BURGER PIT; PAMELA S. KELLEY, an individual, **AND** 19 RANDY A. KELLEY, an individual; and 20 DOES 1-20, REQUEST THAT ORDER OF Defendants. CONDITIONAL DISMISSAL BE 21 VACATED AND CASE BE RESTORED TO CALENDAR 22 ORDER 23 24 25 26 27 28 CERTIFICATION BY PLAINTIFF THAT AGREED UPON CONSIDERATION HAS NOT BEEN DELIVERED REQUEST THAT CONDITIONAL DISMISSAL BE VACATED AND CASE RESTORED TO CALENDAR Page 1 of 2

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1	<u>FACTS</u>	
2	On June 23, 2016 an ADR session was held between plaintiff and Defendants. A	
3	settlement was entered into by the parties and the case was deemed settled. Plaintiff	
4	RICHARD JOHNSON (hereafter "Plaintiff") herby certifies through his legal representative,	
5	Kenneth J. Pinto, that he entered into a settlement agreement with Defendants ALBERT A.	
	BERGER, an individual, and PAUL K. BERGER, an individual collectively d/b/a BURGER	
6	PIT; and PAMELA S. KELLEY, an individual, RANDY A. KELLEY, an	
7	individual(hereafter "Defendants") via their legal representative Samuel Phillips; with terms	
8	that the agreed consideration was due 20 business days from June 23, 2016. (July 21, 2016)	
9	Plaintiff further certifies that July 21, 2016 has passed and no agreed upon consideration has	
10	been provided to Plaintiff by the Defendant(s).	
11	Plaintiff believes the conditional order of dismissal should be vacated and that the matter	
12	should be restored to the court calendar and set for further proceedings as the court deems	
13	proper.	
14		
15	DATED: August 01, 2016 By:/s/ Kenneth J. Pinto KENNETH J. PINTO	
16	Attorney for Plaintiff RICHARD JOHNSON	
17		
	<u>ORDER</u>	
18	PURSUANT TO ORDER OF CONDITIONAL DISMISSAL, IT IS SO ORDERED.	
19	(1) The order for conditional dismissal is hereby vacated.	
20	(2) The case is restored to the court's calendar.	
21	(3) The matter is to be set for further proceedings as the court deems proper.	
22	The court sets the case for a Case Management Conference on August 18, 2016 at 11:00	a.m.
23	and directs the filing of a Joint Case Management Statement by August 11, 2016.	
24	Dated: August <u>2</u> , 2016 By:	
25	Laurel Beeler	
26	United States Magistrate Judge United States District Court Northern District of California	

CERTIFICATION BY PLAINTIFF THAT AGREED UPON CONSIDERATION HAS NOT BEEN DELIVERED AND REQUEST THAT CONDITIONAL DISMISSAL BE VACATED AND CASE RESTORED TO CALENDAR

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