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Attorneys for Plaintiffs

7 UNITED STATES DISTRICT COURT
 8 NORTHERN DISTRICT OF CALIFORNIA
 9 SAN JOSE DIVISION

11 MARTINEZ, ET, AL.,
 12 Plaintiffs,
 13 vs.
 14 ANTIQUE & SALVAGE LIQUIDATORS,
 15 ET.AL.,
 16 Defendants.

Case No.: C09-00997-HRL
 STIPULATION FOR LEAVE TO FILE THE
 SECOND AMENDED COMPLAINT

17 Parties to the above-entitled case, through their respective counsel, submit the following
 18 stipulation:

- 19 1. Subsequent to Plaintiffs filing a motion for leave file the First Amended Complaint, parties
 20 to stipulated for such amendment, and requested a modification of the scheduling order (Docket
 21 No. 23).
 22 2. Pursuant to parties stipulation, on February 11, 2010, the Court granted Plaintiffs leave to
 23 file the First Amended Complaint (Docket No. 24).
 24 3. On February 11, 2010, Plaintiffs filed the First Amended Complaint, adding additional
 25 defendants, and adding a cause of action under California Labor Code Private Attorney General's
 26 Act, § 2698, *et seq.* ("PAGA"), seeking to recover unpaid overtime for violation of Labor Code §
 27 510.

28 STIPULATION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT
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1 4. The Amended Summons was issued on February 12, 2010 and promptly served on
2 Defendants counsel who agreed to accept service on behalf of all newly added additional
3 Defendants.

4 5. Subsequently, Plaintiffs discovered that in their letter sent to California Labor Code §
5 2699.3(a) and 2699.3(c) seeking authorization to pursue PAGA action, Plaintiffs alleged
6 additional causes of actions such as unpaid meal premiums in violation of Labor Code §§ 512 and
7 226.7, violation of Labor Code §§ 201, 202 & 203 for failure to pay all wages due at the time of
8 termination, violation of Labor Code §§ 226 and 226.3 for failure to provide accurate itemized
9 pay statements, and violation of Labor Code 1174 and 1174.5 for failure to maintain accurate time
10 records. However, these additional causes of actions are left out of the First Amended Complaint
11 by mistake.

12 6. Upon discovering this mistake, Plaintiffs promptly contacted Defendants counsel and in
13 the interest of avoiding unnecessary motion practice, parties agree and hereby stipulate to allow
14 Plaintiffs to file their Second Amended Complaint, which is attached hereto as Exhibit 1.

15 Dated: March 11, 2010

16 By: /s/ Adam Wang

17 ADAM WANG

Attorney for Plaintiffs

18 Dated: March 11, 2010

MORGAN, FRANICH, FREDKIN & MARSH

19
20 By: 

ELIZABETH PAPPY

Attorney for Defendants

21
22 ~~PROPOSED~~ ORDER

23 Pursuant to parties stipulation, IT IS SO ORDERED. Plaintiffs are granted leave to file the
24 Second Amended Complaint. **Plaintiffs shall file their Second Amended Complaint as a separate**
25 **docket entry within three days of this order.**

26 Dated: March 12, 2010

27 By: 

Howard L. Lloyd

US Magistrate Judge

28 STIPULATION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

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