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12
 13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15 SHIGE TAKIGUCHI, FUMI NONAKA,
 16 MITSUAKI TAKITA, TATSURO SAKAI,
 SHIZUKO ISHIMORI, YUKO NAKAMURA,
 17 MASAAKI MORIYA, HATSUNE HATANO, and
 HIDENAO TAKAMA, individually and on behalf of
 all others similarity situated,

18 Plaintiff,

19 v.

20 MRI INTERNATIONAL, INC., EDWIN J.
 21 FUJINAGA, JUNZO SUZUKI, PAUL MUSASHI
 SUZUKI, LVT, INC., dba STERLING ESCROW,
 22 and DOES 1-500,

23 Defendants.

Case No.: 2:13-cv-01183-HDM-NJK
 Hon. Howard D. McKibben

**STIPULATION AND ORDER
 ALLOWING FORMER CLASS
 MEMBER NAOMI UKEI TO
 WITHDRAW HER REQUEST FOR
 EXCLUSION AND REJOIN THE
 CLASS**

1 WHEREAS, on June 2, 2015, Plaintiffs filed a motion to certify the class as to defendants MRI
2 International, Inc., Edwin Fujinaga, Junzo Suzuki, Paul Suzuki, and LVT, Inc. (Dkt. 255), which was
3 granted on March 21, 2016 (Dkt. 404);

4 WHEREAS, on May 5, 2016 the class definition was modified by way of stipulation (Dkt. 425),
5 which was granted on May 6, 2016 (Dkt. 426);

6 WHEREAS, on June 17, 2016, notice of class certification was mailed to class members;

7 WHEREAS, on August 31, 2016, class member Naomi Ukei requested to be excluded from the
8 class;

9 WHEREAS, Defendants Junzo and Paul Suzuki and their affiliated entities (“Suzuki
10 Defendants”) and trusts entered into a Settlement Agreement with Plaintiffs on December 11, 2017;

11 WHEREAS, Paragraph 2.12 of the Settlement Agreement provides that as additional
12 consideration of entering into the settlement, the parties will stipulate that investors who requested to be
13 excluded from the Class following the notice of Class Certification be allowed to rejoin the Class, if they
14 so request;

15 WHEREAS, on June 22, 2017 Plaintiffs’ counsel contacted class members who excluded
16 themselves, inquiring as to whether they would be interested in withdrawing their request and to rejoin
17 the class;

18 WHEREAS, on June 25, 2017 Ms. Ukei requested that she be able to withdraw her request for
19 exclusion and explained that she had not initially understood the consequences of requesting to be
20 excluded from the class. Ms. Ukei’s declaration is attached as Exhibit A;

21 WHEREAS, according to MRI International, Inc.’s records, Ms. Ukei made two investments at
22 1,500,000 yen each (approximately \$26,000), for which she contends she has not been repaid;

23 WHEREAS, Federal Rules of Civil Procedure 23(c)(1) permits the Court to alter or amend the
24 class at any time, for any reason, before decision on the merits. See *Vizcaino v. U.S. Dist. Court for*
25 *Western Dist. Of Washington*, 173 F.3d 713, 721 (9th Cir. 1999) (citing Rule 23(c)(1), which gives the
26 court “explicit permission to alter or amend a certification order before [a] decision on the merits . . .”);
27 *Andrews Farms v. Ca/cot, Ltd.*, 268 F.R.D. 380, 384 (E.D. Cal. 2010) (citing *Armstrong v. Davis*, 275
28 F.3d 849, 871 (9th Cir. 2001) (“[e]ven after a certification order is entered, the judge remains free to

1 modify”);

2 WHEREAS, Courts have allowed former class members to withdraw their request for exclusion
3 and rejoin the class. See *In re Static Random Access Memory (SRAM) Antitrust Litig.*, 2013 WL 1222690
4 (March 25, 2013) (permitting party that opted out after class certification to withdraw exclusion after
5 settlement approved but before settlement funds were distributed); *In re Urethane Antitrust Litig.*, 2008
6 WL 5215980 (D. Kan. Dec. 12, 2008) (permitting entities to opt back into the class after settlement
7 approved); *In re Electrical Carbon Prods. Antitrust Litig.*, 447 F. Supp. 2d 389 (D.N.J. 2006) (allowing
8 opt outs to return to class because defendants would have withdrawn settlement if they were allowed to
9 do so); *In re Electric Weld Steel Tubing Antitrust Litig.*, 1982 WL 1873 (June 30, 1982) (permitting
10 company to opt back into class as to certain defendants after it privately settled claims against other
11 defendants); and

12 WHEREAS, this Court granted final approval of Plaintiffs’ settlement with LVT, Inc. on
13 November 17, 2017 and preliminarily approved Plaintiffs’ settlement with ICAG, Inc. and the Suzuki
14 Defendants on January 3, 2018, but no settlement funds have been distributed.

15 Based on the forgoing, the parties stipulate as follows:

- 16 1. That the Court allow Naomi Ueki to withdraw her request for exclusion and to rejoin the
17 class.

18 Dated: January 11, 2018

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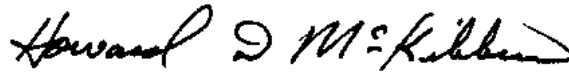
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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: February 5, 2018



United States District Judge