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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

**JUAN M. REYES, SALVATORE
TAGLIARENI, ANGEL DE LA CRUZ,
ANTONIO MEROLLA, SMAIL MUSOVIC,
TESFAYE GHEBREMEDHIN, PHILIP
ROGERS, ALMOND REID, CARMELO
CALABRO, RUSSELL NEUBERT, and JOHN
WILLIAMS, individually and as representatives
on behalf of a class of similarly situated persons,**

Plaintiffs,

vs.

**BAKERY AND CONFECTIONERY UNION
AND INDUSTRY INTERNATIONAL
PENSION FUND; and STEVEN BERTELLI,
DAVID B. DURKEE, JETHRO A. HEAD, ART
MONTMINY, JAMES RIVERS, RANDY D.
ROARK, BARBARA BRASIER, TRAVIS
CLEMENS, JON MCPHERSON, LOU
MINELLA, DOUG RUYGROK, and JOHN
WAGNER, in their official capacities as Trustees,**

Defendants.

Case No. 3:14-cv-5596-JST

Assigned to Hon. Jon S. Tigar

CLASS ACTION

SECOND AMENDED
STIPULATION OF SETTLEMENT

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1 This Second Amended Stipulation of Settlement (the “Settlement Agreement”) is entered
2 into by and between Class Plaintiffs Juan M. Reyes, Salvatore Tagliareni, Angel De La Cruz,
3 Antonio Merolla, Smail Musovic, Tesfaye Ghebremedhin, Philip Rogers, Almond Reid, Carmelo
4 Calabro, Russell Neubert, and John Williams, in the above-captioned Action for themselves and
5 on behalf of the Certified Class, as defined below, on the one hand, and the Defendants Bakery
6 and Confectionery Union and Industry International Pension Fund (“Pension Fund”); and Steven
7 Bertelli, David B. Durkee, Jethro A. Head, Art Montminy, James Rivers, Randy D. Roark,
8 Barbara Brasier, Travis Clemens, Jon McPherson, Lou Minella, Doug Ruygrok, and John
9 Wagner, in their capacities as Trustees, in the above-captioned action, on the other, in
10 consideration of the promises, covenants and agreements herein described and for other good and
11 valuable consideration acknowledged by each of them to be satisfactory and adequate.

12 WHEREAS:

13 a. The Pension Fund is a multiemployer defined benefit pension plan covering
14 approximately 113,000 plan participants who work or worked previously in the unionized bakery
15 and confectionery industry. The Pension Fund is primarily funded by contributions made by
16 employers on behalf of their active employees. The Board of Trustees of the Pension Fund is the
17 plan sponsor as well as the administrator. The rules governing plan administration and benefit
18 eligibility as of any particular time are set forth in the Plan Rules.

19 b. The Pension Fund provides certain participants with subsidized early retirement
20 benefits called “Golden 80” or “Golden 90” benefits. Absent such benefits, under the Plan
21 Rules, a participant becomes eligible to receive a full pension if he or she works in covered
22 employment for 25 or more years and reaches the retirement age of 65, Plan Rules §§ 4.01, 1.15,
23 while a participant who retires before age 65 or with less than 25 years of pension credit will
24 receive a reduced monthly pension amount. *Id.* §§ 4.05-.06. The Pension Fund offers the
25 Golden 80 and Golden 90 plans to bargaining units and employers that agree to a higher
26 contribution rate, *id.* §§ 4.17-.18, 4.23-.24, 4.26(d) & (g), and these plans provide a full pension
27 benefit at any age or with less than 25 years of pension credit, if the sum of a participant’s age
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1 and years of pension credit equals or exceeds 80 (or, in the case of the Golden 90 plan, 90). *Id.*
2 §§ 4.17-.18, 4.23-.24.

3 c. In the past, the Pension Fund permitted participants to “age into” Golden 80 or 90
4 benefits. That is, a participant could leave covered employment before the sum of her age and
5 service met the 80- or 90-year threshold and still become eligible for the full benefits when, later,
6 the threshold sum of years was met due to the fact that the participant had gotten older. In 2012,
7 the Pension Fund adopted the 2012 Rehabilitation Plan that included, *inter alia*, an amendment
8 requiring participants, with certain exceptions, to be working in covered employment in order to
9 become eligible for Golden 80 or 90 benefits.

10 d. On December 23, 2014, Plaintiff Juan Reyes instituted the above-captioned action
11 in the United States District Court for the Northern District of California to challenge this plan
12 amendment – defined below as the 2012 Amendment – that changed the eligibility rules for
13 Golden 80 and 90 benefits. On April 27, 2015, the remaining Class Representatives joined the
14 action with the filing of the First Amended Class Action Complaint. On September 22, 2015, the
15 Court certified the Plaintiff Class (as defined below). On September 24, 2015, Defendants
16 moved for judgment on the pleadings as to the Amended Complaint, which Class Plaintiffs
17 opposed. On March 22, 2016, the Court denied the motion as to Count I and granted the motion
18 as to the remaining counts with leave to re-plead as to Count II. On April 5, 2016, Plaintiffs filed
19 their Second Amended Class Action Complaint.

20 e. As set forth more fully in Article 5, Defendants deny any liability or wrongdoing
21 of any kind associated with the claims alleged in Plaintiffs’ Complaints and believe the claims
22 lack merit. Plaintiffs believe the claims against Defendants are meritorious.

23 f. After Plaintiffs filed their Second Amended Class Action Complaint, and with the
24 parties having already engaged in substantial document discovery, the parties agreed to mediate
25 the Action before an independent mediator, Jed Melnick of JAMS, who has extensive experience
26 mediating complex ERISA cases. In the lead-up to the mediation, Class Counsel requested
27 various data and information relevant to a potential settlement, and Defendants’ counsel
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1 provided detailed answers and information in response to their requests. The parties also
2 exchanged detailed mediation briefs, setting forth the merits of the legal arguments that would be
3 interposed if this Action were litigated to conclusion. The parties then engaged in a day-long
4 mediation and, at its conclusion, reached an agreement in principle. The parties' negotiations on
5 terms continued in a further face-to-face settlement discussion on October 14, 2016 and in
6 telephonic conferences throughout November 2016. As a result of those additional discussions,
7 several issues were resolved concerning the process for Class Members receiving incidental
8 monetized relief from the injunctive relief described herein. The resolution reached streamlined
9 the process, reduced the previously contemplated year-long internal and external remedy process
10 and costs associated therewith, and effectively eliminated the Claims Procedures for two thirds
11 of persons identified by the Fund as Probable Payees permitting such Class Members (subject to
12 the right to dispute under the remedy process herein) to receive payment shortly after the
13 Effective Date of Settlement. The remaining one-third of those Class Members receiving
14 monetized relief will, through the assistance of Class Counsel and the Settlement Administrator,
15 be able to submit a limited amount of paperwork in order to identify themselves and their
16 entitlement to the monetized relief, along with certain other documentation normally needed in
17 order to generate and trigger a pension benefit payment.

18 g. The Parties wish to resolve the Action pursuant to an agreement whereby, in
19 return for dismissal of the action and the Releases by Class Plaintiffs and the Class, the Court
20 will enter a permanent injunction substantially in the form that is set forth in paragraph 5 of the
21 Proposed Final Order and Judgment (annexed as Exhibit 1 hereto), to enjoin the Fund from
22 enforcing the 2012 Amendment with respect to Prospective Claims, and further enjoining the
23 Fund from applying the 2012 Amendment to Retroactive Claims in a manner that would be
24 inconsistent with this Agreement. Such injunction shall result in incidental monetized relief
25 payable to certain Class Members in accordance with this Settlement.

26 h. Class Counsel have conducted a thorough investigation into the facts of the
27 Action, including conducting an extensive review of relevant documents, information, and data
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1 provided by Defendants, and have diligently investigated the Class’s claims against Defendants.
2 Based on this information and their own independent investigation and evaluation, Class Counsel
3 are of the opinion that the settlement with Defendants on the terms set forth in this Settlement is
4 fair, reasonable, and adequate and is in the best interests of the Class in light of all known facts
5 and circumstances, including the risks of significant expense and delay, defenses asserted by
6 Defendants, equitable shaping of the remedy by the Court, the uncertainty of complex litigation
7 through trial, and potential appellate issues.

8 NOW, THEREFORE the parties, for good and valuable consideration, have entered into
9 the following Settlement Agreement:

10 **1. DEFINITIONS**

11 As used in this Settlement Agreement, capitalized terms and phrases not otherwise
12 defined have the meanings provided below.

13
14 **1.1.** “2012 Amendment” shall mean any provision in the 2012 Rehabilitation Plan that
15 states, in substance, that participants who had not yet reached the combination of age and service
16 required to be eligible for a Golden 80 or Golden 90 pension as of April 30, 2012, will not be
17 permitted to age into the Golden 80 or Golden 90 benefit after leaving covered employment, with
18 certain specific exceptions, *see* 2012 Rehabilitation Plan at 8 (clause (iv)), 20-21, provisions
19 which were later embodied in § 4.17(c) and § 4.23(c) of the Plan Rules. The term “2012
20 Amendment” does not include any other plan amendments in the 2012 Rehabilitation Plan, nor
21 does it include any plan amendments that post-date the 2012 Rehabilitation Plan (including
22 amendments that are otherwise identical to the 2012 Amendment except for the effective date).
23 Thus, for example, the 2016 Amendment is outside the scope of this definition.

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25 **1.2.** “2012 Rehabilitation Plan” shall mean the document dated November 7, 2012 that
26 is Docket No. 1-5 in the Action.
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1 **1.3.** “2016 Amendment” shall mean the plan amendment to the Golden 80/90
2 eligibility rules in the readopted Rehabilitation Plan, effective June 1, 2016, that is Exhibit B to
3 John Beck’s Declaration in Support of Motion for Preliminary Approval of Settlement, Dkt. 117-
4 2.

5 **1.4.** “2016 Notice of Critical Status” shall mean the “Notice of Critical and Declining
6 Status” dated April 27, 2016, which is attached as Exhibit C to John Beck’s Declaration in
7 Support of Motion for Preliminary Approval of Settlement Dkt. 117-3.

8 **1.5.** “Action” shall mean the civil action styled as *Juan M. Reyes, et al v. Bakery and*
9 *Confectionery Union and Industry International Pension Fund, et al*, Case no. 3:14-cv-5596-JST
10 now pending in the United States District Court for the Northern District of California and all
11 claims asserted therein.
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13 **1.6.** “Agreement Execution Date” shall mean the date on which this Settlement
14 Agreement is fully executed, as provided in Section 9.15 below.
15

16 **1.7.** “Application” shall mean an “Application Form” submitted by a Class Member
17 either to the Settlement Administrator or the Fund, pursuant to Section 6.4.2 or 6.4.6, below.

18 **1.8.** “Application Deadline” shall mean the date ninety (90) days after the mailing of
19 the Notice.
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21 **1.9.** “Application Form” shall mean the document that is Exhibit A-2 to the Proposed
22 Order Preliminarily Approving Settlement and Providing For Notice annexed as Exhibit 2
23 hereto, as modified, if at all, by the Court.

24 **1.10.** “Claims Procedure” shall mean the procedures set forth in Article 6 for
25 determining a Class Member’s eligibility for, and the amount of, a Settlement Award.

26 **1.11.** “Class” shall mean (Order of the Court at Doc. 72):
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1 All participants in the Bakery and Confectionery Union and
2 Industry International Pension Fund or, if deceased, their
beneficiaries or Estates, who

3 (i) Accrued (a) years of covered Employment credits and (b) age
4 credits towards eligibility for pension benefits under Plan C (also
5 known as the “Golden 90”) or Plan G (also known as “Golden
80”), and

6 (ii) Who would be eligible for Plan C or Plan G benefits except
7 that their age and years of service first totaled 80 (with respect to
8 Plan G eligibility) or 90 (with respect to Plan C eligibility) on or
9 after May 1, 2012, at a time when they were not working in
covered employment.

10 **1.12.** “Class Counsel” shall mean Thomas O. Sinclair, Geoffrey V. White, William D.
11 Frumkin, Elizabeth E. Hunter, Judith L. Spanier, and Nancy Kaboolian.

12 **1.13.** “Class Member” shall mean any Person in the Class and anyone acting on behalf
13 of a Person in the Class with due authorization.

14 **1.14.** “Class Member In Pay Status” shall mean a Class Member (a) who, but for the
15 2012 Amendment’s prohibiting the Class Member from aging into the benefit, would have been
16 eligible for a Golden 80 or 90 benefit with a Pension Effective Date falling within the Payment
17 Period, and (b) who is already receiving a pension from the Fund with a Pension Effective Date
18 before June 1, 2016, and, for any such participant who is deceased as of the Effective Date of
19 Settlement, his or her beneficiary or estate.

20 **1.15.** “Class Members Recovering Incidental Monetized Relief” shall mean those Class
21 Members who (a) establish (or in the case of Class Members In Pay Status, whose prior
22 applications to the Pension Fund have already established) that, but for the 2012 Amendment’s
23 prohibiting the Class Member from aging into the benefit, the Class Member would have been
24 eligible for a Golden 80 or 90 benefit with a Pension Effective Date falling within the Payment
25 Period, (b) comply with all of the requirements that are applicable to the Class Member in the
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1 Claims Procedures set forth in this Settlement Agreement, and (c) have Payment Period
2 Settlement Amounts that are greater than zero.

3 **1.16.** “Class Representatives” or “Class Plaintiffs” shall mean Juan Reyes; Salvatore
4 Tagliareni; Angel De La Cruz; Antonio Merolla; Smail Musovic; Tesfaye Ghebremedhin; Philip
5 Rogers; Almond Reid; Carmelo Calabro; Russell Neubert; and John Williams.

6 **1.17.** “Complaint” shall mean the Complaint filed December 23, 2014 (Doc.1), the
7 Amended Complaint filed April 27, 2015 (Doc. 44), and the Second Amended Complaint filed
8 April 5, 2016 (Doc. 93).

9 **1.18.** “Complete Application” shall mean an Application that contains all those items of
10 the necessary information and documentation to support a determination with respect to a
11 Retroactive Claim as set forth in Section 1.25.

12 **1.19.** “Completed Application Deadline” shall mean, with respect to an Application,
13 seventeen (17) days from the mailing of a Notice of Deficiency.

14 **1.20.** “Court” shall mean the United States District Court for the Northern District of
15 California.

16 **1.21.** “Defendants” shall mean the Pension Fund as well as Steven Bertelli, David B.
17 Durkee, Jethro A. Head, Art Montminy, James Rivers, Randy D. Roark, Barbara Brasier, Travis
18 Clemens, Jon McPherson, Lou Minella, Doug Ruygrok, and John Wagner, and their successors
19 as Trustees.

20 **1.22.** “Determination Appeal” shall mean a written submission, together with any
21 supporting documentation, by a Class Member that sets forth all of the reasons why the Class
22 Member believes that the Fund erred in its initial determination with respect to the Class
23 Member’s eligibility for, or the amount of, a Settlement Award.

24 **1.23.** “Effective Date of Settlement” shall mean the first date on which the Order and
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1 Judgment has become Final.

2 **1.24.** “ERISA” shall mean the Employee Retirement Income Security Act of 1974, as
3 amended, 29 U.S.C. §1001, et seq., including all regulations promulgated and case law
4 thereunder.

5 **1.25.** “Facially Complete” means, with respect to an Application, that the Class
6 Member fully filled out the Application Form and included all necessary documentation, as
7 determined by the Fund, including but not limited to (a) the participant’s birth certificate and, if
8 applicable, (b) the participant’s spouse’s birth certificate, (c) the marriage certificate, (d) the
9 divorce decree, (e) the participant’s death certificate, and (f) the required documentation of
10 military service.

11 **1.26.** “Fairness Hearing” shall have the meaning set forth in Section 2.1.4.

12 **1.27.** “Final” shall mean, with respect to a judicial order (including the Order and
13 Judgment), that the time for filing an appeal from the judicial order has expired and no appeal
14 has been filed, or any and all appeals have been finally determined with no right to further
15 appeal. Similarly, “Final” shall mean, with respect to an Application or Settlement Award, that
16 there has been a determination with respect to the Application or with respect to the Payment
17 Period Settlement Amount of a Class Member In Pay Status and that either (a) the time for
18 appealing from the determination under Section 6.8.1 has expired and the Class Member has not
19 appealed, (b) the time for seeking the Court’s review under Section 6.8.3 has expired and the
20 Class Member has not sought such review, or (c) the Court has rendered its decision with respect
21 to the appeal under Section 6.8.3.

22 **1.28.** “First Distribution Date” shall have the meaning given to it in Section 6.9.

23 **1.29.** “Golden 80 or 90 benefits,” “Golden 80 and 90 benefits,” and “Golden 80/90
24 benefits” shall mean the subsidized early retirement benefits described in § 4.18 (which concerns
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1 Golden 90 benefits under Plan C) or § 4.24 (which concerns the Golden 80 benefit under Plan G)
2 of the Plan Rules. To clarify, the term is intended to include the entire amount of a Class
3 Member's monthly "Golden 80 or 90 benefit" even that portion which from an actuarial
4 perspective is equal to an early retirement benefit.

5 **1.30.** "Initial Benefit Amount" shall have the meaning given to it in Section 6.6.

6 **1.31.** "MPRA" shall mean the Multiemployer Pension Reform Act of 2014.

7 **1.32.** "Notice" shall mean the form of notice appended as Exhibit A-1 to the Proposed
8 Order Preliminarily Approving Settlement and Providing For Notice annexed as Exhibit 2
9 hereto, as modified, if at all, by the Court.

10 **1.33.** "Notice of Deficiency" shall mean a written communication that identifies one or
11 more deficiencies in a Class Member's Application and that provides the Class Member with a
12 specific date seventeen (17) days from the mailing of the Notice of Deficiency by which the
13 Class Member will be required to cure the deficiencies identified in the letter.

14 **1.34.** "Order and Judgment" shall mean an order and judgment approving the
15 Settlement in substantially the form annexed as Exhibit 1 hereto.

16 **1.35.** "Parties" shall mean the undersigned parties to this Settlement Agreement.

17 **1.36.** "Payment Period" shall mean May 1, 2012 through May 31, 2016.

18 **1.37.** "Payment Period Settlement Amount" shall mean the amount calculated under
19 Section 6.6.

20 **1.38.** "Pension Effective Date" shall have the meaning ascribed to it in the Plan Rules.

21 **1.39.** "Pension Fund" or "Fund" shall mean the Bakery and Confectionery Union and
22 Industry International Pension Fund, *i.e.*, the multiemployer trust fund through which funding is
23 provided for the administration of, and the payment of benefits under, the Bakery and
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1 Confectionery Union and Industry International Pension Plan on terms set out in the Plan Rules
2 and pursuant to the Agreement and Declaration of Trust establishing the Fund.

3 **1.40.** “Person” shall mean an individual, estate, partnership, corporation, governmental
4 entity, trust, or any other form of legal entity or organization.

5 **1.41.** “Plan Rules” shall mean the Rules and Regulations of the Bakery and
6 Confectionery Union and Industry International Pension Fund attached as Exhibit A to John
7 Beck’s Declaration in Support of Motion for Preliminary Approval of Settlement, which are
8 presently in effect, or any future amended version of these Rules and Regulations in effect at the
9 time at which they are to be applied.

10 **1.42.** “Preliminary Approval Motion” shall mean the renewed motion for preliminary
11 approval that Plaintiffs will file with respect to this Settlement Agreement (and not the motion
12 filed by Plaintiffs on October 26, 2016 or on December 20, 2016).

13 **1.43.** “Preliminary Approval Order” shall mean the order preliminarily approving the
14 Settlement in substantially the form annexed as Exhibit 3 hereto.

15 **1.44.** “Presumed Pension Effective Date” shall mean, with respect to a Class Member,
16 the earliest date on which the Class Member could have started to receive monthly Golden 80 or
17 90 benefits under the Plan Rules, assuming that the Class Member had filed a written application
18 as early as permitted.

19 **1.45.** “Probable Payees” shall mean Class Members who the Pension Fund, from a
20 review of its records, believes are likely to be able to qualify as Class Members Recovering
21 Incidental Monetized Relief, excluding any Class Member In Pay Status.

22 **1.46.** “Prospective Claims” shall mean any claim or application filed by or on behalf of
23 a participant or beneficiary for a Golden 80 or 90 benefit with a Pension Effective Date on or
24 after June 1, 2016.

1 **1.47.** “Released Claims” shall have the meaning set forth in Section 3.2.

2 **1.48.** “Released Parties” shall have the meaning set forth in Section 3.1.

3 **1.49.** “Releases” shall mean the releases set forth in Sections 3.1, 3.2, and 3.3.

4 **1.50.** “Representatives” shall mean actuaries, attorneys, agents, directors, officers, and
5 employees.

6 **1.51.** “Retroactive Claim” shall mean any claim or application filed by or on behalf of a
7 participant or beneficiary for a Golden 80 or 90 benefit with a Pension Effective Date after April
8 30, 2012 and on or before May 31, 2016.

9 **1.52.** “Second Distribution Date” shall have the meaning given it in Section 6.9.

10 **1.53.** “Settlement” shall mean the settlement to be consummated under this Settlement
11 Agreement pursuant to the Order and Judgment.

12 **1.54.** “Settlement Administrator” shall mean Strategic Claims Services.

13 **1.55.** “Settlement Agreement” shall mean this Second Amended Stipulation of
14 Settlement.

15 **1.56.** “Settlement Award” shall mean the amount awarded to a Class Member
16 Recovering Incidental Monetized Relief under the Claims Procedure set forth in Article 6.

17 **1.57.** “Settlement Fund” shall mean a temporary sub-trust of the Pension Fund
18 established by the Settlement Administrator that will be used for the exclusive purpose of (i)
19 providing benefits to Class Members in the form of Settlement Awards to Class Members
20 Recovering Incidental Monetized Relief, and (ii) defraying reasonable expenses of administering
21 those benefits and the sub-trust, which are understood to include attorneys’ fees and expenses
22 and class representative fees that may be awarded by the Court upon application by Class
23 Counsel as provided in Section 8.

24 **1.58.** “Statement of Calculated Benefit” shall mean a letter from the Settlement
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1 Administrator to a Class Member In Pay Status communicating the Pension Fund’s calculation
2 of his or her Payment Period Settlement Amount and advising the Class Member that the
3 Payment Period Settlement Amount will be reduced by the deduction of administrative expenses,
4 attorneys’ fees, and compensation to Class Representatives. An exemplar of that letter is
5 attached as Exhibit A-4 to the Proposed Order Preliminarily Approving Settlement and Providing
6 for Notice.
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8 **1.59.** “Successor-In-Interest” shall mean a Person’s estate, legal representatives, heirs,
9 successors or assigns, including successors or assigns that result from corporate mergers or other
10 structural changes.

11 **1.60.** “Trustee” shall mean any person who has served or will serve as a trustee of the
12 Pension Fund at any time on or after January 1, 2012, including those named as Defendants in
13 this Action, and shall also mean the Successors-In-Interest of the individuals who served as
14 trustees during this time period (including, for example but without limitation, the Successor-In-
15 Interest of Robert Oakley who has died).
16

17 **2. CONDITIONS TO THE EFFECTIVENESS OF THE SETTLEMENT**

18 This Settlement shall be effective when each of the following conditions in Sections 2.1
19 through 2.2 has been satisfied. The Parties will use reasonable, good faith, best efforts to cause
20 each of the conditions to occur within the times indicated.
21

22 **2.1. Condition #1: Court Approval.** The Settlement shall be approved by the Court
23 in accordance with the following steps.

24 **2.1.1. Motion for Preliminary Approval of Settlement and of Notices.** By
25 February 27, 2017 or in accordance with the Court’s scheduling order, Class Plaintiffs
26 will file the Preliminary Approval Motion with the Court for entry of the Preliminary
27 Approval Order. Within seven (7) days after the Class Plaintiffs’ filing of the
28

1 Preliminary Approval Motion, Defendants shall file notice that they do not oppose the
2 motion provided said motion meets the requirements set out within this Agreement.

3 **2.1.2. Dissemination of Notice.** Subject to the requirements of the Preliminary
4 Approval Order, the Settlement Administrator shall cause the Notice to be disseminated
5 to the Class within twenty-one (21) business days after entry of the Preliminary Approval
6 Order.

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8 **2.1.3. Issuance of Notice under the Class Action Fairness Act.** On December
9 30, 2016, Defendants provided notice under CAFA to the United States Department of
10 Justice and to the Attorneys General of all states in which Class Members are known by
11 the Pension Fund to reside, as specified by 28 U.S.C. § 1715 of the December 20, 2016
12 amended stipulation. Defendants shall, at their own expense, provide a supplemental
13 notice within ten (10) days after the filing of the Preliminary Approval Motion.
14 Defendants shall give Class Counsel the opportunity to review the notices at least three
15 (3) days before service.

16
17 **2.1.4. The Fairness Hearing.** The Court will conduct a hearing at which it will
18 consider whether the Settlement is fair, reasonable, and adequate (“Fairness Hearing”).
19 At or after the Fairness Hearing the Court will determine: (i) whether to enter the Order
20 and Judgment approving the Settlement and dismissing the Action with prejudice
21 (Exhibit 1); (ii) whether the Claims Procedure as provided in Section 6 herein should be
22 approved; and (iii) whether to award attorneys’ fees and expenses to Class Counsel and
23 class representative fees to the Class Plaintiffs. The Parties agree to support entry of the
24 Order and Judgment as contemplated by clauses (i) and (ii) of this paragraph. The Parties
25 will seek to set the Fairness Hearing at least ninety (90) days from the date on which
26 Defendants are required to provide supplemental notice under Section 2.1.3. All
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1 objections to the Settlement must be postmarked no later than twenty-eight (28) days
2 before the Fairness Hearing scheduled by the Court and mailed to:

3 Office of the Clerk of the Court
4 Attn: *Reyes v. Bakery Objection*, 14-cv-5596, JST
5 United States District Court
6 450 Golden Gate Avenue
7 San Francisco, CA 94102-3489

8 **2.1.5. Entry of Order and Judgment.** The Court shall have entered the Order
9 and Judgment.

10 **2.2. Condition #2: Finality of Order and Judgment.** The Order and Judgment shall
11 have become Final.

12 **3. RELEASES**

13 **3.1. Released Parties.** For purposes of this Settlement Agreement, “Released Parties”
14 means all Defendants and Trustees, as well as any other Person that at any time between January
15 1, 2012 and June 1, 2016 served as a named or functional fiduciary of the Pension Fund or as a
16 Representative of any Defendant or Trustee.

17 **3.2. Released Claims.** For purposes of this Settlement Agreement, “Released
18 Claims” means any and all actual or potential, known or unknown, claims (including but not
19 limited to claims to the Pension Fund for benefits, as well as claims for attorneys’ fees, expenses
20 and costs), actions, damages, losses, causes of action, demands, obligations, and liabilities
21 arising out of, or related to, the transactions or occurrences asserted in Plaintiffs’ Original Class
22 Action Complaint, Plaintiffs’ First Amended Class Action Complaint, or Plaintiffs’ Second
23 Amended Class Action Complaint in the Action, including but not limited to (i) the
24 determination that the Pension Fund was in critical status under ERISA Section 305 in the plan
25 year 2012; (ii) plan amendments adopted in the 2012 Rehabilitation Plan affecting Golden 80 or
26 Golden 90 benefits; and (iii) notice of such plan amendments; except that Released Claims do
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1 not include: (a) any rights or duties arising out of this Settlement Agreement, including the
2 express warranties and covenants in this Settlement Agreement; (b) any right of Class Plaintiffs
3 to apply for a class representative fee award and on Class Counsel's behalf for an award of
4 attorneys' fees and expenses in the Action as set forth in Section 8; (c) any ERISA Section
5 502(a)(1)(B) claim for vested benefits by any Plan participant or beneficiary pursuant to the Plan
6 Rules where such claims are unrelated to any matter asserted in this Action; and (d) any potential
7 claims arising out of the 2016 Amendment and/or the 2016 Notice of Critical Status where such
8 claims do not challenge the validity of the determination that the Pension Fund was in critical
9 status under ERISA Section 305 in the plan year 2012 or the validity of plan amendments
10 adopted in the 2012 Rehabilitation Plan affecting Golden 80 or Golden 90 benefits. With respect
11 to Class Members other than the Class Representatives, in no event will the scope of the
12 Released Claims be broader than the res judicata effect of a final judgment in this Action.
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15 **3.3. Scope of Releases.** Effective upon the Order and Judgment becoming Final,
16 Class Plaintiffs, on behalf of themselves and as Class Representatives, and all Class Members
17 shall be deemed to have (and by operation of the Order and Judgment shall have) fully, finally,
18 and forever released, relinquished, and discharged the Released Parties from any and all
19 Released Claims and shall forever be enjoined from prosecution of any and all of the Released
20 Parties for said claims. The Parties intend and agree that the Releases granted in this Article 3
21 shall be effective as a bar to any and all currently unsuspected, unknown, or partially known
22 claims within the scope of their express terms and provisions. Accordingly, Class Plaintiffs
23 hereby expressly waive, on their own behalf and on behalf of all Class Members, any and all
24 rights and benefits respectively conferred upon them by the provisions of Section 1542 of the
25 California Civil Code and all similar provisions of the statutory or common laws of any other
26 State, Territory, or other jurisdiction. Section 1542 reads in pertinent part:
27
28

1 A general release does not extend to claims that the creditor does
2 not know or suspect to exist in his or her favor at the time of
3 executing the release, which if known by him or her must have
materially affected his or her settlement with the debtor.

4 Class Plaintiffs, on their own behalf and on behalf of all Class Members, hereby acknowledge
5 that the foregoing waiver of the provisions of Section 1542 of the California Civil Code and all
6 similar provisions of the statutory or common law of any other State, Territory, or other
7 jurisdiction was separately bargained for and that the Defendants would not enter into this
8 Settlement Agreement unless it included a broad release of unknown claims. Class Plaintiffs, on
9 their own behalf and on behalf of all Class Members, expressly agree that all release provisions
10 in this Settlement Agreement shall be given full force and effect, in accordance with Section 3.2,
11 including those terms and provisions relating to unknown, unsuspected, and future claims,
12 demands, and causes of action. Class Plaintiffs assume for themselves, and on behalf of the
13 Class, the risk of his, her or its respective subsequent discovery or understanding of any matter,
14 fact, or law, that if now known or understood, would in any respect have affected his, her, or its
15 entering into this Settlement Agreement.
16

17
18 **3.4.** Consistent with the foregoing, Class Members whose Pension Effective Date falls
19 within the Payment Period shall be barred from claiming Golden 80 or Golden 90 benefits for
20 any period prior to June 1, 2016 except as provided in the Claims Procedures set forth in Section
21 6; provided, however, that this paragraph shall not be deemed to limit the scope of the Release in
22 Section 3.2.

23 **4. REPRESENTATIONS AND WARRANTIES**

24 **4.1. Parties' Representations and Warranties.** The Parties, and each of them,
25 represent and warrant:
26

27 **4.1.1.** That they are voluntarily entering into this Settlement Agreement as a
28 result of arm's-length negotiations among Class Counsel and counsel for Defendants; that

1 in executing this Settlement Agreement they are relying solely upon their own judgment,
2 belief and knowledge, and the advice and recommendations of their own independently
3 selected counsel, concerning the nature, extent and duration of their rights and claims
4 hereunder and regarding all matters which relate in any way to the subject matter hereof;
5 and that, except as provided herein, they have not been influenced to any extent
6 whatsoever in executing this Settlement Agreement by any representations, statements or
7 omissions pertaining to any of the foregoing matters by any party or by any Person
8 representing any party to this Settlement Agreement. Each of the Parties assumes the risk
9 of mistake as to facts or law; and
10

11 **4.1.2.** That they have carefully read the contents of this Settlement Agreement,
12 and this Settlement Agreement is signed freely by each Person executing this Settlement
13 Agreement on behalf of each of the Parties. The Parties, and each of them, further
14 represent and warrant to each other that he, she, or it has made such investigation of the
15 facts pertaining to the Settlement, this Settlement Agreement and all of the matters
16 pertaining thereto as he, she, or it deems necessary.
17

18 **4.2. Signatories' Representations and Warranties.** Each individual executing this
19 Settlement Agreement on behalf of any other Person does hereby personally represent and
20 warrant to the other Parties that he or she has the authority to execute this Settlement Agreement
21 on behalf of, and fully bind, each principal whom such individual represents or purports to
22 represent.
23

24 **5. NO ADMISSION OF LIABILITY**

25 The Parties understand and agree that this Settlement Agreement and the payments made
26 pursuant to it embody a compromise settlement of disputed claims, and that nothing in this
27 Settlement Agreement, including the furnishing of consideration for this Settlement Agreement,
28

1 shall be deemed to constitute any evidence of wrongdoing by any of the Defendants, or give rise
2 to any inference of wrongdoing or admission of wrongdoing or liability in this or any other
3 proceeding. Defendants expressly deny any liability or wrongdoing with respect to the matters
4 alleged in the Action. Neither the fact nor the terms of this Settlement Agreement shall be
5 offered or received in evidence in any action or proceeding for any purpose, except: (i) in an
6 action or proceeding to enforce the terms of this Settlement Agreement or the Preliminary
7 Approval Order or the Order and Judgment; (ii) in an action or proceeding where the Releases
8 provided pursuant to this Settlement Agreement may serve as a bar to recovery; or (iii) in an
9 action or proceeding brought against the Pension Fund or Trustees by third parties if the
10 Settlement Agreement or the Releases are relevant to claims or defenses in such action or
11 proceeding.
12

13 **6. THE SETTLEMENT CONSIDERATION**

14 **6.1. Injunctive Relief.** Defendants agree to the entry of a permanent injunction
15 substantially in the form that is set forth in paragraph 5 of the Proposed Final Order and
16 Judgment (annexed as Exhibit 1 hereto), which enjoins the Pension Fund from enforcing the
17 2012 Amendment with respect to Prospective Claims, and further enjoins the Fund from
18 applying the 2012 Amendment to Retroactive Claims in a manner inconsistent with the Claims
19 Procedures set forth in the Settlement Agreement.
20
21

22 To illustrate, by example, this injunction would preclude the Pension Fund (a) from
23 relying on the 2012 Amendment to deny a Class Member's claim for Golden 80 or 90 benefits
24 that the member would have aged into on July 1, 2016 (*i.e.*, a Prospective Claim), and (b) from
25 relying on the 2012 Amendment to deny a claim for Golden 80 or 90 benefits with a Pension
26 Effective Date of January 1, 2013 (*i.e.*, a Retroactive Claim) made pursuant to the Claims
27 Procedures (e.g., filed in a timely fashion and limited to the amount set forth in Section 6.5).
28

1 Also by way of illustration, the injunction would not preclude the Pension Fund (i) from relying
2 on any other plan amendment, including the 2016 Amendment or a future amendment adopted
3 under the MPRA, to deny a Class Member's claim for Golden 80 or 90 benefits that the member
4 would have aged into after the Payment Period, (ii) from relying on the 2012 Amendment to
5 deny a claim for Golden 80 or 90 benefits with a Pension Effective Date of January 1, 2013,
6 where the claim is not made pursuant to the Claims Procedures (e.g., if the claim is filed after the
7 Application Deadline, or to the extent that the Class Member seeks benefits in excess of the
8 amount calculated in Section 6.5), or (iii) from applying other rules that were adopted in the
9 2012 Rehabilitation Plan or subsequently that affect Golden 80 or 90 benefits but are not the
10 2012 Amendment, including, for example, applying the rules that eliminated Husband and Wife
11 Pension subsidies or that increased the minimum pension credit for certain pensions (including
12 Golden 80 and 90 pensions) from 10 to 15 years.

13
14
15 Nothing in this injunctive relief or elsewhere in the Settlement Agreement shall be
16 construed to prohibit prospective changes by the Pension Fund to the Plan Rules by future plan
17 amendment, including without limitation any amendments that may be adopted under the
18 authority of the MPRA; provided that any such amendment will not affect any Settlement Award
19 to a Class Member.

20
21 **6.2. Responsibilities of Settlement Administrator.** The Settlement Administrator
22 shall have the following responsibilities:

23 **6.2.1.** To maintain custody of the Settlement Fund for the purpose of
24 effectuating the Claims Procedure.

25 **6.2.2.** To mail the Notice to the Class as soon as practicable and within twenty-
26 one (21) business days after the Preliminary Approval Order is entered, based on
27 information provided to the Settlement Administrator by the Pension Fund from its files;
28

1 to enclose with the Notice sent to a Class Member In Pay Status a letter substantially in
2 the form attached as Exhibit A-4 to the Proposed Order Preliminarily Approving
3 Settlement and Providing For Notice; to enclose an Application Form, to be printed on
4 color paper, with the Notice that is sent to a Class Member (a) who is not a Class
5 Member In Pay Status and (b) who is either (i) a Probable Payee or (ii) a Class Member
6 who is not a Probable Payee but whom the Fund identifies (in a list to be provided to the
7 Settlement Administrator within the time specified in Section 6.3.1) as having been
8 within two years of qualifying as a Probable Payee; to conduct a search on a commercial
9 database for the best addresses of the Class Members for whom the Pension Fund does
10 not have current address information; to use the best address available in mailing the
11 Notice; to provide the Fund with the updated contact information it obtained from the
12 commercial vendor; to post the Notice and Application Form, within twenty-one (21)
13 business days after entry of the Preliminary Approval Order, on a website to be created
14 by the Settlement Administrator; to arrange, as soon as practicable, for the translation of
15 the Notice and Application Form into Spanish, and to post the Spanish-language versions
16 on the website; to create a toll-free number for Class Members to call with questions
17 about the Settlement; to arrange, within thirty (30) business days after entry of the
18 Preliminary Approval Order, for the publication of short-form notice in the form attached
19 hereto as Exhibit 2 at A-3 in USA Today or another newspaper with a national
20 distribution; and to make reasonable attempts to find new addresses for Class Members
21 whose Notice packets are returned as undeliverable.
22
23
24

25 **6.2.3.** To respond to mailed and telephonic inquiries concerning the Settlement.

26 **6.2.4.** To create a report at the conclusion of the distribution(s) described herein
27 as to unclaimed funds remaining in the Settlement Fund and reporting on the cost of
28

1 distributing, in accordance with Section 6.9.7, the remaining balance to those Class
2 Members Recovering Incidental Monetized Relief who cashed or deposited their
3 Settlement Award checks. If the report of the Settlement Administrator concludes the
4 costs of making a supplemental distribution would not permit meaningful payments to the
5 Class Members Recovering Incidental Monetized Relief, then to distribute the remaining
6 balance in accordance with this Court's Order.
7

8 **6.2.5.** To collect, scan, and maintain for inspection the Applications and other
9 correspondence submitted by Class Members to the Settlement Administrator; to
10 determine whether the Class Members' Applications appear Facially Complete; and to
11 transmit copies of Applications that are Facially Complete to the Pension Fund in weekly
12 batches.
13

14 **6.2.6.** As to those Applications that the Settlement Administrator determines are
15 not Facially Complete, the Settlement Administrator shall mail the Class Member a
16 Notice of Deficiency within ten (10) business days after the Settlement Administrator
17 received the Application; and for Applications that are Facially Complete but as to which
18 the Fund later identifies a need for additional information or documentation from the
19 Class Member, the Settlement Administrator shall transmit to the Class Member a Notice
20 of Deficiency communicating the Application's deficiencies as identified by the Fund,
21 and the Settlement Administrator shall do so within five (5) business days after the Fund
22 notifies the Settlement Administrator of the deficiencies in the Application.
23

24 **6.2.7.** To attempt to contact those Class Members to whom the Settlement
25 Administrator mails a Notice of Deficiency within fourteen (14) days after the mailing of
26 said Notice of Deficiency with a reminder to submit the specified information identified
27 within the Notice of Deficiency.
28

1 **6.2.8.** To attempt to contact with a reminder to submit an Application any
2 Probable Payee who has not submitted an Application as of forty-five (45) days after the
3 Notice was sent; and to attempt to contact a second time with a reminder to submit an
4 Application any such Probable Payee who has not submitted an Application as of sixty
5 (60) days after the date on which Notice was sent. To request from the Pension Fund any
6 additional contact information needed to contact Class Members.
7

8 **6.2.9.** To identify when an Application appears to have missed the Application
9 Deadline or the Completed Application Deadline and to communicate that information to
10 the Fund when transmitting the Application to the Fund.
11

12 **6.2.10.** To maintain detailed and comprehensive records of its actions as
13 Settlement Administrator, including records demonstrating the performance of each of its
14 duties set forth under the Settlement Agreement as well as all communications sent to or
15 from the Settlement Administrator by Class Members or the Fund. Among other things,
16 such records of communications to be maintained by the Settlement Administrator shall
17 contain recipients' addresses, the dates of mailing, copies of all Notices of Deficiencies,
18 and the dates on which any communication, including any Application, is received by the
19 Settlement Administrator. To provide for clarity in its record keeping, the Settlement
20 Administrator shall assign a number to each Application received beginning with the
21 number one (1) and assigned sequentially thereafter. Class Counsel, counsel for
22 Defendants, and the Fund shall have a right to access and review the Settlement
23 Administrator's records in a reasonable manner. The Settlement Administrator shall
24 compile monthly expense reports and send them to Class Counsel and counsel for
25 Defendants.
26

27 **6.2.11.** To mail to Class Members the denials of their Applications based on the
28

1 Pension Fund's determination that the applicant has failed to meet any of the eligibility
2 conditions set forth in Section 6.4, including the Fund's determination that an application
3 has missed the Application Deadline or the Completed Application Deadline; and to
4 include in said mailings such information or attachments as the Pension Fund provides.
5

6 **6.2.12.** To mail to Class Members in Pay Status the Statements of Calculated
7 Benefits.

8 **6.2.13.** To review the Fund's calculations as set forth in Section 6.9.1.

9 **6.2.14.** To calculate Proportional Administrative Expenses and Gross
10 Administrative Expenses as set forth in Section 6.7.

11 **6.2.15.** To distribute, in accordance with Section 6.9, payments to Class Members
12 Recovering Incidental Monetized Relief in an amount that the Settlement Administrator
13 shall calculate pursuant to the Claims Procedures.
14

15 **6.2.16.** To comply, in cooperation with the Pension Fund, with the distribution
16 rules that apply to qualified plans, including honoring qualified domestic relations orders,
17 requiring waivers of annuity forms of benefits (including qualified joint and survivor
18 annuities), and providing Class Members Recovering Incidental Monetized Relief the
19 opportunity to roll over their Settlement Award in order to defer taxes on it.
20

21 **6.2.17.** To provide a record of disbursements to the Pension Fund and Class
22 Counsel along with any other accounting information or reports that may be required for
23 the Pension Fund's financial statements and Form 5500.

24 **6.2.18.** To provide to payees and file with the appropriate governmental agencies
25 all tax reports that may be required for the payments that the Settlement Administrator
26 disburses.
27

28 **6.3. Responsibilities of the Pension Fund with Respect to the Claims Procedure.**

1 The Pension Fund shall have the following responsibilities with respect to the Claims Procedure:

2 **6.3.1.** To provide to the Settlement Administrator, within three (3) business days
3 after the later of April 6, 2017 or the date of the Preliminary Approval Order, (a) the
4 name, address, and Social Security Number of each Class Member to the extent such
5 information can be obtained from the Fund's records, (b) a list of Probable Payees and
6 those within two years of eligibility, (c) a list of Class Members In Pay Status containing
7 the amount of Payment Period Settlement Amount attributable to the Class Member in
8 Pay Status, and (d) as to the list of Probable Payees, an estimate of the Probable Payees'
9 potential Payment Period Settlement Amount that could be made should the Probable
10 Payee qualify under the terms of this Settlement Agreement for a Settlement Award.

11 **6.3.2.** To post copies of the Notice and Application Form on its website, within
12 twenty-one (21) business days after entry of the Preliminary Approval Order, and to post
13 copies of the Notice and Application Form in Spanish as soon as practicable after
14 receiving the translations described in Section 6.2.2.

15 **6.3.3.** To forward to the Settlement Administrator any Applications, to the extent
16 that the Pension Fund can identify them as such, sent directly to the Fund and to do so
17 within three (3) business days or as soon as practicable after they are received. The
18 Settlement Administrator will treat such Applications in the same manner as those it
19 receives directly from Class Members.

20 **6.3.4.** To adopt, as soon as practicable after entry of the Order and Judgment, the
21 plan amendments necessary to effectuate this Settlement, which shall be shared with
22 Class Counsel for comment in advance.

23 **6.3.5.** To establish an account for the Settlement Fund, to provide signature
24 authority to the Settlement Administrator, and to deposit a \$500,000.00 advance payment
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1 into the Settlement Fund within five (5) business days after entry of the Preliminary
2 Approval Order.

3 **6.3.6.** To determine, in the course of reviewing Applications, whether Facially
4 Complete Applications, which are transmitted to it by the Settlement Administrator, are
5 Complete Applications. With respect to an Application that is not a Complete
6 Application, to notify the Settlement Administrator promptly of the deficiencies in the
7 Application so that the Settlement Administrator can mail an appropriate Notice of
8 Deficiency to the Class Member.

9
10 **6.3.7.** To make eligibility determinations with respect to all Complete
11 Applications and, for each applicant it determines to be eligible as well as for each Class
12 Member In Pay Status, to calculate the “Payment Period Settlement Amount” defined in
13 Section 6.6. With respect to Class Members In Pay Status, the Pension Fund will
14 transmit the calculation of the Payment Period Settlement Amount to the Settlement
15 Administrator in accordance with Section 6.3.1 and will deposit the sum of those
16 Payment Period Settlement Amounts in the Settlement Fund within three (3) business
17 days after the Order and Judgment becomes Final. With respect to Class Members other
18 than Class Members In Pay Status, the Pension Fund will transmit the eligibility
19 determination and (where appropriate) the calculation of the Payment Period Settlement
20 Amount for a Class Member to the Settlement Administrator on a weekly basis. The
21 Pension Fund shall make the determination within sixty (60) days after the Pension Fund
22 receives a Complete Application or as soon as practicable where the Complete
23 Application raises complex issues. If the total number of Facially Complete Applications
24 (excluding the Class Members In Pay Status) exceeds 1,400 or 2,300, the Pension Fund
25 shall have an additional thirty (30) or sixty (60) days, respectively, to make its
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1 determination on those applications received in excess of the numbers specified above.
2 Class Counsel shall have access to this information on a reasonable basis from the
3 Settlement Administrator and the Pension Fund.

4 **6.3.8.** To deposit the balance of the sum of Payment Period Settlement Amount
5 for each qualifying Class Member into the Settlement Fund as set forth in Section 6.9.

6 **6.3.9.** To administer the Expedited Appeals Procedure as set forth in Section 6.8.

7 **6.3.10.** The Fund shall cooperate with the Settlement Administrator and provide
8 information responsive to reasonable requests from the Settlement Administrator.

9 **6.4. Eligibility Rules.** To obtain a Settlement Award, a Class Member must comply
10 with each of the eligibility rules in Sections 6.4.1 through 6.4.5. Subject to the exception in
11 Section 6.4.6, a Class Member's failure to comply with any of these rules provides an
12 independent basis to deny his or her application for a Retroactive Claim.
13
14

15 **6.4.1.** The Class Member's Application and supporting documentation (or, in the
16 case of a Class Member In Pay Status, information provided to the Pension Fund in
17 connection with a prior pension application) must establish the condition set forth in
18 clause (a) of Section 1.15.

19 **6.4.2.** Unless the Class Member is a Class Member In Pay Status, the Class
20 Member must submit an Application to the Settlement Administrator on or before the
21 Application Deadline, which is hereby defined as the date ninety (90) days after the
22 mailing of the Notice. Although the proper addressee for such an Application is the
23 Settlement Administrator, a Class Member will be deemed to have met the condition in
24 this subparagraph if he or she submits the Application directly to the Pension Fund on or
25 before the Application Deadline. An Application will be deemed timely in this regard if
26 it is postmarked, emailed or faxed to the Settlement Administrator or Pension Fund on or
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1 before the Application Deadline.

2 **6.4.3.** Unless the Class Member is a Class Member In Pay Status, the Class
3 Member must provide all personal documentation necessary for the eligibility
4 determination and benefits calculation (including, for example, birth certificates, divorce
5 decrees, and marriage certificates) by the Completed Application Deadline, which is
6 hereby defined as the later of the Application Deadline or seventeen (17) days after the
7 Settlement Administrator mails a Notice of Deficiency to the Class Member.
8

9 **6.4.4.** The Payment Period Settlement Amount must be greater than zero.

10 **6.4.5.** A Class Member who claims to be a beneficiary, spouse, or survivor of a
11 participant must provide the proper documentation to establish that fact, unless all
12 necessary documentation was previously submitted in support of an application for
13 survivor benefits.
14

15 **6.4.6.** Any Class Member who fails to submit his or her Application by the
16 Application Deadline or the Completed Application Deadline will not be barred from
17 eligibility for a Settlement Award by application of Section 6.4.2 and Section 6.4.3
18 (requirements which do not apply, in any event, to Class Members In Pay Status), if the
19 Class Member submits a Complete Application which is received by the Settlement
20 Administrator or Pension Fund on or before the later of (a) 30 days after the Application
21 Deadline or (b) the date on which the Fund has finished making all initial determinations
22 with respect to those Applications that were submitted on or before both the Application
23 Deadline and the Completed Application Deadline. However, if this provision applies to
24 allow a Class Member's Application that otherwise would be ineligible under Section
25 6.4.2 or Section 6.4.3, that Class Member shall be deemed to have waived any appeal
26 from the Fund's determination as to eligibility or amount, whether under Section 6.8 or
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1 otherwise; as to such Applications, the Fund's initial determination will be final and
2 binding.

3 **6.5. Amount of Settlement Award.** The amount of the Settlement Award payable to
4 any particular Class Member will be equal to the Payment Period Settlement Amount (as defined
5 in Section 6.6) less Proportional Administrative Expenses (as defined in Section 6.7).
6

7 **6.6. Payment Period Settlement Amount.** For Class Members entitled to recover
8 incidental monetized relief, the amount of that incidental monetized relief shall be calculated as
9 follows. The calculation of the Payment Period Settlement Amount for each Class Member is to
10 first take the amount of Golden 80 or 90 benefits that would have been payable to the Class
11 Member during the Payment Period but for the 2012 Amendment ("the Initial Benefit Amount"),
12 then deduct the amount of benefits that the Class Member actually received from the Pension
13 Fund during the Payment Period and then to multiply the difference by thirty-seven percent
14 (37%). This amount will then be reduced by the Class Member's Proportional Administrative
15 Expenses described in Section 6.7.
16

17 **6.6.1. No Interest.** There shall be no addition of interest in calculating a Class
18 Member's Payment Period Settlement Amount. Nor will Defendants have any obligation
19 to pay any other form of interest under this Settlement Agreement, including on the
20 Settlement Awards.
21

22 **6.6.2. Other Plan Rules Apply.** In calculating the Payment Period Settlement
23 Amount for each Class Member, the Pension Fund will not apply the 2012 Amendment
24 but will apply other Plan Rules, including those rules (aside from the 2012 Amendment)
25 adopted in the 2012 Rehabilitation Plan that affect the eligibility for or amount of a
26 Golden 80 or 90 benefit, except to the extent that those Plan Rules have been superseded
27 by this Settlement Agreement. (For example, an applicant who turned 66 years old on
28

1 February 1, 2014 and who had exactly 14 years of pension credit will not be treated as
2 having aged into a Golden 80 benefit as of that date and will thus not be eligible for a
3 Settlement Award by application of the rule in the 2012 Rehabilitation Plan increasing,
4 effective January 1, 2014, the required minimum years of covered employment from 10
5 to 15 years. However, an identically situated applicant who turned 66 years old on
6 February 1, 2013 would be eligible for a Settlement Award (so long as that the Class
7 Member met all other eligibility requirements under the Plan Rules and this Settlement
8 Agreement). This example is for illustrative purposes only and does not imply that the
9 rule being demonstrated – *i.e.*, the rule in the 2012 Rehabilitation Plan increasing the
10 required minimum years of covered employment – is the only such rule that will be
11 applied to determine the Payment Period Settlement Amount.
12
13

14 **6.6.3. The Effect of a Survivorship Election.** The Payment Period Settlement
15 Amount for any Class Member who has elected to begin pension payments (e.g., in the
16 form of an early retirement pension) before the Effective Date of Settlement will be
17 calculated based upon the same form of monthly benefits that the Class Member elected
18 for the pension payments that previously began, *i.e.*, whether a joint and survivor benefit
19 (adjusted under § 6.05 of the Plan Rules), the Regular Option (defined as the form of
20 benefit described in § 8.02(b)(iii) of the Plan Rules), or some other optional form. Where
21 the Class Member has not made any such election before the Effective Date of
22 Settlement, he or she will be treated as having elected a Regular Option benefit for the
23 purposes of calculating the Payment Period Settlement Amount. (This method of
24 calculating the Payment Period Settlement Amount will not limit the choices of optional
25 forms of benefit that are available in the future to the Participant under the Plan Rules.)
26
27

28 **6.6.4. Surviving Spouses and Estates.** With respect to a Class Member who is a

1 beneficiary, spouse, or survivor of a participant, the following rules apply: (1) if the
2 participant was (a) married as of the Presumed Pension Effective Date of his Golden 80
3 or 90 benefits or (b) died before such date but was married at the time of death, the Initial
4 Benefit Amount will be calculated as monthly payments of a joint and survivor benefit
5 beginning on the Presumed Pension Effective Date and lasting through the end of the
6 Payment Period; (2) if the participant was unmarried as of the Presumed Pension
7 Effective Date of his Golden 80 or 90 benefits, the Initial Benefit Amount will be
8 calculated as monthly payments of a Regular Option benefit beginning on the Presumed
9 Pension Effective Date and lasting through the end of the Payment Period or for thirty-six
10 months, whichever period is shorter.
11

12 **6.7. Proportional Administrative Expenses.** “Proportional Administrative
13 Expenses” shall mean the proportional amount of the Gross Administrative Expenses that will be
14 attributed to each Class Member Recovering Incidental Monetized Relief and deducted from that
15 member’s Payment Period Settlement Amount to determine the amount of that member’s
16 Settlement Award, as calculated under this Section.
17

18 **6.7.1. Gross Administrative Expenses.** Gross Administrative Expenses are
19 calculated as follows. First, calculate the sum of (a) all of the Settlement Administrator’s
20 expenses, including those paid and those anticipated and (b) any attorneys’ fees and class
21 representative fees awarded by the Court. Second, subtract from that sum the
22 administrative expenses and attorneys’ fees, if any, that have been paid by the Pension
23 Fund or the Pension Fund’s insurance.
24

25 **6.7.2. If There Is One Distribution.** If there is only one distribution under
26 Section 6.9.3, the amount of each individual’s Proportional Administrative Expenses will
27 be calculated by dividing the individual’s Payment Period Settlement Amount by the total
28

1 sum of all Payment Period Settlement Amounts, and then multiplying the resulting
2 fraction by the Gross Administrative Expenses.

3 **6.7.3. If There Are Two Distributions.** If there are two distributions under
4 Section 6.9, the Settlement Administrator shall estimate the remaining Gross
5 Administrative Expenses and calculate the Proportional Administrative Expenses by
6 using the Pension Fund's estimated Payment Period Settlement Amount (provided under
7 Section 6.3.1) as the basis for estimating the remaining Settlement Awards to be paid in
8 the Second Distribution.
9

10 **6.8. Expedited Appeal Procedure.** Class Members In Pay Status and Class Members
11 who submitted Applications that met both the Application Deadline and the Completed
12 Application Deadline shall have a right to appeal the Fund's determination with respect to the
13 Statement of Calculated Benefit (for Class Members In Pay Status) and with respect to the
14 Application (for other Class Members) as set forth in this section. Representative Plaintiffs, on
15 behalf of themselves and the Class, hereby agree that the procedures set forth herein will be
16 exclusive under this Settlement Agreement and waive any procedural rights they might otherwise
17 have had under ERISA, or any other applicable law or the Plan Rules, to appeals procedures that
18 differ from those set forth herein.
19

20 **6.8.1.** Within forty-five (45) days after the Settlement Administrator mailed
21 either the Statement of Calculated Benefit (for Class Members In Pay Status) or the
22 determination concerning the Application (for other Class Members), a Class Member
23 may appeal the determination concerning eligibility or amount by submitting a
24 Determination Appeal that is received by the Settlement Administrator before the
25 deadline. (Both initial determinations of Applications and Statements of Calculated
26 Benefits shall advise Class Members of the specific date by which the appeal must be
27
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1 received by the Settlement Administrator.) The Settlement Administrator will transmit
2 the Determination Appeal to the Appeals Committee of the Pension Fund within two (2)
3 business days or as soon as practicable. The Determination Appeal must fully set forth
4 the grounds for appealing the determination, and it must attach all of the documentation
5 upon which the appeal relies. Any ground not identified in the Determination Appeal is
6 expressly waived by the Class Member.
7

8 **6.8.2.** The Appeals Committee of the Pension Fund will rule on the appeal
9 within seventy-five (75) days after receiving the Determination Appeal. The Appeals
10 Committee will promptly notify the appealing Class Member, Class Counsel, and the
11 Settlement Administrator of its ruling. In the notification sent to the Class Member, the
12 Fund shall advise the Class Member of the specific date by which the Class Member
13 must seek review under the next subsection.
14

15 **6.8.3.** If the appeal in the previous subparagraph is denied, the Class Member
16 may seek review of the Appeals Committee's determination by filing a motion to the
17 Court in the Action within seventy-five (75) days after notice of the Committee's
18 decision is mailed to the Class Member. Any such motion must be limited to the
19 arguments raised in the Determination Appeal, and the Class Member will be foreclosed
20 from relying on evidence that was not submitted with the Determination Appeal. Absent
21 a separate Court order, such a motion must contain all arguments advanced by the
22 appealing Class Member and must contain as an exhibit the full Determination Appeal
23 and supporting documents. The Pension Fund will be permitted an opposition; and the
24 appeal will be resolved on the papers, without a hearing. The standard of review on any
25 such motion will be for abuse of discretion. The Court's ruling on such a motion will be
26 conclusive, and the Parties waive any right to appeal from it.
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1 **6.8.4.** All Class Members In Pay Status will have had the period of 180 days
2 normally allowed under the Plan Rules for an appeal challenging the amount of credited
3 service that the Pension Fund used in calculating benefits. Except for any such appeals
4 that were timely submitted under those Plan Rules, Class Members In Pay Status are
5 barred from making any additional appeal from that determination under this Settlement
6 Agreement.
7

8 **6.9. Distributions from the Settlement Administrator.** There may be two
9 distributions of Settlement Awards to Class Members (excluding the final distribution described
10 in Section 6.9.7): the “First Distribution Date” and the “Second Distribution Date,” as set forth
11 in this section. The First Distribution Date will take place within thirty (30) days after the later
12 of (a) the date on which the Order and Judgment becomes Final, and (b) the date on which a
13 judicial ruling on Class Counsel’s request for a fee award becomes Final. The Second
14 Distribution Date will take place as soon as practicable after the later of the First Distribution
15 Date and the date on which all determinations concerning Settlement Awards have become Final.
16

17 **6.9.1. First Distribution.** The first distribution will include Settlement Awards
18 to Class Members In Pay Status as to which no appeal under Section 6.8 was taken, as
19 well as all Settlement Awards that are Final and funded by the Pension Fund’s deposit
20 into the Settlement Fund as of the First Distribution Date. As soon as practicable after
21 receiving the Fund’s calculations of Payment Period Settlement Amounts for Class
22 Members In Pay Status, the Settlement Administrator shall review the calculations. And
23 as soon as practicable after the First Distribution Date, the Settlement Administrator shall
24 review the Fund’s calculations of Payment Period Settlement Amounts for the Class
25 Members who submitted Applications and as to whom there are Settlement Awards that
26 have become Final. Should the Settlement Administrator identify any error or
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1 discrepancy in either calculation as to a particular Class Member's Settlement Award, the
2 Settlement Administrator shall, within fourteen (14) days after receiving the calculation,
3 provide notice of said discrepancy to Class Counsel and Counsel for Defendants and
4 Class Counsel and the Counsel for Defendants shall confer within seven (7) days after
5 being notified of the discrepancy in an attempt to resolve the difference in calculations.
6 If the Parties are unable to resolve the matter at this meeting, that Class Member shall not
7 be included within the First Distribution and Class Counsel will have an additional
8 twenty-one (21) days to file a motion in this Action to seek what they consider the proper
9 calculation of Payment Period Settlement Amount. Class Counsel shall then file a
10 motion with the Court seeking permission for the Settlement Administrator to distribute
11 the Settlement Awards to Class Members Recovering Incidental Monetized Relief in this
12 first distribution and to further distribute any common-fund attorneys' fees awarded to
13 Class Counsel with respect to the first distribution. Within three (3) business days after
14 the Court's granting such motion, the Pension Fund shall deposit in the Settlement Fund
15 the Payment Period Settlement Amounts associated with those Class Members
16 Recovering Incidental Monetized Relief in this first distribution as to whom the Pension
17 Fund has not yet deposited the associated Payment Period Settlement Amounts (as the
18 Pension Fund is required to do for Class Members In Pay Status under Section 6.3.7), and
19 promptly thereafter the Settlement Administrator shall disburse the Settlement Awards
20 and attorneys' fees.
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24 **6.9.2. Second Distribution.** The second distribution will include all Settlement
25 Awards that are due but have not yet been paid in the First Distribution. Within ten (10)
26 business days after the Second Distribution Date, Class Counsel shall file a motion with
27 the Court seeking permission for the Settlement Administrator to distribute the
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1 Settlement Awards in the second distribution to Class Members Recovering Incidental
2 Monetized Relief and to further distribute any additional common-fund attorneys' fees
3 awarded to Class Counsel. Within three (3) business days after the Court's granting such
4 motion, the Pension Fund shall deposit in the Settlement Fund the Payment Period
5 Settlement Amounts associated with those Class Members Recovering Incidental
6 Monetized Relief in this second distribution, and promptly thereafter the Settlement
7 Administrator shall disburse the Settlement Awards and attorneys' fees.
8

9 **6.9.3. Combined Distribution Date.** In the event that all determinations have
10 been made and all appeals have been decided before the Order and Judgment becomes
11 Final, there shall be only one distribution, which shall be conducted in accordance with
12 Section 6.9.1.
13

14 **6.9.4. Tax Reporting.** The Settlement Administrator is responsible for
15 complying with all tax reporting and withholding obligations for payments it distributes.
16 Neither Defendants, their counsel, nor Class Counsel have responsibility, nor shall they
17 have any liability for, any taxes or tax expenses owed by Class Members, or any tax
18 reporting obligations of Class Members.
19

20 **6.9.5. Additional Requirements.** In making disbursements, the Settlement
21 Administrator will distribute payments in accordance with qualified domestic relations
22 orders, consistent with the Pension Fund's normal procedures concerning such orders.
23 The Settlement Administrator will also disburse Settlement Awards with appropriate
24 waivers concerning the lump sum payment, complying with the associated requirement of
25 a relative value notice that offers the payee the option of taking the actuarial equivalent of
26 the settlement share in the form of annuity beginning immediately. The Settlement
27 Administrator will also provide the required tax notice that the payment is eligible for
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1 rollover distribution and, if not rolled over, will be subject to withholding. To the extent
2 that a Class Member In Pay Status does not provide the Settlement Administrator with a
3 required waiver or take such other action as may be required to claim the Settlement
4 Award, the Settlement Administrator shall hold the Class Member's Settlement Award
5 for a period of six (6) months after it mailed the Class Member the instructions for the
6 waiver and for claiming the Settlement Award. During this time period, the Settlement
7 Administrator shall attempt to contact the Class Member at least twice, including at least
8 once by mail and once by telephone. If the six-month period elapses without the Class
9 Member taking the required action, the unclaimed Settlement Award will be handled in
10 accordance with Section 6.9.7.
11

12 **6.9.6.** Receipt of a Settlement Award will not give any Class Member a right to a
13 Golden 80 or 90 Benefit for any period of time after the end of the Payment Period if
14 such a benefit is not payable under the Plan Rules, nor will it affect in any way the Plan
15 Rules (a) with respect to eligibility for or the amount of any pension that has a Pension
16 Effective Date on or after June 1, 2016, or (b) with respect to the right to continue
17 receiving a pension that has a Pension Effective Date before June 1, 2016, or the amount
18 of such pension after the Payment Period. Any Class Member Recovering Incidental
19 Monetized Relief who is not a Class Member In Pay Status will be required, upon
20 reaching eligibility, to submit an application for a pension in accordance with the Plan
21 Rules, and the Class Member's receipt of a Settlement Award will create no right to a
22 Pension Effective Date that is earlier than that which is independently determined under
23 the Plan Rules.
24

25
26 **6.9.7. Unclaimed and Remaining Funds.** Because the Settlement
27 Administrator must estimate future administrative costs and do so in a conservative
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1 manner that ensures that such sums will cover the full future cost of its duties and
2 because some Class Members may not take the required actions in Section 6.9.5 to claim
3 their Settlement Awards, it is possible that there will be money remaining in the
4 Settlement Fund when all of the distributions have concluded and the Settlement
5 Administrator has fully performed its duties under this Settlement Agreement and has
6 been reimbursed for all of its fees and expenses. To the extent any money remains in the
7 Settlement Fund after the waiting period described in Section 6.9.5 has elapsed as to all
8 of the unclaimed Settlement Awards distributed in connection with the Second
9 Distribution Date or the Combined Distribution Date, the remaining money will be
10 distributed to the Class Members Recovering Incidental Monetized Relief who cashed or
11 deposited their Settlement Award checks, in proportion to their Settlement Awards,
12 unless the costs of making a supplemental distribution would not permit meaningful
13 payments to the Class Members Recovering Incidental Monetized Relief, in which case
14 Class Counsel shall file a motion seeking to distribute the remaining funds in an
15 appropriate manner and then to distribute the remaining balance in accordance with this
16 Court's Order. Pursuant to this Court's Order (Dkt. 123), Defendants have waived any
17 right to reversion or return of any monies remaining in the Settlement Fund after the
18 distributions made pursuant to the Stipulation of Settlement.
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22 **7. TERMINATION OF THE SETTLEMENT AGREEMENT**

23 **7.1. Termination.** This Settlement Agreement shall be terminated under any one of
24 the following circumstances:

25 **7.1.1.** If the Court declines to approve the Settlement, or if the Order and
26 Judgment is reversed on appeal, and if the order or mandate declining or reversing
27 approval has become Final, then this Settlement Agreement shall automatically terminate
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1 thirty (30) days after such order or mandate becomes Final.

2 **7.1.2.** If (i) the Court enters an order modifying the *economic* terms of this
3 Settlement Agreement or materially modifying any term of the Order and Judgment or
4 Settlement Agreement, and (ii) within thirty (30) days after the date of any such ruling, or
5 within thirty (30) days after the date of the Court's order following a motion for
6 reconsideration of any such ruling, whichever is later, any Party detrimentally affected by
7 the modification(s) gives notice to the other Parties declining to waive its objections to
8 the modifications, then this Settlement Agreement shall automatically terminate on the
9 twentieth (20th) day after the date on which such notice is given. The Parties may extend
10 any time period in clause (ii) by mutual agreement in writing.

11
12 **7.2. Returning the Advance Payment.** Any other provision in this Settlement
13 Agreement notwithstanding, if the Settlement Agreement is terminated, the Settlement
14 Administrator will return to the Fund the \$500,000.00 advance payment made to it less all
15 reasonable expenses incurred by the Settlement Administrator until the date on which the
16 Settlement Administrator was provided notice that the Agreement terminated. In such event, the
17 Fund will not be liable for any expenses beyond the advance payment.

18
19 **8. CLASS COUNSEL'S ATTORNEYS' FEES AND EXPENSES**

20 Class Counsel may apply to the Court no later than fifty-six (56) days prior to the
21 Fairness Hearing for an award of attorneys' fees and expenses, including for the Settlement
22 Administrator's fees and expenses. Defendants retain all rights with respect to opposing Class
23 Counsel's application for fees and expenses, except that Defendants waive any argument that
24 would be inconsistent with the Settlement Agreement. (For example, an argument that common-
25 fund attorneys' fees should not be awarded because of the character of the Settlement Fund as a
26 sub-trust of the Pension Fund would be foreclosed by the Parties' agreement, in Section 1.57,
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1 that the sub-trust may be used to defray the “reasonable expenses of administering those benefits
2 and the sub-trust, which are understood to include the attorneys’ fees, if any, awarded by the
3 Court upon application by Class Counsel as provided in Article 8.”)

4 As part of Class Counsel’s application to the Court under this Section, Class Counsel
5 may apply for compensation for Class Representatives to be paid from the Settlement Fund.
6 These fees will be limited to seeking compensation for the actual time and expense that each
7 Class Representative dedicated to the Action, as demonstrated by declaration or affidavit, and in
8 no event will a Class Representative’s compensation exceed \$1000.
9

10 **9. MISCELLANEOUS PROVISIONS**

11 **9.1. Governing Law.** This Settlement Agreement shall be governed by the laws of
12 the State of California without giving effect to the conflict of laws or choice of law provisions
13 thereof, except to the extent that the law of the United States governs any matter set forth herein,
14 in which case such federal law shall govern.
15

16 **9.2. Best efforts.** Class Counsel, counsel for Defendants, the Fund, and the
17 Settlement Administrator will use their respective best efforts to meet all deadlines under this
18 Agreement.
19

20 **9.3. Return of Materials.** Except for attorney notes, pleadings, transcripts, and other
21 court submissions and exhibits thereto, each Party that received confidential material, including
22 confidential material contained in formal and informal discovery, and information provided for
23 purposes of settlement, and all other confidential material, from an opposing Party in the course
24 of litigating this Action shall, within thirty (30) days after the Effective Date of Settlement, at the
25 opposing Party’s option, either: (i) return all such materials in its custody or control, including in
26 the possession of consultants of the opposing Party, to the producing Party; or (ii) certify that all
27 such materials in its custody or control, including in the possession of consultants of the
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1 opposing Party, have been destroyed; provided that if a Party requests the physical return of its
2 materials, that Party shall reimburse the returning Party for its reasonable costs of assembling
3 and shipping such materials.

4 **9.4. Severability.** Except as provided in Section 7.1.2 and Section 9.5, the provisions
5 of this Settlement Agreement are not severable.

6 **9.5. Amendment.** Before entry of the Order and Judgment, the Settlement
7 Agreement may be modified or amended only by written agreement signed by or on behalf of all
8 Parties. Following entry of the Order and Judgment, the Settlement Agreement may be modified
9 or amended only by written agreement signed on behalf of all Parties and approved by the Court.
10

11 **9.6. Waiver.** The provisions of this Settlement Agreement may be waived only by an
12 instrument in writing executed by the waiving party. The waiver by any party of any breach of
13 this Settlement Agreement shall not be deemed to be or construed as a waiver of any other
14 breach, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.
15

16 **9.7. Construction.** None of the Parties hereto shall be considered to be the drafter of
17 this Settlement Agreement or any provision hereof for the purpose of any statute, case law or
18 rule of interpretation or construction that would or might cause any provision to be construed
19 against the drafter hereof.

20 **9.8. Principles of Interpretation.** The following principles of interpretation apply to
21 this Settlement Agreement.

22 **9.8.1. Capitalization.** Capitalized terms are to be understood according to their
23 definitions in Article 1.

24 **9.8.2. Headings.** The headings of this Settlement Agreement are for reference
25 purposes only and do not affect in any way the meaning or interpretation of this
26 Settlement Agreement.
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9.8.3. Singular and Plural. Definitions apply to the singular and plural forms of each term defined.

9.8.4. Gender. Definitions apply to the masculine, feminine, and neuter genders of each term defined.

9.8.5. References to a Person. References to a Person are also to the Person’s Successors-In-Interest and to anyone acting on behalf of the Person or the Successor-In-Interest.

9.8.6. Terms of Inclusion. Whenever the words “include,” “includes” or “including” are used in this Settlement Agreement, they shall not be limiting but rather shall be deemed to be followed by the words “without limitation.”

9.9. Further Assurances. Each of the Parties agrees, without further consideration and as part of finalizing the Settlement hereunder, that they will in good faith execute and deliver such other documents and take such other actions as may be necessary to consummate and effectuate the subject matter and purpose of this Settlement Agreement.

9.10. Survival. All releases, representations, warranties and covenants set forth in this Settlement Agreement (including Articles 3 and 4 hereof) shall be deemed continuing and shall survive the Effective Date of Settlement.

9.11. Notifications. Any notice, demand or other communication under this Settlement Agreement (other than objections (Section 2.1.4) and the Notice, or other notices given at the direction of the Court) shall be in writing and shall be deemed duly given upon receipt if addressed to each of the intended recipients as set forth below and personally delivered, sent by registered or certified mail (postage prepaid), sent by confirmed facsimile, sent by e-mail, or delivered by reputable express overnight courier:

IF TO NAMED PLAINTIFFS:

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IF TO DEFENDANTS:

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Concepción E. Lozano-Batista
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Julia Penny Clark

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Email: ralexander@bredhoff.com
Email: glake@bredhoff.com

Any Party may change the address at which it is to receive notice by written notice delivered to the other Parties in the manner described above.

9.12. Entire Agreement. This Settlement Agreement contains the entire agreement among the Parties relating to this Settlement. It specifically supersedes the Stipulations of Settlement dated October 26, 2016 and December 20, 2016 and any other settlement terms or settlement agreements relating to the Defendants that were previously agreed upon orally or in writing by any of the Parties.

9.13. Counterparts. This Settlement Agreement may be executed by exchange of faxed or electronically transmitted (.pdf) executed signature pages, and any signature transmitted by facsimile or .pdf for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement. This Settlement Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument.

9.14. Binding Effect. This Settlement Agreement binds and inures to the benefit of all Parties hereto, their assigns, heirs, administrators, executors, successors, spouses and other beneficiaries.

9.15. Agreement Execution Date. The date on which the final signature is affixed below shall be the Agreement Execution Date.

1 IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the dates set
2 forth below.

3
4 DATED: February 24, 2017

ABBEY SPANIER LLP
FRUMKIN & HUNTER LLP
LAW OFFICE OF GEOFFREY V. WHITE
SINCLAIR LAW FIRM LLC

5
6 By: /s/ Thomas O. Sinclair
7 WILLIAM D. FRUMKIN (*admitted pro hac vice*)
8 ELIZABETH E. HUNTER (*admitted pro hac vice*)
9 NANCY KABOOLIAN (*admitted pro hac vice*)
10 THOMAS O. SINCLAIR (*admitted pro hac vice*)
11 JUDITH L. SPANIER (*admitted pro hac vice*)
12 GEOFFREY V. WHITE

Attorneys for Plaintiffs and Class

13
14 DATED: February 24, 2017

BREDHOFF & KAISER, PLLC
WEINBERG, ROGER & ROSENFELD

15 By: /s/ Julia Penny Clark
16 ROBERT ALEXANDER (*admitted pro hac vice*)
17 JULIA PENNY CLARK (*admitted pro hac vice*)
18 JAMES GRAHAM LAKE (*admitted pro hac vice*)
19 CONCEPCIÓN E. LOZANO-BATISTA
20 EMILY P. RICH

Attorneys for Defendants

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