

LAW OFFICES OF THOMAS M. MULLANEY
Thomas Mullaney (TM 4274)
tmm@mullaw.org
489 Fifth Avenue, Suite 1900
New York, NY 10017
Telephone: (212) 223-0800

JENNER & BLOCK LLP
Kenneth K. Lee (KL 3110)
klee@jenner.com
633 West 5th Street, Suite 3600
Los Angeles, CA 90071
Phone: (213) 239-5100
Fax: (213) 239-5199

CARNEY BATES & PULLIAM, PLLC
Allen Carney (*pro hac vice*)
acarney@cbplaw.com
David Slade (*pro hac vice*)
dslade@cbplaw.com
519 W. 7th Street
Little Rock, AR 72201
Phone: (501) 312-8500
Fax: (501) 312-8505

JENNER & BLOCK LLP
Dean N. Panos (*pro hac vice*)
dpanos@jenner.com
353 North Clark Street
Chicago, IL 60654
Phone: (312) 222-9350
Fax: (312) 527-0484

*Counsel for Plaintiff Lori D. Gordon and the
Proposed Settlement Class*

*Counsel for Defendants the Hain Celestial
Group, Inc., and Jason Natural Products, Inc.*

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

LORI D. GORDON, on behalf of herself and
all others similarly situated,

Plaintiffs,

vs.

THE HAIN CELESTIAL GROUP, a
Delaware corporation; JASON NATURAL
PRODUCTS, INC., a California Corporation,

Defendants.

Case No. 16-CV-06526-KBF

STIPULATION OF SETTLEMENT

This Stipulation of Settlement is made and entered into by and among Plaintiff Lori D. Gordon on behalf of herself and each of the Settlement Class Members, and Defendants Hain Celestial Group and Jason Natural Products, Inc. ("Defendants") (collectively, the "Parties").

I. RECITALS

A. On August 17, 2016, Plaintiff Lori Gordon filed a putative class action lawsuit against Defendants in the Southern District of New York. *See* 16-CV-06526-KBF, Dkt. No. 1. The complaint alleged that Defendants had falsely marketed and labeled certain cleaning and personal care products as being free of sodium lauryl sulfate (“SLS”).

B. At the October 26, 2016 status conference, Defendants’ counsel indicated that they would file a motion to dismiss and set forth the grounds for dismissal. Plaintiff’s counsel advised the Court that Plaintiff would file an amended complaint in light of certain issues raised by Defendants.

C. On November 9, 2016, Plaintiff filed an amended complaint (the “Amended Complaint”) against Defendants. *See* 16-CV-06526-KBF, Dkt. No. 2. Plaintiff’s Amended Complaint alleges that Defendants deceptively marketed and labeled the following five products as being SLS-free: (1) JASON’s Long & Strong Jojoba Pure Natural Shampoo, (2) Volumizing Lavender Shampoo, (3) Normalizing Tea Tree Treatment Shampoo, (4) Dandruff Relief 2 in 1 Treatment Shampoo & Conditioner, and (5) Smoothing Coconut Body Wash. The Amended Complaint alleges violations of New York’s General Business Law, as well as common law claims of negligent misrepresentation, breach of warranty, and unjust enrichment.

D. Defendants filed a motion to dismiss Plaintiff’s Amended Complaint on November 30, 2016, which Plaintiff timely opposed. *See id.* at Dkt. No. 33 and 34. On January 18, 2017, the Court granted in part and denied in part Defendants’ motion to dismiss. *See id.* at Dkt. No. 37.

E. Throughout the Litigation, the Parties have engaged in discovery, which resulted in Defendants producing sales and financial figures, confidential internal marketing and business analysis, internal emails, product labels, list of retailers and distributors, advertisements, and other documents. Defendants have also responded to Plaintiff’s Requests for Admissions and Plaintiff’s First and Second Sets of Interrogatories

F. For the past several months, the Parties have engaged in protracted, extensive, and hard-fought settlement negotiations. As a result of those negotiations, the Parties have agreed to

settle this Litigation pursuant to the terms set forth in this Stipulation of Settlement (the "Stipulation").

G. Based upon Plaintiff's counsel's investigation and evaluation of the facts and law relating to the matters alleged in the pleadings, including extensive discovery, Plaintiff's counsel on behalf of Plaintiff and the proposed Settlement Class agreed to settle this Litigation pursuant to the provisions of this Stipulation after considering, among other things: (1) the substantial benefits available to the proposed Settlement Class under the terms outlined below; (2) the attendant risks and uncertainty of litigation, especially in complex actions such as this, as well as the difficulties and delays inherent in such litigation; and (3) the desirability of consummating this Stipulation to provide effective and immediate relief to the proposed Settlement Class.

H. Defendants have denied and continue to deny each and all of the claims and contentions alleged by Plaintiff. Defendants have expressly denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Litigation.

I. Nonetheless, Defendants have concluded that further defense of the Litigation would be protracted and expensive, and that it is desirable that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in the Stipulation. Defendants also have taken into account the uncertainty and attendant risks inherent in any litigation, especially in complex actions such as this. Defendants, therefore, have determined that it is desirable and beneficial to them that the Litigation be settled in the manner and upon the terms and conditions set forth in the Stipulation.

J. This Stipulation effectuates the resolution of disputed claims in this Litigation and is for settlement purposes only.

II. DEFINITIONS

A. As used in this Stipulation the following capitalized terms have the meanings specified below. Unless otherwise indicated, defined terms include the plural as well as the singular.

1. "Claim Form" means the documents to be submitted by Claimants seeking payment pursuant to this Stipulation that will accompany the Class Notice and will be available online at the Settlement Website, substantially in the form of Exhibit A and discussed in § IV.A.5 of this Stipulation.

2. "Claimant" means a Settlement Class Member who submits a claim for payment as described in § IV of this Stipulation.

3. "Claims Administration Protocols" means the protocols set forth in the Claim Administration Protocols, attached as Exhibit B.

4. "Class Counsel" means the attorneys that have been approved by the Court as counsel for the proposed Settlement Class as a part of this Stipulation. The attorneys listed below will seek to be appointed as Class Counsel:

CARNEY BATES & PULLIAM, PLLC
Allen Carney
David Slade
519 W. 7th Street
Little Rock, AR 72201

5. "Class Notice" means, collectively, the "Notice of Class Action Settlement" and the "Publication Notice," substantially in the forms of Exhibit C and Exhibit D, respectively, and discussed in § V of this Stipulation, but which may be modified as necessary to comply with the provisions of any order of Preliminary Approval entered by the Court, and which is to be provided to the Settlement Class Members pursuant to this Stipulation.

6. "Court" means the United States District Court for the Southern District of New York.

7. "Defendants" mean The Hain Celestial Group, Inc. and Jason Natural Products, Inc.

8. "Defendants' Counsel" means the following individuals:

Dean N. Panos
Jenner & Block LLP
353 North Clark Street
Chicago, IL 60654-3456
Telephone: (312) 222-9350

Kenneth K. Lee
Jenner & Block LLP
633 West 5th Street, Suite 3500
Los Angeles, CA 90071-2054
Telephone: (213) 239-5100

9. "Effective Date" means the date on which all of the conditions of settlement have been satisfied, as discussed in § IX of this Stipulation.

10. "Final Judgment" means the "Judgment, Final Order or Decree" to be entered by the Court, substantially in the form attached as Exhibit E, which, among other things, fully and finally approves the Settlement and dismisses the Amended Complaint with prejudice.

11. "Incentive Award" means any award sought by application to and approved by the Court that is payable to Plaintiff Lori Gordon from the Settlement Fund.

12. "Litigation" means *Gordon v. Hain Celestial Group and Jason Natural Products*, Case No. 16-CV-06526-KBF (S.D.N.Y.).

13. "Notice Date" means the first date upon which the Class Notice is disseminated.

14. "Party" or "Parties" means the Plaintiff and Defendants in this Litigation.

15. "Person" means a natural person, individual, corporation, partnership, association, or any other type of legal entity.

16. "Plaintiff" or "Settlement Class Representative" means the Plaintiff Lori Gordon.

17. "Preliminary Approval Order" means the "Order re Preliminary Approval of Class Action Settlement," substantially in the form of Exhibit F attached hereto, which, among other things, preliminarily approves this Stipulation, certifies the settlement-only class, provides for notification to the Settlement Class and schedules the Settlement Hearing.

18. "Pro Rata Minimum Remainder Settlement Funds" means the difference, if any, between \$450,000 and the amount paid for all valid claims (plus authorized costs, fees, and expenses) pursuant to § IV.A.1 and 2.

19. "Product(s)" refers to Long & Strong Jojoba Pure Natural Shampoo, Volumizing Lavender Shampoo, Normalizing Tea Tree Treatment Shampoo, Dandruff Relief 2 in 1 Treatment Shampoo & Conditioner, and/or Smoothing Coconut Body Wash.

20. "Proof of Purchase" means a store receipt, Product packaging, or other comparable evidence from a retailer specifically identifying and showing the purchase of Jason's Long & Strong Jojoba Pure Natural Shampoo, Volumizing Lavender Shampoo, Normalizing Tea Tree Treatment Shampoo, Dandruff Relief 2 in 1 Treatment Shampoo & Conditioner, and/or Smoothing Coconut Body Wash during the Settlement Class Period.

21. "Released Claims" shall be construed as broadly as possible to effect complete finality over this Litigation, and means, with the exception of claims for personal injury, any and all actions, claims, demands, rights, suits, and causes of action of whatever kind or nature that arose during the Settlement Class Period against the Released Persons, including damages, costs, expenses, penalties, and attorneys' fees, known or unknown, suspected or unsuspected, in law or equity arising out of or relating to Defendants' packaging, marketing, distribution or sale of the Products as SLS-free which have been or could have been asserted by Plaintiff or the Settlement Class in this Litigation.

22. "Released Persons" shall be defined and construed broadly to effectuate a complete and comprehensive release, and means and includes Defendants and their past and present direct and indirect corporate parents, subsidiaries and affiliates, joint-ventures, partners, members, divisions, distributors, wholesalers, retailers, re-sellers, licensors, suppliers, officers, directors, employees, shareholders, agents, attorneys, administrators, successors, predecessors, insurers, spokespersons, public relations firms, advertising and production agencies and assigns of all such persons or entities.

23. "Settlement Administrator" means the company or companies jointly selected by Class Counsel and Defendants' Counsel and approved by the Court to provide Class Notice and to administer the claims process.

24. "Settlement Class" means all persons who purchased the Long & Strong Jojoba Pure Natural Shampoo, Volumizing Lavender Shampoo, Normalizing Tea Tree Treatment Shampoo, Dandruff Relief 2 in 1 Treatment Shampoo & Conditioner, and/or Smoothing Coconut Body Wash in the United States between August 17, 2011 and the Notice Date. Excluded from the Class are: (a) Defendants' employees, officers and directors; (b) persons or entities who purchased the above-referenced products for the purpose of re-sale; (c) governmental entities; (d) persons who timely and properly exclude themselves from the Class as provided herein; and (e) the Court, the Court's immediate family, and Court staff

25. "Settlement Class Member(s)" or "Member(s) of the Settlement Class" means a member of the Class who has not been properly excluded from the Class.

26. "Settlement Class Period" means the period from August 17, 2011 up to and including the Notice Date.

27. "Settlement Fund" means the common fund discussed in § IV.A.2 of this Stipulation.

28. "Settlement Hearing" means the hearing(s) to be held by the Court to consider and determine whether the proposed settlement of this Litigation as contained in this Stipulation should be finally approved as fair, reasonable, and adequate, and whether the Judgment approving the settlement contained in this Stipulation should be entered.

29. "Settlement Website" means the website to be created for this Settlement that will include information about the Litigation and the Settlement, relevant documents and electronic and printable forms relating to the Settlement, including the Claim Form which can be submitted online or printed and mailed. The Settlement Website shall be activated no later than thirty (30) days after the Court enters the Preliminary Approval Order.

30. "Stipulation" means this Stipulation of Settlement, including its attached exhibits (which are incorporated herein by reference), duly executed by Class Counsel and counsel for Defendants.

B. Other capitalized terms used in this Stipulation but not defined above shall have the meaning ascribed to them in this Stipulation and the exhibits attached hereto.

III. CERTIFICATION OF THE SETTLEMENT CLASS

Defendants hereby consent, solely for purposes of the Settlement set forth herein, to the certification of the Settlement Class, to the appointment of Class Counsel as counsel for the Settlement Class, and to the conditional approval of Plaintiff as a suitable Settlement Class Representative of the Settlement Class; provided, however, that if this Stipulation fails to receive Court approval or otherwise fails to be consummated, including but not limited to, the Judgment not becoming final as provided in § IX.C of this Stipulation, then the Parties agree that they shall retain all rights, claims, and defenses existing immediately before the execution of this Stipulation and that the case shall be returned to the status quo ante. In that event, nothing in this Stipulation or other papers or proceedings related to the Settlement shall be used as evidence or argument by any Party concerning whether the Litigation may properly be maintained as a class action, whether the proposed class is ascertainable, or whether Class Counsel or the Plaintiff can adequately represent members of the class under applicable law.

IV. SETTLEMENT RELIEF

The settlement relief includes cash payments and non-monetary relief.

A. Cash Payments

1. Settlement Class Members' Cash Recovery

a. With Proof of Purchase: Settlement Class Members may seek reimbursement of \$8 for every Product purchased during the Settlement Class Period, for which they can present Proof of Purchase, with a maximum recovery of \$40.

b. Without Proof of Purchase: Settlement Class Members may make a claim for every Product for which they submit a valid Claim Form. Settlement Class Members may

seek reimbursement of \$2 for every Product purchased during the Settlement Class Period, with a maximum recovery of \$10.

c. Settlement Class Members may obtain relief under both Paragraphs IV.A.1(a) and (b), with the appropriate paper work and subject to the maximum recovery amounts permitted for each type of claim.

d. Claimants may seek reimbursement by submitting a Claim Form either by mail or electronically. Each Claim Form shall be signed (either electronically or manually). The actual amount paid to individual Claimants will depend upon the number of valid claims made. Adequate and customary procedures and standards will be used by the Settlement Administrator to prevent the payment of fraudulent claims and to pay only legitimate claims.

2. Settlement Fund

a. In accordance with the payment schedule set forth in § IV.A.7, below, Defendants shall establish a Settlement Fund of \$1.1 million. Any costs incurred by and paid to the Settlement Administrator by Defendants prior to the funding of the Settlement Fund shall reduce the amount Defendants are obligated to pay into the Settlement Fund, so that Defendants' total obligation under this Settlement shall not exceed \$1.1 million.

b. The Settlement Fund shall be applied to pay in full and in order: (i) any necessary taxes and tax expenses; (ii) all costs incurred by the Settlement Administrator, including costs of providing notice to the Settlement Class Members and processing claims; (iii) any Fee and Expense Award made by the Court to Class Counsel under § VIII(a); (iv) any incentive award made by the Court to Plaintiff under § VIII(c); and (v) payments to authorized Claimants and any others as allowed by this Stipulation and to be approved by the Court.

3. Settlement Fund: Insufficient or Excess Funds

a. If the total amount of eligible claims exceeds the Settlement Fund, then each Claimant's award shall be made on a pro rata basis.

b. If, after all valid claims (plus other authorized costs, fees, and expenses) are paid, money remains in the Settlement Fund, the Pro Rata Minimum Remainder

Settlement Funds shall be used to increase, pro rata, the recovery of each eligible claim. The remaining funds in the Settlement Fund after the Pro Rata Minimum Remainder Settlement Funds have been distributed pro rata shall be returned to Defendants. Any reversion to Defendants shall not exceed \$150,000.

4. Delivery of Payments to Settlement Class Members

a. The Settlement Administrator will send payment directly to the eligible Claimants or, as applicable, a letter explaining the rejection of the claim within thirty (30) days after the Effective Date.

b. Failure to provide all information requested in the Claim Form will not necessarily result in nonpayment of a claim. Instead, the Parties, in consultation with the Settlement Administrator, will take all adequate and customary steps to determine the Settlement Class Member's eligibility for payment and the amount of payment based on the information contained in the Claim Form or otherwise submitted, the amount of money available to pay all valid claims, and such other reasonably available information from which eligibility for payment can be determined. Any dispute arising over a Settlement Class Member's eligibility to receive a cash payment that cannot be resolved by the Parties shall be submitted to the Court for resolution.

5. Claim Form Availability

The Claim Form will be available for downloading and printing at the Settlement Website, or the Claim Form may be completed and submitted online at the Settlement Website. The Claim Form may also be requested by calling the toll-free number provided by the Settlement Administrator or by writing to the Settlement Administrator.

6. Eligibility for Cash Payment

a. To be eligible for a cash payment, the Settlement Class Member must timely submit a signed and completed Claim Form. The Settlement Administrator may pay claims that are otherwise valid but untimely filed if there is sufficient money to pay all valid and timely claims in full plus untimely but otherwise valid claims from the Settlement Fund, and payment of any

such untimely but valid claims is administratively feasible and otherwise reasonable, taking into account the need to timely pay claims. The determination of the Settlement Administrator concerning the eligibility and amount of payment shall be final. In the event a Settlement Class Member disagrees with such a determination, the Settlement Administrator agrees to reconsider such determination, which includes consultation with Class Counsel.

b. To be eligible, Claim Forms must be postmarked or submitted online no later than 120 days after the date the Court enters the Preliminary Approval Order.

7. Schedule of Payments into the Settlement Fund

a. Subject to § IV.A.2, above, Defendants shall fund the Settlement Fund within ten (10) days of the Effective Date.

B. Other Relief

a. Defendants have already revised the packaging of the Products to remove the SLS-free claim and/or have changed the formulation. As part of this Stipulation, Defendants agree they will not reintroduce the SLS-free claim for their Products unless the Products' formulation has changed such that Defendants believe that they can make such a claim.

V. NOTICE TO THE SETTLEMENT CLASS, COMMUNICATIONS WITH SETTLEMENT CLASS MEMBERS AND REDEMPTION OF SETTLEMENT RELIEF

A. Class Notice

The Class Notice shall conform to all applicable requirements of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clauses), and any other applicable law, and shall otherwise be in the manner and form agreed upon by the Parties and approved by the Court. Collectively, the Class Notice shall set forth the following information

1. General Terms. The Class Notice shall:

a. inform Settlement Class Members that, if they do not exclude themselves from the Settlement Class, they may be eligible to receive the relief under the proposed Settlement;

- b. contain a short, plain statement of the background of the Litigation, the provisional certification of the Settlement Class, and the proposed Settlement;
- c. describe the proposed settlement relief outlined in this Stipulation;
- d. explain the impact of the proposed Settlement on any existing litigation, arbitration or other proceeding; and
- e. state that any relief to Settlement Class Members is contingent on the Court's final approval of the proposed Settlement.

2. Notice of Exclusion, Objection and Other Rights. The Class Notice shall inform Settlement Class Members:

- a. that they may exclude themselves from the Class by submitting a written exclusion request postmarked no later than thirty (30) days before the date of the Settlement Hearing;
- b. that any Settlement Class Member who has not submitted a written request for exclusion may, if he or she desires, object to the proposed settlement by filing and serving a written statement of objections along with proof of membership in the Settlement Class no later than thirty (30) days before the Settlement Hearing;
- c. that any Settlement Class Member who has filed and served written objections to the proposed settlement may, if he or she so requests, enter an appearance at the Settlement Hearing either personally or through counsel;
- d. that any Judgment entered in the Litigation, whether favorable or unfavorable to the Class, shall include, and be binding on, all Settlement Class Members who have not been excluded from the Settlement Class, even if they have objected to the proposed settlement and even if they have any other claim, lawsuit or proceeding pending against Defendants;
- e. of the terms of the release.

3. No later than thirty (30) days after the Court enters the Preliminary Approval Order, the Class Notice shall be posted on the Settlement Website and, at their option, on the websites

of Class Counsel. The Class Notice shall also be sent via electronic mail or regular mail to those Class Members who so request.

B. Publication Notice

No later than thirty (30) days after the Court enters the Preliminary Approval Order, the Settlement Administrator will cause to be published in accordance with the media plan, attached as Exhibit G, the Publication Notice, a copy of which is attached as Exhibit D.

C. Retention of Settlement Administrator

Subject to Court approval, the Parties shall retain The Garden City Group, Inc. as the Settlement Administrator to help implement the terms of the proposed Stipulation. All costs incurred by the Settlement Administrator, including costs of providing notice to the Settlement Class Members and processing claims, shall be paid out of the Settlement Fund. Any reasonable costs incurred by and paid to the Settlement Administrator prior to the funding of the Settlement Fund will be paid by Defendants, but upon the occurrence of the Effective Date and the triggering of the payments required by Paragraph IV.A above, herein, any such payments shall reduce the amount Defendants are obligated to pay to establish the Settlement Fund, so that Defendants' total obligation under this Settlement shall not exceed \$1.1 million.

1. The Settlement Administrator(s) shall assist with various administrative tasks, including, without limitation, (a) mailing or arranging for the mailing or other distribution of the Class Notice, Claim Forms to Settlement Class Members, and the statement pursuant to § V.A.4, (b) arranging for publication of the Publication Notice, (c) handling returned mail not delivered to Settlement Class Members, (d) attempting to obtain updated address information for Settlement Class Members and for any Class Notice Packages returned without a forwarding address or an expired forwarding address, (e) making any additional mailings required under the terms of this Stipulation, (f) answering written inquiries from Settlement Class Members and/or forwarding such inquiries to Class Counsel or their designee, (g) receiving and maintaining on behalf of the Court and the Parties

any Settlement Class Member correspondence regarding requests for exclusion to the settlement, (h) establishing the Settlement Website that posts notices, Claim Forms and other related documents, (i) receiving and processing claims and distributing payments to Settlement Class Members, and (j) otherwise assisting with administration of the Stipulation.

2. The contract with the Settlement Administrator shall obligate the Settlement Administrator to abide by the following performance standards:

a. The Settlement Administrator shall accurately and neutrally describe, and shall train and instruct its employees and agents to accurately and objectively describe, the provisions of this Stipulation in communications with Settlement Class Members;

b. The Settlement Administrator shall provide prompt, accurate and objective responses to inquiries from Class Counsel or their designee, Defendants and/or Defendants' Counsel.

VI. APPROVAL PROCEDURES AND RELATED PROVISIONS

A. Preliminary Approval and Settlement Hearing

Promptly after execution of this Stipulation, the Parties shall submit this Stipulation to the Court and shall jointly apply for entry of a Preliminary Approval Order preliminarily approving the Settlement set forth in this Stipulation, providing for the dissemination of the Class Notice, and scheduling a Settlement Hearing.

B. Requests for Exclusion and Objections

1. Any Settlement Class Member who wishes to be excluded from the Settlement Class must mail or deliver a written request for exclusion to the Settlement Administrator, care of the address provided in the Class Notice, postmarked or delivered no later than thirty (30) days before the Settlement Hearing, or as the Court otherwise may direct. To be valid, the written request for exclusion must include a clear and unequivocal statement that the member of the Settlement Class wishes to be excluded from the Settlement Class, and his or her signature, or, in the case of a member of the Settlement Class who is deceased or incapacitated, the signature of the Legally Authorized

Representative of that Settlement Class Member. A list reflecting all requests for exclusion shall be filed with the Court by Plaintiff at or before the Settlement Hearing.

2. Any potential Settlement Class Member who does not file a timely written request for exclusion as provided in the preceding § VI.B.1 shall be bound by all subsequent proceedings, orders and the Judgment in this Litigation relating to this Stipulation, even if he or she has pending, or subsequently initiates, litigation, arbitration or any other proceeding against Defendants relating to the Released Claims.

3. Members of the Settlement Class who do not request exclusion from the Settlement Class may object to the proposed Settlement. Members of the Settlement Class who choose to object to the proposed Settlement must file written notices of intent to object. Any member of the Settlement Class may appear at the Settlement Hearing, in person or by counsel, and be heard to the extent allowed by the Court, in opposition to the fairness, reasonableness and adequacy of the proposed Settlement and/or on the application for an award of attorneys' fees and costs. The right to object to the proposed Settlement must be exercised individually by an individual member of the Settlement Class, not as a member of a group or subclass and, except in the case of a deceased, minor, or incapacitated member of the Settlement Class, not by the act of another person acting or purporting to act in a representative capacity.

4. To be effective, a notice of intent to object to the proposed Settlement or application of attorneys' fees and costs must include the following: (1) a heading which includes the name of the case and case number, (2) the name, address, telephone number and signature of the Settlement Class Member filing the objection, (3) the specific reasons why the Settlement Class Member objects to the Settlement or application of attorneys' fees and costs, and (4) the name, address, bar number and telephone number of counsel for the objecting Settlement Class Member, if represented by an attorney. In addition to the foregoing, if the Settlement Class Members intends to appear at the Settlement Hearing, the objection should also include (1) a statement of the Settlement Class Member's intent to appear, either in person or through counsel, (2) a list of any and all witnesses whom the Settlement Class Member may call at the Settlement Hearing, with the address

of each witness and a summary of his or her proposed testimony, and (3) a detailed description of any all evidence the Settlement Class Member may offer at the Settlement Hearing, including photocopies of any all exhibits which the Settlement Class Member may introduce at the Settlement Hearing.

VII. RELEASES

A. As of the Effective Date, Plaintiff and each Settlement Class Member who has not validly excluded himself or herself from the Settlement Class pursuant to §VI.B of this Stipulation, and each of their heirs, guardians, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, and assigns, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Persons.

B. For and in consideration of the terms and undertakings herein, Defendants agree to fully and irrevocably release and forever discharge all claims of any kind or nature that have been or could have been asserted against the Settlement Class Representative, any member of the Settlement Class, or Class Counsel relating to the Claims alleged in the Lawsuit, or the filing or prosecution of the Lawsuit.

VIII. CLASS COUNSEL'S ATTORNEYS' FEES, COSTS AND EXPENSES AND CLASS REPRESENTATIVE INCENTIVE AWARDS

A. The parties agree that Plaintiff's Counsel may apply for an award of attorneys' fees and reasonable, actual out-of-pocket expenses from the Settlement Fund not to exceed \$ 200,000 ("Fee and Expense Award"). Subject to the terms and conditions of this Stipulation and any order of the Court, the Fee and Expense Award awarded by the Court to Class Counsel shall be paid out of the Settlement Fund within thirty (30) days after the Effective Date. Such payment will be in lieu of any statutory fees Plaintiff and/or their attorneys might otherwise have been entitled to recover from Defendants.

B. Class Counsel shall allocate and distribute the Court's Fee and Expense Award among Plaintiff's Counsel. Defendants shall have no liability or other responsibility for allocation of any such Fee and Expense Award awarded, and, in the event that any dispute arises relating to the allocation of fees, Class Counsel agree to hold Defendants harmless from any and all such liabilities, costs, and expenses of such dispute.

C. Class Counsel may ask the Court for the award of an Incentive Award from the Settlement Fund to the Class Representatives of \$ 5,000. Any Incentive Award approved by the Court shall be paid within ten (10) days after the Effective Date.

IX. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION

A. The Effective Date of this Stipulation shall be the first date after which all of the following events and conditions have been met or have occurred:

1. The Court has preliminarily approved this Stipulation and entered the Preliminary Approval Order;
2. The Court has entered the Final Judgment; and
3. Unless the Parties otherwise agree in writing to waive all or any portion of the following provision, there has occurred: (i) in the event there is a properly and timely filed objection to entry of the Final Judgment, the expiration (without the filing or noticing of an appeal) of the time to appeal from the Final Judgment; (ii) the final dismissal of all appeals from the Final Judgment; (iii) affirmance on appeal of the Final Judgment in substantial form; (iv) if a ruling or decision is entered by an appellate court with respect to affirmance of the Final Judgment, the time to petition for rehearing or re-argument, petitions for rehearing en banc and petitions for certiorari or any other form of review with respect to such ruling or decision has expired; or (v) if a petition for rehearing or re-argument, petitions for rehearing en banc and petitions for certiorari or any other form of review with respect to the Final Judgment is filed, the petition has been denied or dismissed or, if granted, has resulted in affirmance of the Final Judgment in substantial form.

B. If all of the conditions specified in § IX.A of this Stipulation are not met, then this Stipulation shall be canceled and terminated unless Class Counsel and Defendants mutually agree in writing to proceed with this Stipulation.

C. In the event that this Stipulation is not approved by the Court or the Settlement set forth in this Stipulation is terminated or fails to become effective in accordance with its terms, the Parties shall be restored to their respective pre-settlement positions in the Litigation, including with regard to any agreements concerning tolling and similar agreements, and this entire Stipulation shall become null and void. All administrative and notice costs and expenses, including the costs of notifying the Settlement Class and any claims administration costs, shall be paid out of the Settlement Fund before the remaining proceeds of the Fund are returned to Defendants.

X. MISCELLANEOUS PROVISIONS

A. The Parties hereto and their undersigned counsel agree to undertake their best efforts and mutually cooperate to promptly effectuate this Stipulation and the terms of the Settlement set forth herein, including taking all steps and efforts contemplated by this Stipulation and any other steps and efforts which may become necessary by order of the Court or otherwise.

B. The undersigned counsel represent that they are fully authorized to execute and enter into the terms and conditions of this Stipulation on behalf of their respective clients.

C. This Stipulation contains the entire agreement among the Parties hereto and supersedes any prior agreements or understandings between them. Except for § I, all terms of this Stipulation are contractual and not mere recitals and shall be construed as if drafted by all Parties.

D. The terms of this Stipulation are and shall be binding upon each of the Parties, their agents, attorneys, employees, successors and assigns, and upon all other Persons claiming any interest in the subject matter through any of the Parties, including any Settlement Class Member.

E. Whenever this Stipulation requires or contemplates that one Party shall or may give notice to the other, notice shall be provided by facsimile, email and/or next day (excluding Sunday) express delivery service as follows:

1. If to Plaintiff, then to:

CARNEY BATES & PULLIAM, PLLC
Allen Carney
acarney@cbplaw.com
David Slade
dslade@cbplaw.com
519 W. 7th Street
Little Rock, AR 72201
Phone: (501) 312-8500
Fax: (501) 312-8505

2. If to Defendants, then to:

Dean N. Panos
dpanos@jenner.com
Jenner & Block LLP
353 North Clark Street
Chicago, IL 60654-3456
Telephone: (312) 923-2765
Facsimile: (312) 840-7765

D. The time periods and/or dates described in this Settlement Agreement with respect to the giving of notices and hearings are subject to approval and change by the Court or by the written agreement of Plaintiff's Counsel and Defendants' Counsel, without notice to Settlement Class Members. The Parties reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extension of time that might be needed to carry out any of the provisions of this Settlement Agreement.

E. All time periods set forth herein shall be computed in business days if seven days or less and calendar days if eight days or more unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Stipulation or by order of the Court, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, or, when the act to be done is the filing of a paper in Court, a day in which weather or other conditions have made the Office of the Clerk or the Court inaccessible, in which event the period shall run until the end of the next day as not one of the aforementioned days. As used in this subsection, "legal holiday" includes New Year's Day, Martin Luther King, Jr.'s Birthday,

Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day and any other day appointed as a holiday by the President or the Congress of the United States.

F. The Parties, their successors and assigns, and their attorneys undertake to implement the terms of this Stipulation in good faith and to use good faith in resolving any disputes that may arise in the implementation of the terms of this Stipulation.

G. This Stipulation may be amended or modified only by a written instrument signed by Class Counsel and any of Defendants' Counsel. Amendments and modifications may be made without additional notice to the Settlement Class Members unless such notice is required by the Court.

H. The exhibits to this Stipulation are an integral part of the Settlement and are hereby incorporated and made a part of this Stipulation.

I. Neither this Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Stipulation or the Settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of Defendants, or of the propriety of Class Counsel maintaining the Litigation as a class action; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal, except that Defendants may file this Stipulation or the Judgment in any action that may be brought against any Released Person in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

J. The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of this Stipulation, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Stipulation.

K. This Stipulation shall be deemed to have been executed upon the last date of execution by all of the undersigned.

L. This Stipulation may be executed in counterparts, each of which shall constitute an original.

IN WITNESS THEREOF, the Parties hereto have caused this Stipulation to be executed by their duly authorized representatives.

Dated: April 20, 2017

LAW OFFICES OF THOMAS M. MULLANEY

By: 
Thomas Mullaney (TM 4274)
tmm@mullaw.org
489 Fifth Avenue, Suite 1900
New York, NY 10017
Telephone: (212) 223-0800

***Counsel for Plaintiff Lori D. Gordon,
Individually***

Dated: April __, 2017

CARNEY BATES & PULLIAM, PLLC

By: _____
Allen Carney (*pro hac vice*)
acarney@cbplaw.com
David Slade (*pro hac vice*)
dslade@cbplaw.com
519 W. 7th Street
Little rock, AR 72201
Phone: (501) 312-8500
Fax: (501) 312-8505

Counsel for the Proposed Settlement Class

IN WITNESS THEREOF, the Parties hereto have caused this Stipulation to be executed by their duly authorized representatives.

Dated: April __, 2017

LAW OFFICES OF THOMAS M. MULLANEY

By: _____

Thomas Mullaney (TM 4274)
tmn@mullaw.org
489 Fifth Avenue, Suite 1900
New York, NY 10017
Telephone: (212) 223-0800

***Counsel for Plaintiff Lori D. Gordon,
Individually***

Dated: April 20th, 2017

CARNEY BATES & PULLIAM, PLLC

By: _____

Allen Carney (*pro hac vice*)
acarney@cbplaw.com
David Slade (*pro hac vice*)
dslade@cbplaw.com
519 W. 7th Street
Little rock, AR 72201
Phone: (501) 312-8500
Fax: (501) 312-8505

Counsel for the Proposed Settlement Class

Dated: April 19, 2017

By:

JENNER & BLOCK LLP


DEAN N. PANOS

353 North Clark Street
Chicago, IL 60654-3456
Telephone: (312) 923-2765
Fax: (312) 840-7765
dpanos@jenner.com

Kenneth K. Lee
JENNER & BLOCK LLP
633 West 5th Street, Suite 3600
Los Angeles, CA 90071
Phone: (213) 239-5100
Facsimile: (213) 239-5199
Email: klee@jenner.com

Counsel for Defendants