STIPULATION AND SETTLEMENT AGREEMENT DATED AS OF OCTOBER 3, 2017

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STIPULATION AND SETTLEMENT AGREEMENT

This Stipulation and Settlement Agreement is entered into as of October 3rd, 2017, by and between (1) Plaintiffs Lauren Byrne, Jenetta Bracy, Bambie Bedford, and Jennifer Disla, individually and on behalf of the Settlement Classes; (2) Intervenors Meghan Herrera, Danielle Hach, Alisa Osborne, Carlie Zufelt, Gena Torres, Regina Cabral, Sabrina Preciado, individually and on behalf of the Intervenor Class; and (3) Defendants Santa Barbara Hospitality Services, Inc., The Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting Worldwide, Inc., Santa Barbara Hospitality Services, LLC, DG Hospitality Van Nuys, LLC, Rouge Gentlemen's Club, Inc., City of Industry Hospitality Venture, Inc., Farmdale Hospitality Services, Inc., High Expectations Hospitality, LLC, Inland Restaurant Venture I, Inc., Kentucky Hospitality Venture, LLC, L.C.M., LLC, Midnight Sun Enterprises, Inc., Nitelife, Inc., Olympic Avenue Venture, Inc., Wild Orchid, Inc., Rialto Pockets, Incorporated, Santa Barbara Hospitality Services, Inc., Santa Maria Restaurant Enterprises, Inc., Sarie's Lounge, LLC, The Oxnard Hospitality Services, Inc., Washington Management, LLC, World Class Venues, LLC, W.P.B. Hospitality, LLC, City of Industry Hospitality Venture, LLC, Farmdale Hospitality Services, LLC, High Expectations Hospitality Dallas, LLC, Inland Restaurant Venture I, LLC, Kentucky Hospitality Venture Lexington, LLC, LCM1, LLC, Midnight Sun Enterprises, LLC, Nitelife Minneapolis, LLC, Olympic Avenue Ventures, LLC, Rialto Pockets, LLC, Santa Barbara Hospitality Services, LLC, Santa Maria Restaurant Enterprises, LLC, The Oxnard Hospitality Services, LLC, Washington Management Los Angeles, LLC, Wild Orchid Portland, LLC, World Class Venues Iowa, LLC, and WPB Hospitality West Palm Beach, LLC. Words that have initial capitalizations (such as "Agreement") are used in this Agreement as defined in Section 1 herein.

This Agreement settles collective claims brought pursuant to the provisions of the Fair Labor Standards Act (29 U.S.C. §§ 201 et seq. the "FLSA"), class action claims under various state labor laws pursuant to the Federal Rules of Civil Procedure, Rule 23 ("Rule 23"), and claims brought under California Labor Code Section 2699 known as the California Private Attorney General Act ("PAGA"). Upon execution of this Agreement, final approval by the Court, the Agreement becoming Effective (following any appeal periods), it is the express intention of the Parties to fully, finally and forever resolve, discharge, and settle all Claims which were brought or could have been brought in the Actions, by the Class Representatives, by any "opt-in" FLSA Class Member, all PAGA claims, or by any Class Member who declined to opt out of this Agreement as set forth below and who therefore constitute a member of the California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon or Texas Settlement Class.

1. DEFINITIONS.

1.1 "Actions" mean collectively the lawsuits entitled *Lauren Byrne v. Santa Barbara Hospitality, Inc., et al.*, Case No. 5:17-CV-00527 JGB (KKx); *Jenetta L. Bracy v. DG Hospitality Van Nuys, LLC, et al.*, Case No. 5:17-CV-00854 JGB (KKx); *Adriana Ortega v. The Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting Worldwide, Inc. and Midnight Sun Enterprises, LLC*, Case No. 5:17-cv-00206 JGB (KKx), all of which were filed in the United States District Court for the Central District of California; as well as *Shala Nelson v. Farmdale Hospitality Services, LLC, dba Blue Zebra Gentleman's Club; Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting, and DOES 1-20, inclusive*, Case No. BC671852; filed in the Los Angeles Superior Court.

1.2 "Administrative Costs" means all administrative costs of settlement, including, but not limited to, Class Notice, mailing of the Class Notice, internet notice on the Settlement Administrator's website, claims administration, and any reasonable fees and costs incurred or

charged by the Settlement Administrator, in connection with the execution of its duties under this Agreement.

1.3 "Agreement" or "Settlement Agreement" means this Stipulation and Settlement Agreement.

1.4 "Attorney Fee and Expense Award" means such funds that Class Counsel or any other attorney may receive either directly from Defendants, or through an order of the Court, to compensate them for their time and litigation expense incurred in the Actions and in this Settlement.

1.5 "*Bracy* Action" means the case of *Jenetta Bracy v. DG Hospitality Van Nuys, LLC; The Spearmint Rhino Companies Worldwide, Inc.; Spearmint Rhino Consulting Worldwide, Inc.; Dames N' Games; John Does #1-10; and XYZ Corporations #1-10* filed in the United States District Court for the Central District of California, Case No. 5:17-cv-00854-JGB(KKx).

1.6 "*Byrne* Action" means the case of *Lauren Byrne v. Santa Barbara Hospitality, Inc., The Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting Worldwide, Inc. and Santa Barbara Hospitality Services, LLC* filed in the United States District Court for the Central District of California, Case No. 5:17-CV-00527 JGB (KKx).

1.7 "CAFA Notice" means the notice to be sent by the Settlement Administrator to appropriate federal and state officials pursuant to the requirements of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b).

1.8 "California Class Period" means the period of time from February 3, 2013 through the date of entry of the Preliminary Approval Order.

1.9 "California Released Claims" means Claims, as defined below, for participating California Settlement Class Members who performed at a Club located in the State of California

during the California Class Period; as well as the following: (a) Any and all Claims pursuant to the California Labor Code, including but not limited to Claims under or pursuant to California Labor Code sections 200-204, 206.5, 207, 208, 210-214, 216, 218, 218.5, 218.6, 221, 222.5, 223, 225.5, 226, 226.3, 226.7, 226.8, 227, 227.3, 245-249, 351, 353, 432.5, 450, 510, 512, 551-552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2698 et seq. (PAGA), 2753, 2802, 2804; (b) Claims pursuant to California Code of Civil Procedure section 1021.5; (c) Claims pursuant to California Code of Regulations, Title 8, sections 11010 and 11040; (d) Claims pursuant to Industrial Welfare Commission Wage Orders; (e) Claims pursuant to California Business and Professions Code Sections 17200, et seq., and sections 17500, et seq.; (f) All Claims, including common law Claims, arising out of or related to the statutory causes of action listed in this section 1.11; (g) Claims under California common law to recover any alleged tip, expense or other payment.

1.10 "California Releasing Persons" means each and every California Settlement Class Member who did not timely and validly opt-out and their respective heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, successors-in interest, and assigns.

1.11 "California Settlement Class" means the group of individuals who performed as entertainers and in conjunction therewith have provided nude, semi-nude, and/or bikini entertainment for customers at the Clubs owned by City of Industry Hospitality Venture, Inc. (Spearmint Rhino – City of Industry, CA); Farmdale Hospitality Services, Inc. (Blue Zebra – North Hollywood, CA); Inland Restaurant Venture I, Inc. (Spearmint Rhino – Van Nuys, CA); Midnight Sun Enterprises, Inc. (Spearmint Rhino – Torrance, CA); Olympic Avenue Venture, Inc. (Spearmint Rhino – Los Angeles, CA); The Oxnard Hospitality Services, Inc. (Spearmint Rhino – Oxnard, CA); Rialto Pockets, Incorporated (Spearmint Rhino – Rialto, CA); Rouge Gentlemen's

Club, Inc. (Dames N Games – Van Nuys, CA); Santa Barbara Hospitality Services, Inc. (Spearmint Rhino – Santa Barbara, CA); Santa Maria Restaurant Enterprises, Inc. (Spearmint Rhino – Santa Maria, CA); and Washington Management, LLC (Dames N Games – Los Angeles, CA) during the California Class Period. The Class Representatives for this subclass are Lauren Byrne and Jenetta L. Bracy.

1.12 "California Settlement Class Member" means each of those individuals who are members of the California Settlement Class.

1.13 "Cash Payment" means the cash payment to a Class Member who has elected and is eligible to receive such consideration in exchange for Class Member's releases hereunder of Defendants.

1.14 "Claim(s)" means, when used alone herein and not as part of another specifically defined phrase, any and all, present and future claims, actions, demands, causes of action, suits, debts, obligations, damages, and rights or other assertions of liability or wrongdoing, or any conceivable kind, nature or description whatsoever, whether known or unknown, whether existing or potential, whether fixed or contingent, whether asserted or not, recognized now or hereafter and whether expected or unexpected, pursuant to any theory of recovery and whether at law, in equity or otherwise, including, but not limited to those based in contract, tort, common law, federal, state or local law, statute, ordinance, or regulation, and whether for compensatory, consequential, punitive or exemplary damages, statutory damages, penalties, interest, attorneys' fees, costs or disbursements (including but not limited to those incurred by Class Counsel or any other counsel representing the Class Representatives or any Settlement Class Members, other than those expressly awarded by the Court in an Attorney Fee and Expense Award authorized by this Agreement), that a Person may have.

1.15 "Claim/Credit Benefit Form" means the form that was provided and returned by the Members of the Settlement Classes to claim a Cash Payment or to redeem Credit Benefits in lieu of a Cash Payment in accordance with the requirements set forth in Section 7.7, the form of which is Exhibit 3, hereto.

1.16 "Claims Period" means the time period between the date that the Settlement Administrator distributes the Class Notice and the date by which all claims must be submitted to the Settlement Administrator for consideration, of which the duration shall be sixty (60) days. Any claim submitted to the Settlement Administrator that is postmarked on or before the sixtieth (60) day after Initial Notice or Second Class Notice is valid; all others postmarked after that date shall be deemed untimely and not valid, other than as set forth herein.

1.17 "Class Counsel" means Jennifer Liakos, Esq., Salvatore C. Badala, Esq., Paul B. Maslo, Esq. of Napoli Shkolnik PLLC, Todd Slobin, Esq., Ricardo J. Prieto, Esq., of Shellist Lazarz Slobin, LLP, and Melinda Arbuckle, Esq. of Baron & Budd, P.C.

1.18 "Class Member(s)" or "Member(s) of the Settlement Class(es)" means an individual member or members of the Settlement Class.

1.19 "Class Notice" means the notice submitted in conjunction with the proposed Preliminary Approval Order, in substantially the form as Exhibit 2, attached hereto.

1.20 "Class Notice Documents" means the Class Notice, the Claim/Credit Benefit Form, a blank W-9 Form, and a Request for Exclusion Form.

1.21 "Class Representatives" means Lauren Byrne, Jenetta L. Bracy, Bambie Bedford, and Jennifer Disla, or any other person(s) duly appointed as additional or successor representatives of the Class. Each of these individuals may be referred to individually as "Class Representative."

1.22 "Clubs" or "Existing Club(s)" means: Spearmint Rhino – Boise, ID; Spearmint Rhino – City of Industry, CA; Spearmint Rhino – Dallas, TX; Spearmint Rhino – Los Angeles,

CA; Spearmint Rhino – Lexington, KY; Spearmint Rhino – Minneapolis, MN; Spearmint Rhino – Omaha, NE/Carter Lake, IA; Spearmint Rhino – Oxnard, CA; Spearmint Rhino – Portland, OR; Spearmint Rhino – Rialto, CA; Spearmint Rhino – Santa Barbara, CA; Spearmint Rhino – Santa Maria, CA; Spearmint Rhino – Torrance, CA; Spearmint Rhino – Van Nuys, CA; Spearmint Rhino – West Palm Beach, FL; Blue Zebra – North Hollywood, CA; Dames N Games – Los Angeles, CA; Dames N Games – Van Nuys, CA, individually "Existing Club" or collectively "Existing Clubs."

1.23 "Club Owners" means: City of Industry Hospitality Venture, Inc. (Spearmint Rhino – City of Industry, CA); Farmdale Hospitality Services, Inc. (Blue Zebra – North Hollywood, CA); High Expectations Hospitality, LLC (Spearmint Rhino – Dallas, TX); Inland Restaurant Venture I, Inc. (Spearmint Rhino – Van Nuys, CA); Kentucky Hospitality Venture, LLC (Spearmint Rhino – Lexington, KY); L.C.M., LLC (Spearmint Rhino – Boise, ID); Midnight Sun Enterprises, Inc. (Spearmint Rhino – Torrance, CA); Nitelife, Inc. (Spearmint Rhino – Minneapolis, MN); Olympic Avenue Venture, Inc. (Spearmint Rhino – Los Angeles, CA); Rialto Pockets, Incorporated (Spearmint Rhino – Rialto, CA); Rouge Gentlemen's Club, Inc. (Dames N Games – Van Nuys, CA); Santa Barbara Hospitality Services, Inc. (Spearmint Rhino – Santa Barbara, CA); Santa Maria Restaurant Enterprises, Inc. (Spearmint Rhino – Santa Maria, CA); Sarie's Lounge, LLC (Spearmint Rhino – Omaha, NE/Carter Lake, IA); The Oxnard Hospitality Services, Inc. (Spearmint Rhino – Oxnard, CA); Washington Management, LLC (Dames N Games – Los Angeles, CA); Wild Orchid, Inc. (Spearmint Rhino – Portland, OR); World Class Venues, LLC (Spearmint Rhino – Omaha, NE); WPB Hospitality, LLC (Spearmint Rhino – West Palm Beach, FL).

1.24 "Companies" means The Spearmint Rhino Companies Worldwide, Inc.

1.25 "Consulting" means Spearmint Rhino Consulting Worldwide, Inc.

1.26 "Court" means the United States District Court for the Central District of California.

1.27 "Credit Benefit" means the Overhead Payment credit that an entertainer may redeem at her Qualifying Club for payment of overhead fees provided she has not elected to obtain a Cash Payment and as further set forth in Section 7.7.7 below.

1.28 "Credit Benefit Settlement Amount" shall mean and have the value up to three million dollars ($3,000,000).

1.29 "Date of Performance" shall mean the date scheduled by a Class Member that has elected and is eligible to receive a Credit Benefit for her redemption thereof at her Qualifying Club.

1.30 "Dance Day(s)" means an individual day or any part thereof, or any individual day in conjunction with the immediately following consecutive day until a Club's closing for business on such day, wherein a Member of the Settlement Classes provided entertainment at one of the Clubs, which shall each be considered an individual Dance Day.

1.31 "Defendants" means Santa Barbara Hospitality Services, Inc., The Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting Worldwide, Inc., Santa Barbara Hospitality Services, LLC, DG Hospitality Van Nuys, LLC, Rouge Gentlemen's Club, Inc., City of Industry Hospitality Venture, Inc., Farmdale Hospitality Services, Inc., High Expectations Hospitality, LLC, Inland Restaurant Venture I, Inc., Kentucky Hospitality Venture, LLC, L.C.M., LLC, Midnight Sun Enterprises, Inc., Nitelife, Inc., Olympic Avenue Venture, Inc., Wild Orchid, Inc., Rialto Pockets, Incorporated, Santa Maria Restaurant Enterprises, Inc., Sarie's Lounge, LLC, The Oxnard Hospitality Services, Inc., Washington Management, LLC, World Class Venues, LLC, W.P.B. Hospitality, LLC, City of Industry Hospitality Venture, LLC, Farmdale Hospitality Services, LLC, High Expectations Hospitality Dallas, LLC, Inland

Restaurant Venture I, LLC, Kentucky Hospitality Venture Lexington, LLC, LCM1, LLC, Midnight Sun Enterprises, LLC, Nitelife Minneapolis, LLC, Olympic Avenue Ventures, LLC, Rialto Pockets, LLC, Santa Maria Restaurant Enterprises, LLC, The Oxnard Hospitality Services, LLC, Washington Management Los Angeles, LLC, Wild Orchid Portland, LLC, World Class Venues Iowa, LLC, and WPB Hospitality West Palm Beach, LLC as set forth in the Second Amended Complaint.

1.32 "Defendants' Counsel" means Peter E. Garrell, Esq., and John M. Kennedy, Esq. of GARRELL LAW, P.C.

1.33 "Effective Date" means the day after the Judgment is no longer subject to appeal or review (or further appeal or review), whether by exhaustion of any possible appeal, lapse of time, or otherwise.

1.34 "Entertainer(s)" means persons who dance, perform, and/or entertain, or who have danced, performed or entertained, on the premises of one of the Clubs, but excludes, for those individuals who perform or who have performed at a Club, persons who provide or provided services as "headliner" or "feature" performers unless such individual was otherwise qualified as a Class Member.

1.35 "ERISA" means The Employee Retirement Income Securities Act of 1974, 29 U.S.C. § 1001, *et. seq.*

1.36 "Fairness Hearing" means the hearing to be held by the Court to consider whether to issue an order of final approval of the Settlement pursuant to Federal Rule of Civil Procedure 23. At the Fairness Hearing, the Court will also hear any other pertinent matters, including what legal fees, compensation, and expenses should be awarded to Class Counsel, and to the Class Representatives.

1.37 "Final" means conclusion of the ten (10) year time period during which the Court shall retain jurisdiction to monitor the Intervenor Declaratory Judgment.

1.38 "Florida Class Period" means the period of time from February 3, 2012 through the date of entry of the Preliminary Approval Order.

1.39 "Florida Releasing Persons" means each and every Florida Settlement Class Member who did not timely and validly opt-out and their respective heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, successors-in interest, and assigns.

1.40 "Florida Settlement Class" means the group of individuals who performed as entertainers and in conjunction therewith have provided nude, semi-nude, and/or bikini entertainment for customers at the Club owned W.P.B. Hospitality, LLC during the Florida Class Period. The Class Representative for this subclass is Jennifer Disla.

1.41 "Florida Settlement Class Member" means those individuals who are members of the Florida Settlement Class.

1.42 "FLSA" means the Federal Labor Standards Act of 1938 ("FLSA"), 29 U.S.C. § 201, *et seq.*

1.43 "FLSA Class Period" means the period of time from February 3, 2014 through the date of entry of the Preliminary Approval Order.

1.44 "FLSA Releasing Persons" means each and every FLSA Settlement Class Member and her respective heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, successors-in-interest and assigns, who opted into the FLSA Settlement Class by timely submitting a valid Claim Form.

1.45 "FLSA Settlement Class" means those individuals who are members of the California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon and Texas Settlement Classes who

elected to participate in the Settlement and timely submitted a valid Claim Form and who performed at one or more of the Clubs as entertainers and in conjunction therewith have provided nude, semi-nude and/or bikini entertainment for customers at the Clubs during the FLSA Class Period.

1.46 "FLSA Settlement Class Member" means those individuals who are members of the FLSA Settlement Class.

1.47 "Gross Cash Settlement Amount" shall mean and have the value up to five million five hundred thousand dollars ($5,500,000). Together, the Gross Cash Settlement Amount and Credit Benefit Settlement Amount are accepted as full and adequate consideration for the Settlement and releases provided herein.

1.48 "Idaho Class Period" means the period of time from February 3, 2014 through the date of the entry of the Preliminary Approval Order.

1.49 "Idaho Releasing Persons" means each and every Idaho Settlement Class Member who did not timely and validly opt-out and her respective heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, successors-in-interest and assigns.

1.50 "Idaho Settlement Class" means the group of individuals who performed as entertainers and in conjunction therewith have provided nude, semi-nude, and/or bikini entertainment for customers at the Club owned by L.C.M., LLC during the Idaho Class Period.

1.51 "Idaho Settlement Class Member" means those individuals who are members of the Idaho Settlement Class.

1.52 "Initial Mailing" means the mailing of the Class Notice Documents that will take place pursuant to this Settlement Agreement.

1.53 "Intervenors" means Meghan Herrera, Danielle Hach, Alisa Osborne, Carlie Zufelt, Gena Torres, Regina Cabral, and Sabrina Preciado, and any other person(s) who file pleadings to become Intervenors. Each of these individuals may be referred to individually as "Intervenor."

1.54 "Intervenor Class" means entertainers who have entered into LLC agreements to become Owners and/or LLC Members to perform at any Club or Existing Club and wish to remain classified as Owners or LLC Members and not be classified as employees.

1.55 "Intervenor Counsel" means William X. King, Esq., and Casey T. Wallace of Feldman & Feldman, PC.

1.56 "Intervenor Declaratory Judgment" means a Declaratory Judgment in favor of the Intervenor Class affirming and preserving their classification as Owners and/or LLC Members (and not employees) and their rights to continue to perform at Clubs or Existing Clubs pursuant to LLC agreements.

1.57 "Iowa Class Period" means the period of time from February 3, 2014 through the date of entry of the Preliminary Approval Order.

1.58 "Iowa Releasing Persons" means each and every Iowa Settlement Class Member who did not timely and validly opt-out and their respective heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, successors-in interest, and assigns.

1.59 "Iowa Settlement Class" means the group of individuals who performed as entertainers and in conjunction therewith have provided nude, semi-nude, and/or bikini entertainment for customers at the Club owned by Sarie's Lounge, LLC and World Class Venues, LLC during the Iowa Class Period.

1.60 "Iowa Settlement Class Member" means those individuals who are members of the Iowa Settlement Class.

1.61 "Judgment" means an order substantially in the form attached hereto as Exhibit 6.

1.62 "Kentucky Class Period" means the period from February 3, 2014 through the date of the entry of the Preliminary Approval Order.

1.63 "Kentucky Releasing Persons" means each and every Kentucky Settlement Class Member who did not timely and validly opt-out and her respective heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, successors-in-interest and assigns.

1.64 "Kentucky Settlement Class" means the group of individuals who performed as entertainers and in conjunction therewith have provided nude, semi-nude, and/or bikini entertainment for customers at the Club owned by Kentucky Hospitality Venture, LLC during the Kentucky Class Period.

1.65 "Kentucky Settlement Class Member" means those individuals who are members of the Kentucky Settlement Class.

1.66 "Lead Class Counsel" means Todd Slobin, Esq., Ricardo J. Prieto, Esq., of Shellist Lazarz Slobin, LLP, and Melinda Arbuckle, Esq. of Baron & Budd, P.C.

1.67 "LLC Member" or "Owner" means an individual who pursuant to her election of membership as an owner in a limited liability company performed as an entertainer, providing nude, semi-nude, and/or bikini entertainment for customers at one or more of the Existing Clubs.

1.68 "LWDA" means the California Labor and Workforce Development Agency.

1.69 "Member(s) of Settlement Class(es)" or "Class Member(s)" means any individual who is a member of the Settlement Class(es).

1.70 "Minnesota Class Period" means the period of time from February 3, 2014 through the date of entry of the Preliminary Approval Order.

1.71 "Minnesota Releasing Persons" means each and every Minnesota Settlement Class Member who did not timely and validly opt-out and their respective heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, successors-in interest, and assigns.

1.72 "Minnesota Settlement Class" means the group of individuals who performed as entertainers and in conjunction therewith have provided nude, semi-nude, and/or bikini entertainment for customers at the Club owned by Nitelife, Inc. during the Minnesota Class Period.

1.73 "Minnesota Settlement Class Member" means those individuals who are members of the Minnesota Settlement Class.

1.74 "Net Settlement Amount" means the balance remaining after Court-approved attorneys' fees and costs, incentive awards, and Administration Costs are subtracted from the Gross Cash Settlement Amount. Penalties allocated to the California Labor Code Section 2699 claim shall be deducted from the portion of the Net Settlement Amount allocated to the California Settlement Class. Incentive fees shall be paid per Section 7.6.

1.75 "Opt-Out/Request for Exclusion Form" means the form, identical in all material respects to the document attached hereto as Exhibit 4.

1.76 "Oregon Class Period" means the period of time from February 3, 2014 through the date of entry of the Preliminary Approval Order.

1.77 "Oregon Releasing Persons" means each and every Oregon Settlement Class Member who did not timely and validly opt-out and their respective heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, successors-in interest, and assigns.

1.78 "Oregon Settlement Class" means the group of individuals who performed as entertainers and in conjunction therewith have provided nude, semi-nude, and/or bikini

entertainment for customers at the Club owned by Wild Orchid, Inc. during the Oregon Class Period.

1.79 "Oregon Settlement Class Member" means those individuals who are members of the Oregon Settlement Class.

1.80 "*Ortega* Action" means the case of *Adriana Ortega v. The Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting Worldwide, Inc. and Midnight Sun Enterprises, LLC* filed February 3, 2017, in the United States District Court for the Central District of California, Eastern Division; Case No. 5:17-cv-00206-JGB-KK.

1.81 "Overhead Payment" means the payment made by the LLC Member for each day that such LLC Member performs a set to contribute to payment of the overhead expenses payable by the Club.

1.82 "Owner" means an individual who pursuant to her election of membership as an owner in a limited liability company performed as an entertainer, providing nude, semi-nude, and/or bikini entertainment for customers at one or more of the Existing Clubs.

1.83 "Party" and "Parties" shall mean Plaintiffs, Intervenors and Defendants, individually or collectively.

1.84 "Person" means any individual, corporation, partnership, association, affiliate, joint stock company, estate, trust, unincorporated association, entity, governmental and any political subdivision thereof, or any other type of business or legal entity.

1.85 "Plaintiffs" means Lauren Byrne, Jenetta Bracy, Bambie Bedford, and Jennifer Disla.

1.86 "Preliminary Approval Order" means the order entered by the Court preliminarily approving the Settlement.

1.87 "Qualifying Club" means any Club at which a Class Member performed during the Applicable Class Period.

1.88 "Released Persons" means Defendants, the Clubs, the Existing Clubs, the Club Owners, the Club and Entertainer LLCs, Consulting, Companies, and WPS Entertainment, Inc. including, but not limited to, their current or former officers, directors, trustees, employees, agents, insurers, attorneys, auditors, accountants, experts, parent companies, subsidiaries, affiliates, divisions, stockholders, members, heirs, executors, representatives, predecessors, successors, and/or assigns, insurers, reinsurers, contractors, representatives, benefit plans sponsored or administered by the Clubs, the Club Owners, the Club and Entertainer LLCs, Consulting, or Companies.

1.89 "Redemption Period" means the period of time for which the Credit Benefit is valid for redemption by an eligible Class Member and prior to its expiration which is twelve (12) months from the Effective Date.

1.90 "RUM Individuals" means those Class Members in the California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon, Texas and FLSA Settlement Classes who were sent a copy of the initial Class Notice with the Initial Mailing, but the Class Notice Documents sent to them were undeliverable.

1.91 "Second Class Notice" means the notice that is sent to RUM Individuals by the Settlement Administrator.

1.92 "Settlement" means the compromise and settlement embodied in this Agreement.

1.93 "Settlement Administrator" means Kurtzman Carson Consultants, LLC (KCC, LLC).

1.94 "Settlement Class" or "Settlement Classes" means all individuals, who performed as entertainers and in conjunction therewith have provided nude, semi-nude, and/or bikini entertainment for customers at any of the Clubs.

1.95 "Texas Class Period" means the period from February 3, 2014 through the date of entry of the Preliminary Approval Order.

1.96 "Texas Releasing Persons" means each and every Texas Settlement Class Member who did not timely and validly opt-out and their respective heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, successors-in interest and assigns.

1.97 "Texas Settlement Class" means the group of individuals who performed as and in conjunction therewith have provided nude, semi-nude, and/or bikini entertainment for customers at the Club owned by High Expectations Hospitality, LLC during the Texas Class Period. The Class Representatives for this subclass is Bambie Bedford.

1.98 "Texas Settlement Class Member" means those individuals who are members of the Texas Settlement Class.

1.99 "*Trauth* Action" means the case of *Trauth v. Spearmint Rhino Consulting Worldwide, Inc., et al.*, Case No. EDCV09-1316 VAP (DTBx) filed in the United States District Court for the Central District of California for which final approval was granted by the Honorable Virginia A. Phillips in 2010.

1.100 "*Trauth* Injunctive Relief" means as follows:

In consideration for the releases and covenants herein, the Existing Clubs will, within six (6) months after the Effective Date, commence treating entertainers as either employees or owners (e.g., shareholder, limited partner, partner, member or other type of ownership stake) of any of the Existing Clubs. To the extent that the

laws change in any particular jurisdiction where an Existing Club is operating which supports entertainers being treated in a manner other than employee or owner, the Existing Club in that jurisdiction may change its practices consistent with the change in the law.

1.101 "*Trauth* Injunctive Relief Implementation Documents" means and refers to the *Trauth* defendants' establishment of new written notices, policies, procedures and agreements pursuant to which entertainers could choose to become employees at a particular night club or members of limited liability companies (LLCs). The written materials provided to each entertainer which described the two categories and pursuant to which each entertainer could make an election are attached hereto as Exhibits 7-8.) These written materials include: (1) Notice to Entertainer of Opportunity for Employment or Participation as Member (Summary Guidelines); (2) Application for Class A Membership with Company and; (3) Operating Agreements with exhibits thereto including an arbitration agreement.

1.102 "*Trauth* Settlement Agreement" means and refers to the Amended and Restated Settlement Agreement as of May 17, 2010 in the *Trauth* Action.

1.103 "Unidentified Class Members" means those individuals for whom the Clubs did not have a record or other information regarding participation in any of the Settlement Classes, but who requested the Class Notice Documents or obtained them on the Settlement Administrator's website.

1.104 "Unknown Claims" means any released claims that the Class Representatives and the Members of the Settlement Classes do not know or suspect to exist in their favor at the time of the release of the Released Persons which, if known by her, might have affected her settlement with and release of the Released Persons, or might have affected her decision not to object to this Settlement. With respect to any and all claims or potential claims the Class Representatives and

the Class Members may have, upon the Effective Date, the Class Representatives and the Class Members shall be deemed to have, and by operation of the Final Judgment shall have, expressly waived, and may not assert in any proceedings as a bar to or voiding in any way the effectiveness of this release, the provisions, rights and benefits of any provisions of the Laws of the United States (excluding any and all claims arising under the FLSA (which are addressed in Paragraph 9.9)) and any claims arising or of any state which provides that a general release does not extend to claims which a party does not know or expect to exist in its favor at the time of executing the release, which if known to the party may have materially affected the Settlement. Upon the Effective Date, the Class Representatives and each Class Member shall be deemed to have, and by operation of the Judgment (excluding any and all claims arising under the FLSA (which are addressed in Paragraph)) shall have, expressly waived the provisions, rights and benefits of California Civil Code § 1542, which provides:

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

The Class Representatives and any and all Members of the Settlement Classes may later discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the released claims, but the Class Representatives and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all released claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including but not limited to conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without

regard to the subsequent discovery or existence of such different or additional facts (excluding any and all claims arising under the FLSA (which are addressed in Paragraph 9.9)). The Class Representatives and each Class Member shall be deemed by operation of the Judgment to have acknowledged that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

1.105 "Valid Claim(s)" means a Claim Form and W-9 Form duly completed and timely submitted by a Class Member in accordance with the requirements set forth in Section 7.7.

2. BACKGROUND FACTS

2.1 **The *Trauth* Action**. On July 13, 2009, an action entitled *Trauth v. Spearmint Rhino Consulting Worldwide, Inc., et al.*, Case No. EDCV09-1316 VAP (DTBx) was filed in the United States District Court for the Central District of California. The *Trauth* Action alleged that persons who performed as entertainers at the adult cabarets known as Spearmint Rhino nationwide should have been treated as employees rather than independent contractors, and as a result were entitled to, but did not receive, adequate compensation and benefits in exchange for the services they provided to the Spearmint Rhino nightclubs.

2.2 **The *Trauth* Settlement Agreement and Injunctive Relief**. On May 17, 2010, the parties to the *Trauth Action* entered into an Amended and Restated Stipulation and Settlement Agreement, for which final approval was granted by the Honorable Virginia A. Phillips. Pursuant to the *Trauth* Settlement Agreement, the parties agreed to the *Trauth* Injunctive Relief requiring the nightclubs at that time to commence treating entertainers as either employees or owners (e.g., shareholder, limited partner, partner, member, or other type of ownership stake) within six months of the Effective Date of the *Trauth* Settlement Agreement.

2.3 **Implementation of the *Trauth* Injunctive Relief.** The defendants in *Trauth* then implemented the *Trauth* Injunctive Relief to apply to all of the night clubs existing and operating at

that time. That injunctive relief was also implemented at clubs acquired after the *Trauth* Settlement Agreement and continues to be implemented at licensed clubs acquired up to the present time. In particular, the *Trauth* defendants established and created policies and procedures that provided entertainers with a choice to be employees or members of an LLC. Significant written materials were created and provided to each current and new entertainer to make an election. At any time, an entertainer can choose to switch her chosen classification without any negative response on the part of the night clubs. In particular, before an entertainer is or was permitted to perform at a night club, they are and were provided with an option of whether to apply to be an employee of the club or whether to apply to be an LLC Member. Each entertainer is and was then presented with a document entitled "Notice to Entertainer of Opportunity for Employment or Participation as Member (Summary Guidelines)" ("Application Notice"). When the process was first initiated, the Application Notices, applications, and accompanying agreements were provided to entertainers in paper format for review and acceptance. Thereafter, to make documents more accessible and to prevent lost or misplaced documents, the system was changed to an electronic contract system that also incorporated the Docusign, Inc. electronic document, electronic contract and electronic signature digital transaction management system. Pursuant to this system, entertainers could review and accept agreements via an interface presented in a web browser on a computing device such as an iPad. The contracting system first requires each prospective entertainer to enter identifying autobiographical information to establish an account, and after such entry, the entertainer logs into the system with their unique credentials and is provided with the Application Notice. The Application Notice requires the entertainer to scroll down through the interface as she reads the document and to acknowledge that the entertainer has reviewed the Application Notice and had adequate time to consider it and

to seek the advice of an attorney or financial advisor before electing to be an employee or an LLC Member.

Thus, after ensuring review of the Application Notice, two options are available in the application interface from which an applying entertainer may then select (but only after her initial review). The first option, entitled "Choose employment," indicates that the entertainer desires to apply for employment with the club as an employee by clicking on such option and then is provided with an application for employment. The second option, entitled "Choose LLC Membership," indicates that the entertainer does not desire to form an employee/employer relationship and instead, requests that she apply to become an Owner and LLC Member by toggling that option. The Application Notice and the LLC paperwork are Exhibits 7-8.) As part of both sets of paperwork, each entertainer agrees to binding arbitration of any and all claims and also waives any right to bring a class or collection action (which waiver must be consistent with the law of the state in which the entertainer performs).

2.4 **The 2017 Cases.**

2.4.1 **The *Ortega* Action.** On February 3, 2017, the case of *Adriana Ortega v. The Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting Worldwide, Inc. and Midnight Sun Enterprises, LLC* was filed in the United States District Court for the Central District of California, Eastern Division; Case No. 5:17-cv-00206-JGB-KK. On April 14, 2017, Plaintiff Adriana Ortega filed a first amended complaint adding PAGA claims. Plaintiff Ortega purports to represent a California class of entertainers for alleged violations of the Fair Labor Standards Act (FLSA) including alleged misclassification as independent contractors and other claims and has recently indicated an intent to expand the putative class to a "national class." The *Ortega* Action is pending before the Honorable Jesus G. Bernal. On June 12, 2017, the Court ruled on three motions pending in the *Ortega* Action: (1) Plaintiff's motion for class notice to

entertainers classified as 1099 independent contractors pursuant to 29 U.S.C. § 216(b) (*Ortega* Court Dkt. #16); (2) Defendants' motion to compel arbitration pursuant to a written arbitration agreement (*Ortega* Court Dkt. #18); and (3) Defendants' motion to stay the action (*Ortega* Court Dkt. #21) pending a ruling from the United States Supreme Court on the validity of class action waivers in *Morris*.[1] In particular, the Court in the *Ortega* Action ruled as follows:

> "As the above discussion makes clear, the Supreme Court's decision in *Morris* will control the outcome of this case: if the Supreme Court affirms the Ninth Circuit's decision, Plaintiff will likely be able to move forward on her collective action claims in this Court; if it issues a reversal, Plaintiff will be bound by the [Arbitration] Agreement and required to individually arbitrate her claims. Given the centrality of *Morris* to the outcome here, the Court finds that a stay–at least in some form–may be appropriate to allow for resolution on the question of whether the arbitration agreement is enforceable despite its bar on collective action."

(Court Dkt. #48 at p. 14.) In its conclusion, the *Ortega* Court denied the defendants' motion to compel arbitration pending a decision by the Supreme Court in *Morris*; denied the plaintiff's motion for conditional certification but granted, in part, the defendant's motion to stay. (*Ortega* Court Dkt. #48 at p. 14.)

[1] In *Epic Systems Corp. v. Lewis* (U.S. Jan. 13, 2017) (No. 16-285); *Ernst & Young LLP v. Morris* (U.S. Jan. 13, 2017) (No. 16-300), and *NLRB v. Murphy Oil USA, Inc.* (U.S. Jan. 13, 2017) (No. 16-307) (collectively referred to herein as "Morris"), the United States Supreme Court granted certiorari on the question of: "Whether an agreement that requires an employer and an employee to resolve employment-related disputes through individual arbitration, and waive class and collective proceedings, is enforceable under the Federal Arbitration Act, notwithstanding the provisions of the National Labor Relations Act."

2.4.2 **The *Byrne* Action.** On March 21, 2017, the case of *Lauren Byrne v. Santa Barbara Hospitality, Inc., The Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting Worldwide, Inc. and Santa Barbara Hospitality Services, LLC* was filed in the United States District Court for the Central District of California, Case No. 5:17-cv-00527-SVW-SP. Plaintiff Byrne purports to represent a nationwide class of entertainers for alleged violations of the FLSA and other claims. Jennifer Diaz, Bianca Haney, Bambie Bedford, Cynthia Garza, Jennifer Disla, and Carmen Ramos "opted in" to the *Byrne* Action. (*Byrne* Court Dkt. #s 28, 30, 33, 56) On May 10, 2017, Judge Bernal deemed the *Byrne* Action "related" to the *Ortega* Action and the *Byrne* Action was transferred to Judge Bernal. (*Byrne* Court Dkt. #38.) In *Byrne*, the Defendants filed a motion to stay based upon *Morris* and Plaintiffs filed a motion for class notice. The parties stipulated to continue the hearing dates on those motions to November 13, 2017. On August 29, 2017, the Court granted Intervenors the right to intervene. (Byrne Ct. Dkt. #61.) On September 6, 2017, the Intervenors filed a Complaint In Intervention. (Byrne Ct. Dkt. #62.)

2.4.3 **The *Bracy* Action.** On May 3, 2017, the case of *Jenetta Bracy v. DG Hospitality Van Nuys, LLC; The Spearmint Rhino Companies Worldwide, Inc.; Spearmint Rhino Consulting Worldwide, Inc.; Dames N' Games; John Does #1-10; and XYZ Corporations #1-10* was filed in the United States District Court for the Central District of California, Case No. 5:17-cv-00854. Plaintiff Bracy purports to represent a nationwide class of entertainers for alleged violations of the FLSA. In the interim, Houston Isabella (*Bracy* Court Dkt. #23) "opted in" to the *Bracy* Action. On July 24, 2017, the *Bracy* Action was transferred to Judge Bernal for all purposes. The Court entered a stipulation to stay the *Bracy* Action until October 31, 2017.

2.4.4 **The *Nelson* Action.**

On August 15, 2017, the case of *Shala Nelson v. Farmdale Hospitality Services, LLC, dba Blue Zebra Gentleman's Club; Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting, and DOES 1-20,* was filed in the Los Angeles Superior Court, Case No. BC671852. Plaintiff Nelson purports to represent a California class of entertainers for alleged violations of the Private Attorney General Act ("PAGA") and claims that entertainers who chose to be LLC Members are misclassified. Plaintiff Nelson, who was previously offered to apply as an employee entertainer but DECLINED multiple times, and who was a current LLC Member when she sent a PAGA notice to defendants, was again offered the choice to be an employee after defendants responded to the PAGA notice. On July 25, 2017, she provided written notice that she refused to change her status to employee "because doing so would be detrimental to her earning capacity."

2.5 **The Intervenor Investigation.**

In their respective investigations into the matters pertaining to the Actions, Class Counsel, Intervenor Counsel, and Defendants' Counsel interviewed and spoke with numerous former and present entertainers, who would be Class Members under this Agreement. The current entertainers were offered the opportunity to apply to be employees or to continue to perform as LLC Members and/or Owners, pursuant to the *Trauth* Injunctive Relief. As a result of these discussions, Class Counsel, Intervenors' Counsel, and Defendants' Counsel became aware that the majority, if not all, of entertainers who continue to perform at the Existing Clubs oppose, like Plaintiff Nelson, for a variety of legitimate and reasonable economic reasons working in the Existing Clubs as employees (including, but not limited to the fact they do not desire to be subject to the type of control that the Clubs could exercise of employees; they do not want to be required to meet the financial, time, and performance expectations that would come

from working as employees; they prefer the tax benefits of performing as LLC Members and/or Owners; and they want the flexibility of performing as LLC Members and/or Owners). Thus, a number of the LLC Members formed a group as the Intervenor Class and hired Intervenor Counsel to represent their interests in the Actions. Plaintiffs however do contend that the LLC agreements could be improved and Plaintiffs' Counsel has articulated proposed changes to the LLC agreements that the Plaintiffs and members of the Intervenor Class believe and indicate would improve the Intervenors' status as LLC Members and/or Owners and they seek injunctive relief in this Action to obtain that relief. Thus, in the resolution of the Actions, Plaintiffs and the Intervenor Class seek not conversion to employment status, but rather, to require and obtain changes to the LLC agreements, enforceable as injunctive relief through the Court, and to preserve, protect and enhance their business arrangements with the Existing Clubs as LLC Members pursuant to a revised LLC agreement. On behalf of the Intervenor Class, Intervenor Counsel sought leave to file a complaint on behalf of the Intervenors, which motion for leave the Court granted on August 29, 2017. The Court ruled: "Dancers Intervenors have a 'significant protectable interest' in this case. First, Dancer Intervenors have an interest in preserving their ownership status in the LLC. The ownership status Dancer Intervenors seek to protect is derived from the terms of their individual Membership Agreements. The Membership Agreements constitute contracts to which contract law is applicable. Thus, the ownership interests of Dancer Intervenors are 'protectable under some law' – specifically contract law. [¶] Second, there is a relationship between Dancer Intervenors' interest in preserving their ownership status in the LLC and the claims at issue in [Plaintiff's First Amended Complaint]. … Because the outcome of this action may affect Dancer Intervenors' contractual classification as LLC Members and Owners, the relationship requirement is met." Finally, the Court ruled that neither Plaintiffs nor

Defendants are able to adequately represent the interests of the Dancer Intervenors and they must be allowed to intervene to protect their interests as LLC Members.

2.6 **Negotiation and Mediation.**

In light of the above competing considerations, Class Counsel, Defendants' Counsel and Intervenor Counsel engaged in extensive arms-length negotiations to protect the *Trauth* Injunctive Relief as well as the rights of any Class Members who want to be employees and to protect the rights of the Intervenor Class to have their status as LLC Members and/or Owners protected by this Court; all with a view toward achieving substantial benefits for each Class Member and each Intervenor Class Member and to comprehensively address their divergent interests, expectations and goals, while at the same time avoiding the cost, delay and risk and uncertainty of further litigation, trials and appellate review.

Thus, in late July 2017, the Parties engaged in a private mediation at ADR Services in Los Angeles, California before the Honorable Robert Altman (retired). Following that mediation, and a number of continuing telephonic negotiations, with the assistance of the mediator, the Parties reached this Agreement which provides for substantial consideration to be provided to Class Members, as set forth below, and provides the Intervenor Class with injunctive relief designed to improve and enhance their status as LCC Members and Owners and their corresponding working conditions at the Existing Clubs.

After the actions were filed and during the course of negotiations, Defendants have asserted and continue to assert, in discussions with Class Counsel and Intervenor Counsel, that they have substantial defenses to the Claims brought by Plaintiffs. Plaintiffs, for their part, dispute the validity of the defenses; and the Intervenor Class takes a position that the status as Owners and LLC Members is valid and enforceable. Thus in negotiating this Agreement, the Parties focused upon a number of risk factors which could have significant impacts upon each

Parties' position should this matter go forward to trial. Thus, in entering into this Agreement, the Parties considered the following risk factors:

Plaintiffs and each of them have executed Limited Liability Company Operating Agreements that contain legally valid and binding arbitration clauses and provisions, which include comprehensive waivers of class and collective action proceedings. There is substantial risk faced by all Parties that class action waivers will either be validated or invalidated by the United States Supreme Court in *Epic Systems Corp. v. Lewis* (U.S. Jan. 13, 2017) (No. 16-285), *Ernst & Young LLP v. Morris* (U.S. Jan. 13, 2017) (No. 16-300), and *NLRB v. Murphy Oil USA, Inc.* (U.S. Jan. 13, 2017) (No. 16-307) (collectively, *Morris*); for which oral argument is scheduled for early October.

There is risk based upon the fact that Defendants implemented the injunctive relief ordered by Judge Virginia Phillips in *Trauth v. Spearmint Rhino Consulting Worldwide, Inc., et al.*, Case No. EDCV09-1316 and allowed the entertainers to choose to be employees or owners. The Intervenor Class chooses to continue to be Owners and LLC Members and Class Counsel and Defendants' Counsel have agreed to modify the LLC agreements according to the interests of the Intervenor Class. Entertainers are properly classified as non-employees because they chose to be Owners and because, among other things, they do not perform as employees; but instead, they perform if, when, where and for whom they chose, they are not paid by the hour, they are terminable in accordance with the terms of the Limited Liability Company Operating Agreements; they control their profits and losses; they must exercise independent initiative in order to successfully engage in their professional occupations, they perform at other businesses, they intend to work as LLC Members and not as employees and they each specifically and in writing rejected becoming Club employees when that option was offered to them. Class Members will continue to be presented the option to perform as employees and should they wish

to do so, they may apply to be reclassified and treated as employees without any negative treatment.

Defendants' policies and practices with respect to permitting the entertainers at the Existing Clubs to be LLC Members and Owners are lawful (as required by the settlement approved by the Court in *Trauth*) and legally enforceable, subject to injunctive modifications requested by Plaintiffs and the Intervenor Class. The LLC agreements executed by the entertainers are clear and unambiguous, and are not unlawful, unfair, deceptive, fraudulent, misleading, wrongful or unenforceable in any way.

Entertainers can earn more as Owners and LLC Members than they would as employees. In particular, based upon current law, payments already made to Class Members could be used to offset any claims for unpaid wages. There is substantial case law, federal regulations and formal administrative hearings supporting the position that dance fees are not "tips," but are service charges. See for example *Hart v. Rick's Cabaret International, Inc.*, 967 F.Supp.2d 901 (2013). Following *Trauth*, Defendants reorganized their business operations and specifically how the entertainers are compensated. In addition, there have been a variety of rulings from the Internal Revenue Service ("IRS) and the United States Department of Labor ("DOL") that Defendants believe support their position that monies paid to entertainers and collected from customers by the Existing Clubs, were, in fact, "service charges" and not tip income, which could then be used under applicable law, to satisfy any minimum wage obligations found to be due if Class Members were ultimately found to be have been employees. Those rulings include FLSA 2005-31, 2005 WL 3308602 (DOL Wage-Hour); WH-305, 1975 WL 40930 (DOL Wage-Hour); WH-386, 1976 WL 41739 (DOL Wage-Hour); Rev. Ruling 77-290; Rev. Ruling 59-252; Rev. Ruling 58-220; and Rev. Ruling 515. None of the formal rulings identified above have been abrogated by the IRS or the DOL. Accordingly, the Parties acknowledge that there exists in this Action an

unresolved legal issue as to whether any Class Members (if actually found to have been misclassified) would be entitled to any wages, renumeration, damages, or other compensation or penalties, even if they were found to have been employees of the Clubs; the outcome of which misclassification issue remains in significant doubt in light of the Intervenor Class. It is therefore likely that Class Members earned more than minimum wage, exclusive of tips, while performing at the Existing clubs, which consideration would negate any claims for monetary renumeration in any form, damages or other penalties.

The Clubs provide entertainers with K1 statements, and the Parties believe such income identified on the K1 statements would satisfy any minimum wages found to be due and owing.

Having sought to implement the *Trauth* Injunctive Relief, a finding of "willfulness" and therefore entitlement to liquidated damages or other penalties and an extended statute of limitations cannot be sustained because, among other things, the Existing Clubs have implemented the *Trauth* injunctive relief in good faith which allows entertainers to choose to be employees or Owners (as LLC Members) and entertainers were in fact not "employees" under the methods of operation here as demonstrated by the Intervenor Class.

As such, Defendants deny each and every one of the Claims that are asserted, that will be asserted in the Second Amended Complaint, or could be asserted by the Plaintiffs in the Actions; including but not limited to misclassification; entitlement to employment wages, benefits or penalties, or other compensation, and any claims of joint employer liability. Defendants' decision to enter into this Agreement and to conditionally consent to class treatment of Plaintiffs' claims is not and shall not be construed as any form of admission of liability. Rather, all liability is expressly, generally and specifically denied by each and every one of the Defendants.

Notwithstanding the foregoing and the differing views on the merits of the Plaintiffs' Claims and the Intervenors' Claims, and in measured consideration of the forgoing and as a

consequence of the negotiations between Class Counsel, Defendants' Counsel and Intervenor Counsel; and the extensive investigations, analysis and discovery, the Parties agree to settle the Actions under the terms and conditions memorialized in this Agreement; believing such Settlement to be fair, reasonable, adequate, and in the best interests of the Class Members, the Intervenor Class and Defendants. Thus, in consideration of the foregoing and of the promises and mutual covenants contained herein, and other good and valuable consideration, the adequacy of which is acknowledged, it is hereby agreed by and among the Parties as follows:

3. TERMS OF THE SETTLEMENT AGREEMENT

3.1 Class Notice Provided.

3.1.1 **Initial Mailed Notice.** Defendants and the Clubs will provide the Settlement Administrator only, to the extent available in Defendants' electronic records, contact information for the Members of the Settlement Classes. Within twenty (20) days after being provided with contact information from Defendants and after performing national change of address updates to the Class Member list using the database maintained by the United States Postal Service, the Settlement Administrator shall mail to each Member of the Settlement Classes a copy of the Class Notice Documents. If the Class Notice Documents mailed to a Class Member are returned within thirty (30) days of the Initial Mailing, with a forwarding address provided by the Postal Service, the Class Notice Documents will be re-mailed, within ten (10) days, to the forwarding address provided, and the completed Class Notice Documents are then due within sixty (60) days of mailing of the original notice, or within twenty-five (25) days of the re-mailed notice, whichever is later. If the Class Notice Documents are returned from the initial notice mailing, without a forwarding address, thirty (30) days after the Initial Mailing, provided by the Postal Service, the Settlement Administrator shall perform a skip trace for those individuals in an attempt to locate a more current address. If the Settlement Administrator is successful in locating a new

address, within ten (10) days of the return of the Class Notice Documents, it will re-mail the Class Notice Documents to the Member of the Settlement Classes and any claims are due within sixty (60) days of mailing of the original notice, or within twenty-five (25) days of the re-mailed notice, whichever is later. If, after the second mailing, the Class Notice Documents are returned as undeliverable, or were otherwise designated by the Postal Service as having been sent to an invalid address, the Settlement Administrator has no further obligation to take steps to locate the address of the actual or potential Class Member to whom the Class Notice Documents are sent.

3.1.2 **Internet Notice.** The Settlement Administrator shall place the Class Notice Documents (including the Claim/Credit Benefit Form and Opt Out Exclusion Form), a copy of the Second Amended Complaint, the Settlement Agreement, the Preliminary Approval Order, and a reference to the PACER website for the United States District Court for the Central District of California on its website within five (5) days of entry of the Preliminary Approval Order; these documents shall remain on that website through the Effective Date. The website is referenced in the Class Notice. There shall not be any other website created or maintained concerning the Settlement.

3.1.3 **Posted Notice In Existing Clubs.** The Existing Clubs shall post a copy of the Class Notice in the dressing rooms of the Existing Clubs within five (5) days of entry of the Preliminary Approval Order, and The Existing Clubs may take down the Class Notice from their dressing rooms the day following the close of the time period for Class Members to file a claim or opt out.

3.1.4 **Additional Class Notice Provided.** The Settlement Administrator shall mail Second Class Notice Documents to the RUM Individuals in the form substantially similar to the Notice attached hereto as Exhibit 2.

3.2 **Claims, Credit Benefits, Objections And Opt-Outs.**

3.2.1 **Claims.** With the exception of Second Class Notice Recipients and any Objectors, Class Members must submit Claims within sixty (60) days after the Settlement Administrator mails the Initial Notice. Second Class Notice Recipients must submit Claims within sixty (60) days after the Settlement Administrator mails the Second Class Notice.

3.2.2 **Objections.** Any Class Members objecting to the Settlement must file written objections with the Court and mail same to Class Counsel, Intervenors' Counsel and Defendants' Counsel within sixty (60) days after the Settlement Administrator mails the Initial Notice. This deadline to file an objection applies notwithstanding an Unidentified Class Member's late receipt of the Class Notice Documents. Any Class Member who does not file and provide an objection and/or notice of intention to appear in complete accordance with the deadlines and other requirements set forth herein and in the Class Notice will be deemed to have waived any objections to the Settlement and shall be barred from speaking or otherwise presenting any views at the Fairness Hearing or from pursuing any appeals. The Class Representatives, Intervenors and Defendants are permitted to respond in writing to objections no later than five (5) days before the Fairness Hearing. The Class Representatives waive any right to object to the Settlement, and they endorse the Settlement as fair, reasonable, and adequate and in the best interests of the Settlement Classes. Objections can only be made by persons who are valid Class Members and have not opted out. If a Member of the Settlement Classes wants to object to the Settlement, but wishes to receive her share of the Settlement payments in the event the Settlement is approved, she must have filed a Valid Claim. If the Court approves the Settlement despite any objections, and the Member of the Settlement Classes has not submitted a Valid Claim, she will not receive any Settlement payment and will have released the released claims (with the exception of the FLSA claims). Second Class Notice Recipients must file written objections with the Court and mail same

to Class Counsel and Defendants' Counsel within sixty (60) days after the Settlement Administrator mails the Second Class Notice. By no later than thirty days before the Fairness Hearing, Existing Objectors are to file with the Court (and serve on Class Counsel and Defense Counsel) a pleading stating whether they wish to withdraw their objections or not.

3.2.3 **Opt-outs.** With the exception of Second Class Notice Recipients, any Member or potential Member of the Settlement Classes who wishes to opt-out of the Settlement Classes has to mail to the Settlement Administrator, at the address that is set forth in the Class Notice, a signed request for exclusion from the Settlement Classes, postmarked no later than sixty (60) days after mailing of Initial Class Notice or Second Class Notice, whichever is applicable. The Opt-Out/Exclusion Form is attached hereto as Exhibit 4. This deadline to file an opt-out/request for exclusion applies notwithstanding such Class Member's contention regarding non-receipt or late receipt of the Class Notice Documents. Class Counsel will file copies of all timely requests for such exclusion, not timely rescinded, with the Court prior to the Fairness Hearing. Class Members are permitted to withdraw or rescind their opt-out statements by submitting a "rescission of opt-out" statement to the Settlement Administrator within the Claims Period. The Class Representatives waive any right to opt-out of the Settlement Classes. If a Member of the Settlement Classes submits both a Claim Form and a request for exclusion (regardless of which form is submitted first or last), the request for exclusion will be invalid and the Member of the Settlement Classes will be included in the Settlement Classes and be bound by the terms of the Settlement.

4. SECOND AMENDED COMPLAINT, SUBMISSION OF MOTION FOR FINAL APPROVAL OF SETTLEMENT WITH SETTLEMENT ADMINISTRATOR DECLARATION

4.1 **Second Amended Complaint.** A Second Amended Complaint (Exhibit 1 hereto) shall be filed promptly following preliminary approval naming and identifying the class representatives for the California, Florida, Texas and FLSA subclasses and adding representatives as plaintiffs. Defendants will stipulate to the filing of the Second Amended Complaint described herein for purposes of this Settlement only and Defendants need not file a responsive pleading to the Second Amended Complaint. The Parties agree that the filing of the Second Amended Complaint for settlement only will streamline the settlement process. The Parties further stipulate that Defendants contend that the allegations in the Second Amended Complaint are deemed fully controverted by Defendants, and each and every one of them is disputed and that no further responsive pleading from Defendants is required. If, for any reason, the Settlement and Judgment do not become Final or operative as of the Effective Date, or the Effective Date does not occur, the Second Amended Complaint shall be stricken from the record and the operative complaint in the Action shall revert to the filed First Amended Complaint that preceded the Second Amended Complaint, and no prejudice shall occur to any motion to arbitrate filed or to be filed by any Defendant; and no Defendant shall be deemed to have waived a right to file a motion to compel arbitration or claim that Class Members have waived their right to participate in class/collective actions. The Defendants named in the Second Amended Complaint shall include: Defendants Santa Barbara Hospitality Services, Inc., The Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting Worldwide, Inc., Santa Barbara Hospitality Services, LLC, DG Hospitality Van Nuys, LLC, Rouge Gentlemen's Club, Inc., City of Industry Hospitality Venture, Inc., Farmdale Hospitality Services, Inc., High Expectations Hospitality, LLC, Inland Restaurant

Venture I, Inc., Kentucky Hospitality Venture, LLC, L.C.M., LLC, Midnight Sun Enterprises, Inc., Nitelife, Inc., Olympic Avenue Venture, Inc., Wild Orchid, Inc., Rialto Pockets, Incorporated, Santa Barbara Hospitality Services, Inc., Santa Maria Restaurant Enterprises, Inc., Sarie's Lounge, LLC, The Oxnard Hospitality Services, Inc., Washington Management, LLC, World Class Venues, LLC, W.P.B. Hospitality, LLC, City of Industry Hospitality Venture, LLC, Farmdale Hospitality Services, LLC, High Expectations Hospitality Dallas, LLC, Inland Restaurant Venture I, LLC, Kentucky Hospitality Venture Lexington, LLC, LCM1, LLC, Midnight Sun Enterprises, LLC, Nitelife Minneapolis, LLC, Olympic Avenue Ventures, LLC, The Oxnard Hospitality Services, LLC, Rialto Pockets, LLC, Santa Barbara Hospitality Services, LLC, Santa Maria Restaurant Enterprises, LLC, Washington Management Los Angeles, LLC, Wild Orchid Portland, LLC, World Class Venues Iowa, LLC, and WPB Hospitality West Palm Beach, LLC.

4.2 **Plaintiffs' Submission of Additional Materials For Final Approval Of Settlement.** Plaintiffs shall file a comprehensive motion for final approval of settlement and a declaration of the Settlement Administrator.

5. INJUNCTIVE RELIEF

5.1 **Dressing Room Displays:** Each Club shall prominently display, to the extent not already displayed, in its dressing rooms, or as close thereto as reasonably practical, a Federal and/or State Department of Labor poster, so its entertainers have access to the applicable laws related to employee status, should the entertainers elect to be treated as an employee rather than an Owner. Each Club shall also prominently display in dressing rooms, or as close thereto as reasonably practical, rules that state entertainers who elect to be classified as employees shall not tip out ineligible tip employees of the Club such as managers. Each Club shall also prominently display and provide to the entertainers a Human Resources hotline phone number to contact if they

believe wage laws have been violated or any other employment issue arises. The entertainers may report complaints via the hotline confidentially. The LLC agreement shall state that the Clubs shall not require the entertainers pay "fines" for violations of Club rules. The Clubs' display of rules shall ask entertainers to report via its hotline any Club that levies fines against its entertainers.

5.2 **Modifications of the Limited Liability Agreement:** A copy of the modified limited liability company agreement in redline format showing all applicable changes is attached as Exhibit 8. That modified agreement with redline changes "accepted" shall be effective at all Existing Clubs. Changes include but are not limited to: (i) elimination of dance performance minimum quotas, and (ii) elective rather than mandatory requirements to participate in an in-person meeting to resolve disputes. Further exhibits applicable to such matters as local performance restrictions or alcohol procedures may be added.

To the extent that the laws change in any particular jurisdiction where an Existing Club is operating which supports entertainers being treated in a manner other than employee or Owner, the Existing Club in that jurisdiction may change its practices consistent with the change in the law.

6. RELIEF FOR INTERVENORS

6.1 **Intervenor Class.** For purposes of this Settlement Agreement, the Parties agree and Stipulate to an Intervenor Class which shall consist of: all current entertainers who have entered into LLC agreements to become Owners and/or LLC Members to perform at any Club or Existing Club and wish to remain classified as Owners or LLC Members and not be classified as employees.

6.2 **Intervenor Declaratory Judgment.** Intervenors shall seek and Plaintiffs and Defendants shall not oppose the entry of a Declaratory Judgment in the form attached hereto as Exhibit 5, which shall provide that the current entertainers who perform as LLC Members and Owners are not in fact employees (and do not want to be classified as employees) as that term is

defined by the Fair Labor Standards Act or any state law in California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon and Texas; and that they may continue to perform as LLC Members and Owners. This Settlement Agreement is expressly conditioned upon entry of the Declaratory Judgment by the Court. The Court shall maintain jurisdiction for a period of ten years. Intervenor Class Counsel shall file semi-annual reports with the Court and provide status reports as to whether entertainers are being treated as Owners pursuant to this Agreement. Intervenor counsel shall provide the Court with reports that address, among any other relevant issues, including whether Intervenors are continuing to be treated as Owners and/or LLC Members versus employees.

7. PAYMENTS BY DEFENDANTS

7.1 **Settlement Amount.** The Gross Cash Settlement Amount is up to five million five hundred thousand dollars ($5,500,000). The sum of $100,000 attributed to PAGA as set forth in Section 7.3 below shall be funded solely by the California Settlement Class Clubs listed in Section 1.11. The Credit Benefit Settlement Amount is up to three million dollars ($3,000,000). Under no circumstances shall Defendants be responsible for making payments in excess of the Gross Cash Settlement Amount. However, to the extent Class Members elect to receive Credit Benefits in lieu of cash, said election shall not deplete the available Credit Benefit Settlement Amount of $3,000,000.

7.2 **Responsibility For Payments Of Gross Settlement Amount Amongst Defendants.** The following companies shall be solely responsible for payment of the Gross Cash Settlement Amount up to a maximum of up to $250,000: City of Industry Hospitality Venture, Inc., Farmdale Hospitality Services, Inc., High Expectations Hospitality, LLC, Inland Restaurant Venture I, Inc., Kentucky Hospitality Venture, LLC, L.C.M., LLC, Midnight Sun Enterprises, Inc., Nitelife, Inc., Olympic Avenue Venture, Inc., The Oxnard Hospitality Services, Inc., Rialto Pockets, Incorporated, Rouge Gentlemen's Club, Inc., Santa Barbara Hospitality Services, Inc.,

Santa Maria Restaurant Enterprises, Inc., Sarie's Lounge, LLC, Washington Management, LLC, Wild Orchid, Inc., World Class Venues, LLC and WPB Hospitality, LLC. No other entities shall be responsible to contribute any funds towards the Gross Cash Settlement Amount.

7.3 **Penalties Pursuant To California Labor Code Section 2699.** A total of One Hundred Thousand Dollars and Zero Cents ($100,000.00) from the Gross Cash Settlement Amount shall be allocated to the California Labor Code Section 2699 claim and paid within thirty (30) days of the Effective Date. That amount shall be paid by the entities listed in the definition of the California Settlement Class. Seventy Five Thousand Dollars and Zero Cents ($75,000.00) shall be paid to the Labor and Workforce Development Agency ("LWDA") consistent with Labor Code §§ 1698-2699.5. The remaining Twenty Five Thousand Dollars and Zero Cents ($25,000.00) shall remain a part of the pool allocated to the payment of claims for the California Settlement Class.

7.4 **Costs Of Settlement Administrator.** All Administration Costs shall be paid by Defendants and deducted from the Gross Cash Settlement Amount. The Settlement Administrator shall perform all necessary class administration duties, which shall include, without limitation, mailing notices and Claim Forms, performing address updates and verifications as necessary prior to the first mailing, mailing deficiency letters, providing a list of Class Members electing the Credit Benefit as updated from time to time, performing a single skip trace on any returned mail for which a forwarding address has not been provided by the United States Postal Service, and the calculation, processing, and mailing of all Class Member settlement checks and 1099s, or other applicable tax forms, to Members of the Settlement Classes and tax authorities.

7.5 **Class Counsel Attorneys' Fees And Expenses.**

7.5.1 **Payment To Be Made From Gross Settlement Fund.** Subject to Paragraph 7.3, Existing Clubs agree to pay fees and costs awarded by the Court to Class Counsel from the Gross Cash Settlement Fund.

7.5.2 **Application.** Class Counsel will apply to the Court for an award of attorneys' fees and costs up to two million one hundred forty four thousand six hundred and forty six dollars and 086/100 cents ($2,144,646.86). Defendants shall not oppose such application if Class Counsel's application requests an award of attorneys' fees not to exceed twenty-five percent (25%) of the Gross Cash Settlement Amount and the Credit Benefit Settlement Amount plus reasonable costs that does not exceed the total of $2,144,646.86. Failure of the Court to award the requested attorney's fees is not a ground to void the Agreement. The Parties continue to reserve all rights to oppose or otherwise comment on any petition for fees and costs filed by any Objectors or any other objectors or their counsel.

7.5.3 **Timing Of Payment Of Class Counsel Fees And Costs.** Attorneys' fees and costs awarded by the Court shall be paid by Existing Clubs to Class Counsel, with the first payment being made within thirty (30) days of the Effective Date and shall be paid in not less than six equal monthly installments. Interest shall not accrue on any amount awarded by the Court if payment is timely made under this Section. At least twenty days prior to the Effective Date, Class Counsel shall unanimously send Defendants' Counsel instructions (signed by one representative from each of the Class Counsel law firms) as to how the attorneys' fees and costs awarded by the Court shall be disbursed. If no such letter (and a corresponding W-9) is received by 5 p.m. on the twentieth day before the Effective Date, the amount of attorney fees and costs awarded by the Court will be deposited as set forth in this Paragraph into the trust account of Lead Class Counsel and the funds will only be disbursed to Class Counsel based on joint instructions by all Class Counsel to Lead Class Counsel instructing on the manner, amount and timing of payments and identity of payee(s) of the funds. If Final Approval is not granted or if this Agreement is terminated pursuant to any provision of this Agreement or otherwise, the obligations under this Paragraph, including the obligation to pay such fees and costs, shall be null and void.

7.5.4 **Court Award Of Fees And Costs Is Exclusive Remedy.** Except as provided in this Agreement, Defendants shall not bear any other expenses, costs, damages, or fees incurred by the Class Representatives, by any Member of the Settlement Classes, Intervenors, Intervenors' Counsel or by Class Counsel and their experts, advisors, agents, class administrators or representatives. Any award of attorneys' fees and costs payable hereunder and approved by the Court shall be in complete satisfaction of any and all claims for such attorneys' fees and costs under state or federal law which the Class Representatives, the Settlement Classes, or Class Counsel have or may have against the Released Persons arising out of or in connection with the Actions and this Settlement, including, but not limited to, any claims for attorneys' fees and costs involved in litigating the Actions and negotiating and implementing this Agreement, including attorneys' fees and costs incurred through and after the final disposition and termination of the Actions.

7.5.5 **Fees And Expenses For Objecting Class Members Or Class Members Who Opt-Out.** Other than as may be ordered by the Court, Defendants and the Released Persons shall not be responsible to any Class Representative or Class Members who submit objections to the Settlement (or any part thereof). Defendants and the Released Persons shall not be responsible for attorneys' fees, costs, or expenses of any kind to any Class Representatives or Class Members who exclude themselves from the Actions, unless otherwise allowed by law and ordered by a court. The Class Representatives and Class Counsel shall not be responsible to any Class Members who submit objections to the Settlement (or any part thereof) or exclude themselves from the Actions for attorneys' fees, costs, or expenses of any kind.

7.6 **Incentive Fee Awards**

7.6.1 **Application For Incentive Fees.** Class Counsel may apply to the Court for an award of incentive fees up to $2,500 to the Class Representatives no later than ten (10) days

prior to the Fairness Hearing; which is to be paid from the Gross Cash Settlement Amount. Defendants agree not to oppose an application by any Plaintiff or Class Representative that do not exceed $2,500. Failure of the Court to award the requested incentive awards is not a ground to void the Agreement.

7.6.2 **Payment Of Incentive Fees.** The Settlement Administrator will pay the incentive fees awarded by the Court to the Class Representatives within thirty (30) days of the Effective Date.

7.7 **Payment To Class Members.**

7.7.1 **Class Members To Be Paid On A Claims-Made Basis.** In order to be paid any Settlement benefits, a Class Member has to complete and sign the Claim Form and a W-9 Form and has to timely return those forms along with any and all supporting documentation to the Settlement Administrator before the expiration of the Claims Period. Class Members who do not timely submit the Claim Form and W-9 Form to the Settlement Administrator will not be entitled to receive any cash benefits from the Settlement.

7.7.2 **Payment Formula.** Class Members will be paid for their Dance Days. The amount for each Dance Day shall be based upon the following: the Net Monetary Settlement Amount shall be divided by the total number of Dance Days worked by all potential Class Members.

7.7.3 **Determination Of Number Of Dance Days For Individual Class Member Compensation.** If a Class Member's submitted Claim Form contains a number of Dance Days that did not exceed 10% of the number of Dance Days reflected in the Clubs' records, the payment will be calculated using the number of Dance Days on the Class Member's Claim Form. The Settlement Administrator shall mail each Class Member whose Claim Form contains a number of Dance Days that exceeded 10% of the number of Dance Days reflected in the Clubs'

records, within ten (10) days of receipt of the Class Member's completed Claim Form, a notice informing her of this fact and that she had the option of: (i) accepting the number of Dance Days for that Class Member contained in the Clubs' records as the basis for her claim; or (ii) submitting supporting documentation and evidence supporting the number of Dance Days in the Claim Form pursuant to the procedures set forth below. If the Class Member does nothing further or fails to timely submit additional documentation supporting the number of Dance Days stated on her Claim Form, her claim will be calculated based on the number of Dance Days for that Class Member contained in the Clubs' records. If the Class Member submitted additional documentation, Class Counsel and Defense Counsel shall meet and confer to resolve the number of Dance Days that would be used to calculate the Class Member's settlement payment. If Class Counsel and Defendants' Counsel are not able to agree on the number of Dance Days, the Claims Administrator shall make a final determination following submission from both counsel.

7.7.4 **Determination Of The Identity Of The Clubs That The Entertainer Performed At For Purposes Of Determining Individual Class Member Compensation.** If the information regarding the Club(s) at which the Class Member claims to have performed listed on the Class Member's submitted Claim Form matches the information contained in the Clubs' records, the Class Members' Settlement payment will be calculated using the identities of the Clubs on the submitted Claim Form. The Settlement Administrator shall mail each Class Member whose Claim Form contained a statement that she danced at any Club(s) not reflected in the Clubs' records, within ten (10) days of receipt of the submitted Claim Form, a notice informing her of this fact and that she has the option of: (i) accepting the identity of the Club(s) at which she performed that are contained in the Clubs' records as the basis for her claim; or (ii) submitting documentation and evidence supporting her claim that she danced at additional or different Club(s). If the Class Member did nothing further or fails to timely submit additional documentation supporting her

claim that she performed at additional or different Clubs, her claim will be calculated based on the Clubs' records regarding the identity of the Clubs at which the Class Member performed. If the Class Member submitted additional documentation, Class Counsel and Defense Counsel shall meet and confer and resolve the Club(s) that would be used to calculate the Class Member's settlement payment. If Class Counsel and Defendants' Counsel are not able to agree on the number of Dance Days, the Claims Administrator shall make a final determination following submission from both counsel.

7.7.5 **Time For Distribution Of Settlement Payments To Class Members.** The Settlement Administrator shall cause the Settlement payment(s) to the Class Members who have made Valid Claims to be mailed thirty (30) days following the Effective Date.

7.7.6 **Reversion Of Unpaid Or Uncashed Amounts.** Any amounts remaining in the Net Settlement Amount after distribution to Class Members and payment of attorneys' fees and costs, incentive awards, and class administration costs as well as sums paid by checks not cashed within sixty (60) days of issuance by the Claims Administrator shall revert to Defendants.

7.7.7 **Election To Receive Credit Benefit In Lieu Of Settlement Payment.** A Class Member may elect, in writing, to receive a Credit Benefit of two (2) times the Cash Payment for redemption at her Qualifying Club in lieu of receiving the determined Cash Payment amount that such Class Member is determined to be eligible for. In order to receive a Credit Benefit, Class Member must not have Opted Out and must have selected in writing on Class Member's Claim/Credit Benefit Form whether she elects to receive the Cash Payment or alternatively, receive such consideration in the form of a Credit Benefit of two (2) times the Cash Payment, and must have submitted such election to the Settlement Administrator before the expiration of the Claims Period. The Credit Benefit shall be redeemable solely at such Class Member's Qualifying Club. Redemption of the Credit Benefit by the Class Members shall be subject to the satisfaction of the

following criteria: (i) proper submission of the election to receive a Credit Benefit on the Class Member's Claim/Credit Benefit Form to the Settlement Administrator prior to the expiration of the Claims Period, (ii) presentation of the Credit Benefit issued by the Settlement Administrator to the Qualifying Club, and (iii) Class Member scheduling in advance the redemption date of the Credit Benefit at least seven (7) business days before she desires to perform and to redeem the Credit Benefit in order to provide Defendants with adequate advance notice to confirm the eligible Class Member's entitlement to such Credit Benefit including the fact that she has not made a claim to any other benefits, to confirm the applicable club that is her Qualifying Club, and the existence of a valid LLC membership contract between the eligible Class Member and her Qualifying Club. Prior to obtaining a Credit Benefit the eligible Class Member must have submitted to the Settlement Administrator on the Claim/Credit Benefit Form, her acknowledgment that: (1) she understands that obtaining the Credit Benefit may constitute a taxable event and that if Defendants deem it required under the Internal Revenue Code, they will issue Form 1099 or other applicable tax forms to Class Members receiving the Settlement payment in the form of the Credit Benefit; (2) that she is not receiving any tax advice from Class Counsel, Intervenors' Counsel, Defense Counsel or Defendants, and that she should obtain her own tax and legal advice; and (3) that she is releasing all FLSA Claims. After the Redemption Period expires for the redemption of the Credit Benefit, copies of all Credit Benefits submitted to Defendants for redemption by Class Members shall be provided to the Claims Administrator. All Credit Benefits redeemed in place of Cash Payments shall be deemed to have been made in cash.

7.7.8 **Redemption Time Period Of Credit Benefit In Lieu Of Cash.** Redemption of the Credit Benefits shall remain available for redemption solely during the period which is twelve (12) months from the Effective Date.

7.7.9 **Total Redemptions Of Credit Benefits Allowed On Date Of Performance.** An eligible Class Member may only redeem a maximum of one Credit Benefit in connection with their Credit Benefit during any one Date of Performance, and no Qualifying Club shall be required to permit more than five (5) eligible Class Members to redeem Credit Benefits on any given Date of Performance (i.e. first come/first served).

7.8 **Credit Benefit Settlement Amounts**

7.8.1 **Credit Benefit Maximum.** Defendants will make available up to three million dollars ($3,000,000.00) for use as Credit Benefits available to Class Members, subject to the terms herein, for any entertainer who does not timely opt into the Cash Payment. Credit Benefits may only be redeemed by Settlement Class Members at their Qualifying Club. A Qualifying Club shall mean the club that the applicable Class Member last performed at as of the Effective Date. Any Credit Benefits claimed in lieu of cash shall not deplete the available $3,000,000 in Credit Benefits.

7.8.2 **Application Of Credit Benefits.** Credit Benefits shall consist of Overhead Payment credits from Qualifying Clubs. Each Class Member who does not Opt Out pursuant to Section 3.2.3 and/or timely selects on the Claim/Credit Benefit Form to receive her Settlement Payment in the form of a Cash Payment or Credit Benefit in lieu of cash will be eligible to receive Credit Benefits under this Section.

7.8.3 **Determination Of An Eligible Class Member's Maximum Credit Benefit Remuneration.** Settlement Class Members who do not Opt Out pursuant to Section 3.2.3 and who do not timely/validly select to receive a Cash Payment (or elect to receive an Credit Benefit in lieu of the Cash Payment) on the Claim/Credit Benefit Form shall be entitled to a Credit Benefit based on the total number of Dance Days that the Class Member performed at her Qualifying Club during the applicable Class Period. The total amount of Credit Benefit

which an eligible Class Member shall be entitled shall be determined pursuant to the following 3-Tier schedule (the "Credit Benefit Pool Tier"):

(a) TIER I. A maximum amount of two (2) Credit Benefits for any Class Member who performed at least one (1) Dance Day at her Qualifying Club;

(b) TIER II. A maximum amount of ten (10) Credit Benefits for any Class Member who performed two (2) to eighteen (18) Dance Days at her Qualifying Club; and

(c) TIER III. A maximum amount of twenty (20) Credit Benefits for any Class Member who performed more than eighteen (18) Dance Days at her Qualifying Club.

7.8.4 **Redemption of Credit Benefit**: The Credit Benefit may be obtained by an eligible Class Member only at her Qualifying Club for redemption at her Qualifying Club. Class Members eligible to obtain the Credit Benefit are required to schedule a Date of Performance at her Qualifying Club and notify the Qualifying Club in writing of her intent to claim the Credit Benefit, both at least seven (7) business days before she desires to perform and to obtain the Credit Benefit in order to provide Defendants with adequate advance notice to confirm the eligible Class Member's entitlement to such Credit Benefit including the fact that she has not made a Cash Payment Claim, or elected to receive a Credit Benefit in lieu thereof, and to confirm the applicable Club that is her Qualifying Club, and the existence of a valid LLC membership contract between the eligible Class Member and her Qualifying Club. Prior to obtaining a Credit Benefit, the eligible Class Member must submit to the Qualifying Club a properly completed Claim/Credit Benefit Form similar to the Claim/Credit Benefit Form attached hereto as Exhibit "3", which shall, among other things, require the eligible Class Member to attest, to the best of her knowledge, the number of dance days she performed at the Qualifying Club during the Class Period and to acknowledge: (1) that she understands that

obtaining the Credit Benefit may constitute a taxable event and that if Defendants deem it required under the Internal Revenue Code, they will issue Form 1099 or other applicable tax forms to Class Members receiving the Credit Benefit; (2) that she is not receiving any tax advice from Class Counsel, Intervenors' Counsel Defense Counsel or Defendants, and that she should obtain her own tax and legal advice; and (3) that she is releasing all FLSA Claims. Eligible Class Members must personally sign, date and submit the Form to her Qualifying Club before receiving any Credit Benefit, and a copy shall be provided to the Qualifying Club General Manager, to assist it in the administration of the Credit Benefit. After the Redemption Period expires for the Credit Benefit, copies of the Claim/Credit Benefit Forms submitted to Defendants shall be provided to Class Counsel.

7.8.5 **Credit Benefit Pool Redemption Time Period.** The pool of Credit Benefits shall remain available for redemption solely during the period which is twelve (12) months from the Effective Date.

7.8.6 **Total Overhead Redemptions Allowed On Date Of Performance.** Eligible Class Members may only redeem a maximum of one Overhead Payment as a Credit Benefit during any one Date of Performance, and no Qualifying Club shall be required to permit more than five (5) eligible Class Members to obtain Credit Benefits on any given Date of Performance (i.e. first come/first served).

8. TAXATION

The Settlement Administrator will issue 1099 Forms to each recipient of any monies paid from the Gross Settlement Amount or Net Settlement Amount pursuant to this Settlement. Any payments to Class Members shall be allocated 50% to actual damage claims and 50% to liquidated damage claims. The Parties agree that for purposes of these payments, Settlement Class Members are LLC Members and Defendants and Settlement Class Members are not

employers and employees. Forms 1099, or any other required forms, will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring the Clubs in compliance with any such changes. Each Class Member, Class Representative, and Class Counsel shall be obligated to obtain their own tax advice concerning the proper reporting and tax consequences of any payments received under this Settlement Agreement, and shall each assume the responsibility of remitting to the Internal Revenue Service and any other relevant taxing authority, any amounts required by law from each recipient of any monies paid under this Agreement without any further contribution from any of the Released Persons. The Clubs will not be liable for any tax consequences and each Member of the Settlement Classes shall hold the Clubs harmless and indemnify them for all taxes, interest, penalties, and costs, including attorneys' fees, incurred by the Clubs by reason of any claims relating to the non-withholding of employee taxes from claims payments from the Net or Gross Settlement Amount. Each Class Representative shall hold the Clubs harmless and indemnify them for all taxes, interest, penalties and costs, including attorneys' fees, incurred by the Clubs by reason of any claims relating to the non-withholding of taxes from incentive payments paid to the Class Representatives pursuant to this Agreement.

9. RELEASES AND COVENANTS

9.1 **Release By California Class Members.** Upon the Effective Date of this Agreement, the California Releasing Persons hereby forever and completely discharge the Released Persons from any and all California Claims, Claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal law (excluding any and all claims arising under the

FLSA (which are addressed in Paragraph 9.9)) or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification and other claims as pled in the *Ortega, Byrne, Bracy and Nelson* Actions, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, Clubs, Consulting and/or Companies' treatment of the California Settlement Class Members during the California Class Period, including but not limited to claims under Labor Code §§ 201, 202, 203, 204, 212, 218, 218.6, 221, 224, 226, 226.7, 350, 351, 353, 402, 435, 510, 512, 1174, 1194, 1197, 1199, 2802, and the Private Attorneys General Act, Labor Code 2698 *et seq.*, Wage Commission Orders 5 and 10, and Business & Professions Code §§ 17200, *et seq.*, as it relates to the underlying California Labor Code claims, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

9.2 **Release By The Florida Settlement Class Members.** Upon the Effective Date of this Agreement, the Florida Releasing Persons hereby forever and completely discharge the Released Persons from any and all Claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal law (excluding any and all claims arising under the FLSA (which are addressed in Paragraph 9.9)) or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have

been alleged in the Actions, including but not limited to misclassification and other claims as pled in the *Ortega, Byrne and Bracy* Actions, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, Clubs, Consulting and/or Companies' treatment of the Florida Settlement Class Members during the Florida Class Period including those claims arising under Florida Statute §§ 448.01, *et seq.*, the Florida Minimum Wage Act, Florida Stat. § 448.110, and Florida Constitution, Art. X § 24, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

9.3 **Release By Idaho Settlement Class Members.** Upon the Effective Date of this Agreement, the Idaho Releasing Persons hereby forever and completely discharge the Released Persons from any and all Claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal law (excluding any and all claims arising under the FLSA (which are addressed in Paragraph 9.9)) or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification and other claims as pled in the *Ortega, Byrne and Bracy* Actions, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, Clubs, Consulting and/or Companies' treatment of the Idaho Settlement Class Members during the Idaho Class Period, including but not limited to claims under Idaho Hours

Worked Act, I.C.A. §§ 44-1201, *et seq.*, and Minimum Wage Law, I.C.A. §§ 44-1501, *et seq*, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

9.4 **Release By Iowa Settlement Class Members.** Upon the Effective Date of this Agreement, the Iowa Releasing Persons hereby forever and completely discharge the Released Persons from any and all Claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal law (excluding any and all claims arising under the FLSA (which are addressed in Paragraph 9.9)) or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification and other claims as pled in the *Ortega, Byrne and Bracy* Actions, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, Clubs, Consulting and/or Companies' treatment of the Iowa Settlement Class Members during the Iowa Class Period, including but not limited to claims under the Iowa Wage Payment Collection Law (IWPCL), Iowa Code § 91A, *et seq.*, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

9.5 **Release By Kentucky Settlement Class Members.** Upon the Effective Date of this Agreement, the Kentucky Releasing Persons hereby forever and completely discharge the

Released Persons from any and all Claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal law (excluding any and all claims arising under the FLSA (which are addressed in Paragraph 9.9)) or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification or other claims as pled in the *Ortega, Byrne and Bracy* Actions, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, Clubs, Consulting and/or Companies' treatment of the Kentucky Settlement Class Members during the Kentucky Class Period, including those claims arising under KRS Chapters 207, 337, 342 or 344, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

9.6 **Release By Minnesota Settlement Class Members.** Upon the Effective Date of this Agreement, the Minnesota Releasing Persons hereby forever and completely discharge the Released Persons from any and all Claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal law (excluding any and all claims arising under the FLSA (which are addressed in Paragraph 9.9)) or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have

been alleged in the Actions, including but not limited to misclassification and other claims as pled in the *Ortega, Byrne and Bracy* Actions, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, Clubs, Consulting and/or Companies' treatment of the Minnesota Settlement Class Members during the Minnesota Class Period, including but not limited to claims under MN Statutes §177.24, *et seq.*, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

9.7 **Release By Oregon Settlement Class Members.** Upon the Effective Date of this Agreement, the Oregon Releasing Persons hereby forever and completely discharge the Released Persons from any and all Claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal law (excluding any and all claims arising under the FLSA (which are addressed in Paragraph 9.9)) or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification and other claims as pled in the *Ortega, Byrne and Bracy* Actions, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, Clubs, Consulting and/or Companies' treatment of the Oregon Settlement Class Members during the Oregon Class Period, including but not limited to claims under ORS 653.010,

, *et seq.*, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

9.8 **Release By the Texas Settlement Class Members.** Upon the Effective Date of this Agreement, the Texas Releasing Persons hereby forever and completely discharge the Released Persons from any and all Claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal law (excluding any and all claims arising under the FLSA (which are addressed in Paragraph 9.9)) or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification and other claims as pled in the *Ortega, Byrne and Bracy* Actions, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, Clubs, Consulting and/or Companies' treatment of the Texas Settlement Class Members as independent contractors during the Texas Class Period, including those claims arising under the Texas Payment of Wages Act, Tex. Lab. Code Ann. §§ 61.001, *et seq.*, Minimum Wage Act, Tex. Lab. Code Ann. §§ 62.001, *et seq.* and Texas Payday Rules, 40 Tex. Admin. Code §§ 821.1, *et seq*, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

9.9 **Release By FLSA Settlement Class Members.** Upon the Effective Date of this Agreement, all members of the California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon and

Texas Classes who sign the Claim Form and submit it to the Settlement Administrator or make a Redemption of Credit Benefits either in lieu of cash or as otherwise provided herein shall be deemed to have opted into the FLSA collective action. Upon the Effective Date or subsequent Claim for Credit Benefits, each and every FLSA Settlement Class Member and the FLSA Releasing Persons hereby forever completely release and discharge the Released Persons from any and all misclassification and wage-related claims of any kind, including but not limited to claims pursuant to FLSA and Unknown Claims that any of the FLSA Releasing Persons has, had, might have or might have had against any of the Released Persons based on any act or omission that occurred, during the FLSA Class Period, in any way related to any of the facts or claims alleged or could have been alleged in the Actions or by reason of the negotiations leading to this settlement, even if presently unknown and/or un-asserted. The matters released by the FLSA Releasing Persons herein also include any FLSA retaliation claims that could be brought by FLSA Settlement Class Members against any Released Persons based on any act or omission that occurred during the FLSA Class Period, any breach of contract claims, and any state common law wage claims including, but not limited to, claims of unjust enrichment and *quantum meruit*, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages, including any claims for benefits under any benefit plans subject to ERISA that arise from any such alleged failure, and any wage-and-hour laws or wage-related claims under other laws, and any other claims of any kind related to the Released Persons' alleged failure to pay wages to FLSA Settlement Class Members during the FLSA Class Period. With respect to any and all claims or potential claims the FLSA Settlement Class Members may have, upon the Effective Date or upon subsequent Claim for Credit Benefits, the FLSA Settlement Class Members shall be deemed to have, and by operation of the Final Judgment shall have, expressly waived, and may not assert in any proceedings as a bar to or voiding in any way the effectiveness of this release, the provisions,

rights and benefits of any provisions of the Laws of the United States and any claims arising or of any state which provides that a general release does not extend to claims which a party does not know or expect to exist in its favor at the time of executing the release, which if known to the party may have materially affected the Settlement. Upon the Effective Date or upon subsequent Claim for Credit Benefits, the FLSA Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived the provisions, rights and benefits of California Civil Code § 1542, which provides:

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

The FLSA Settlement Class Members may later discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the released claims, but the FLSA Settlement Class Members, upon the Effective Date or upon subsequent Claim for Credit Benefits, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all released claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including but not limited to conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The FLSA Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

9.10 **Covenant Not To Sue.** As of the Effective Date, the Class Representatives, on behalf of themselves and the Members of the Settlement Classes who have not timely filed an Opt-Out/Exclusion Form, covenant and agree: (i) not to file against the Released Persons any claim based on, related to, or arising from any Released Claim; (ii) to the extent any lawsuit or administrative claim has been made, it shall be dismissed or withdrawn; and (iii) that the foregoing covenants and agreements shall be a complete defense to any such claims against any Released Persons.

10. TERMINATION OF SETTLEMENT

10.1 **Timing And Events Sufficient To Trigger Termination.** This Agreement and the Settlement shall terminate and be cancelled within ten (10) business days after any of the following events if one of the Parties provides written notification of an election to terminate the Settlement:

(a) The Court declines to provide preliminary approval (and the parties cannot resolve the Court's findings), or final approval of this Agreement, or declines to enter or materially modifies the contents of the form of Judgment attached hereto as Exhibit 6;

(b) The Court's Judgment is vacated, reversed or modified in any material respect on any appeal or other review or in a collateral proceeding occurring prior to the Effective Date;

(c) The Effective Date does not occur for some other reason; or

(d) Any federal or state authority objects to the Agreement, and the objections are sustained at a preliminary or final approval hearing.

10.2 **Effect Of Termination.** In the event the Agreement is not approved by the Court or the Settlement is terminated or fails to become effective in accordance with the terms of the Agreement, the Parties shall be restored to their respective positions in the Actions as of September

7, 2017. In such event, the terms and provisions of the Agreement, shall have no further force and effect with respect to the Parties and shall not be used in the Actions or in any other proceeding for any purpose, and any order or judgment entered by the Court in accordance with the terms of the Agreement shall be treated as vacated, *nunc pro tunc* and the Second Amended Complaint shall be dismissed. The Party who terminates the Agreement, for whatever reason, will be responsible for the Administrative Costs incurred to the date of such termination and any further Administrative Costs as a result thereof (whether Defendants have initially paid for them or not). If both Parties terminate the Agreement, they will be equally responsible for the Administrative Costs incurred to the date of such termination and any further Administrative Costs as a result thereof (whether Defendants have initially paid for them or not). In the event the Settlement is terminated, none of the Parties hereto shall have any obligations to make any payments to any Party, Class Member or attorney, and any Preliminary Approval Order, Judgment, including any order of class certification pursuant to the Agreement shall be vacated. If the Agreement is terminated, or is reversed, vacated, or modified in any material respect by the Court or any other court, the certification of the Settlement Classes shall be vacated, the Actions shall proceed as though the Settlement Classes had never been certified, and no reference to the prior Settlement Classes or any documents related thereto shall be made for any purpose. In the event the Settlement is rescinded, terminated or not approved for any reason, the Second Amended Class Action Complaint will be withdrawn and will be treated by the Parties and the Court as if they had not been filed.

11. PRESS CONTACTS/PUBLICITY

The Parties and their lawyers will not contact the press or general media regarding the Actions or this Agreement for a period of six months from the entry of Judgment. As used herein, "the press or general media" shall refer to and include newspapers, periodicals, magazines, online publications, and television and radio stations and programs, and any representative of the

foregoing. The Parties and their lawyers may return phone calls or otherwise respond to any inquiries they receive directly from the press or general media, but in doing so will only advise of the existence of this provision and direct the requesting Party to the Court file without providing any further information. This provision shall not preclude Defendants and the Clubs from making announcements and/or disclosure required by law.

12. MISCELLANEOUS PROVISIONS

12.1 **No Assignment Of Rights.** The Plaintiffs and Class Representatives warrant and represent that they have not assigned any released claim to any other person or entity. This warranty and representation shall survive the execution of this Agreement. The Class Representatives shall hold the Released Persons harmless from and against any claim, damages, litigation, causes of action, and expenses, including reasonable attorneys' fees, resulting from any breach by them of this warranty and representation, or any breach of their release of released claims.

12.2 **No Admission Of Wrongdoing.** Neither this Agreement nor the Settlement, nor any act performed or document executed pursuant to or in furtherance thereof is, or may be deemed to be or may be used as (a) an admission or evidence of the validity of any released claim, or any alleged wrongdoing or liability of the Released Persons; (b) an admission or evidence of any fault or omission of the Released Persons in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal, other than such proceedings as may be necessary to consummate or enforce this Agreement, the Settlement memorialized herein or the Judgment; and (c) an admission or evidence that the Actions is appropriate for class treatment or suitable for maintenance as a private-attorney-general action; provided, however, that this Agreement and/or Judgment may be filed and used in any action or proceeding in any court, administrative agency or other tribunal to support a defense of *res judicata*, collateral estoppel, release, good faith

settlement, accord and satisfaction, claim preclusion, issue preclusion or any similar defense or counterclaim.

12.3 **Class Certification**. Defendants do not consent to certification of the Class for any purpose other than to effectuate the Settlement of this Action. The Parties acknowledge and agree that Defendants' consent to provisional certification for purposes of this Settlement only does not constitute an admission of wrongdoing, fault, liability, or damage or any kind to any Plaintiff or Class Member.

12.4 **Destruction Of Documents Produced**. All documents and/or things produced or generated through discovery by any Party in this litigation shall be destroyed within 30 days of the Effective Date. Each Party shall promptly certify to the other that all documents and/or things produced or generated through discovery have been destroyed.

12.5 **CAFA Notice**. The Settlement Administrator will send any required CAFA Notice and will provide updated notices if required by law.

12.6 **Amendment**. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties hereto or their successors-in-interest.

12.7 **Arms-Length Negotiations**. This Agreement and Settlement were entered into after substantial good faith, arms-length negotiations between the Parties, Class Counsel, Intervenors' Counsel and Defendants' Counsel.

12.8 **Authority To Execute**. Each counsel or other person executing this Agreement on behalf of any of the Parties hereto warrants that such person has the authority to do so.

12.9 **Cooperation Of The Parties**. The Parties acknowledge that it is their intent to consummate expeditiously the Settlement memorialized in this Agreement and will cooperate to the extent necessary to effectuate and implement, and exercise their best efforts to accomplish, all terms and conditions of the Agreement. The Parties further agree that the terms of the Agreement

were negotiated in good faith by the Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel of the Parties' own choosing.

12.10 **Effective Agreement; Counterparts.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same Agreement. The Agreement may be executed by signature delivered digitally (e.g. via Docusign), by facsimile or PDF and need not be the original "ink" signature. A complete set of executed counterparts shall be filed with the Court. This Agreement shall become effective upon its execution by the Class Representatives, Intervenors, Defendants and approval by the Court.

12.11 **Entire Agreement.** This Agreement and the exhibits hereto constitute the entire fully integrated agreement among the Parties. No representations, warranties or inducements have been made to any Party concerning the Settlement, this Agreement or its exhibits other than the representations, warranties and covenants contained in such documents.

12.12 **Force Majeure.** The failure of any of the Parties to perform any of their obligations hereunder shall not subject such Party to any liability or remedy for damages, or otherwise, where such failure is occasioned in whole or in part by acts of God, fires, accidents, hurricanes, earthquakes, other natural disasters, explosions, floods, wars, interruptions or delays in transportation, power outages, labor disputes or shortages, shortages of material or supplies, governmental laws, restrictions, rules or regulations, sabotage, terrorist acts, acts or failures to act of any third parties, or any other similar or different circumstances or causes beyond the reasonable control of such Party.

12.13 **Governing Law.** Except as otherwise stated herein, this Agreement shall be governed by the laws of the State of California. All actions or proceedings relating to this Agreement may only be brought in the United States District Court for the Central District of California.

12.14 **Jurisdiction.** Upon the occurrence of the Effective Date, the Settlement shall be enforceable by the Court, and the Court shall retain exclusive and continuous jurisdiction over the Parties, the Members of the Settlement Classes and the Intervenor Class to interpret and enforce the terms and conditions of, and rights under, the Settlement until the terms of the Agreement and the Declaratory Judgment are fully performed.

12.15 **Notice.** Unless otherwise indicated herein, where any Party's exercise of any right under this Agreement requires written notice, the Party shall serve such written notice on the counsel of record for all other Parties by First Class U.S. mail or any method that is at least as reliable and timely as First Class U.S. mail.

12.16 **Party's Reliance On Own Knowledge.** Each of the Parties acknowledges and represents that it has fully and carefully read this Agreement prior to execution; that it has been fully apprised by its counsel of the legal effect and meaning of this document and all terms and conditions hereof; that it has had the opportunity to make whatever investigation or inquiry it deemed necessary or appropriate in connection with the subject matter of the Actions; that it has been afforded the opportunity to negotiate as to any and all terms hereof; and that it is executing this Agreement voluntarily, free from any undue influence, coercion, duress, or menace of any kind. This Agreement reflects the conclusion of each of the Parties that this Agreement, the Settlement, the judgments to be entered hereunder, and the releases, waivers and covenants contemplated hereby are in the best interest of said Parties, the general public, and the Settlement Classes. Except as expressly provided herein, this Agreement is not intended to confer upon any other person or entity any rights or remedies.

12.17 **Severability.** In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way affect any other provision if Defendants'

Counsel, Intervenors' Counsel and Class Counsel, on behalf of the Parties and the Settlement Classes, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement, except as otherwise provided herein.

12.18 **Use Of Headings And Captions In Agreement.** The headings and captions inserted in this Agreement are for convenience only and in no way define, limit, or otherwise describe the scope or intent of this Agreement, or any provision hereof, or in any way affect the interpretation of this Agreement. Except as otherwise provided in this Agreement, the Parties shall bear their own respective costs and fees. None of the Parties, or their respective counsel, shall be deemed to be the drafter of this Agreement or its exhibits for purposes of construing their provisions. The language in all parts of this Agreement and its exhibits shall be interpreted according to its fair meaning, and shall not be interpreted for or against any of the Parties as the drafter of the language.

12.19 **Computation of Time.** When the period is stated in days or a longer unit of time, exclude the day of the event that triggers the period, count every day including intermediate Saturdays, Sundays, and legal holidays (unless the word "business" appears before the word "days" in which event Saturdays, Sundays and legal holidays should not be counted) and include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday or legal holiday.

12.20 **Waiver.** The waiver by any of the Parties to this Agreement of any provision of the Agreement shall not be deemed a waiver by that Party of any other provision of this Agreement.

12.21 **Cooperation Of Class Counsel.** All Class Counsel agree not to object or otherwise disparage the settlement terms and will agree to cooperate with each other in supporting the settlement, administering the Settlement, and moving towards securing both preliminary and final Court approval of the Settlement without unreasonable delay. If, however, there is a dispute

between Class Counsel as to a matter relating to the Settlement or Administration, Lead Class Counsel shall determine the appropriate course of action taking the Settlement Classes' best interests into account.

Signature Pages to Follow

IT IS SO AGREED:

Dated: 10/04/2017

LAUREN BYRNE

By: _____
Lauren Byrne

Dated: _____

JENETTA L. BRACY

By: _____
Jenetta L. Bracy

Dated: _____

BAMBIE BEDFORD

By: _____
Bambie Bedford

Dated: _____

JENNIFER DISLA

By: _____
Jennifer Disla

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IT IS SO AGREED:

Dated: _____

LAUREN BYRNE

By: _____
Lauren Byrne

Dated: 10/4/2017 | 11:25 EDT

JENETTA L. BRACY

By: _____
Jenetta L. Bracy

Dated: _____

BAMBIE BEDFORD

By: _____
Bambie Bedford

Dated: 10/4/2017 | 12:04 EDT

JENNIFER DISLA

By: _____
Jennifer Disla

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IT IS SO AGREED:

Dated: _____

LAUREN BYRNE

By: _____
Lauren Byrne

Dated: _____

JENETTA L. BRACY

By: _____
Jenetta L. Bracy

Dated: 10/04/2017

BAMBIE BEDFORD

By: _____
Bambie Bedford

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JENNIFER DISLA

By: _____
Jennifer Disla

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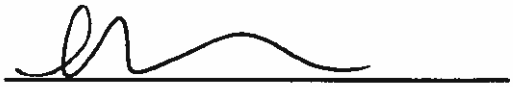
Dated: 10/12/17

MEGHAN HERRERA

By: 
Meghan Herrera

Dated: _____

DANIELLE HACH

By: _____
Danielle Hach

Dated: _____

ALISA OSBORNE

By: _____
Alisa Osborne

Dated: _____

CARLIE ZUFELT

By: _____
Carlie Zufelt

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GENA TORRES

By: _____
Gena Torres

Dated: _____

REGINA CABRAL

By: _____
Regina Cabral

Dated: _____

MEGHAN HERRERA

By: _____
Meghan Herrera

Dated: 10-4-17

DANIELLE HACH

By: _____
Danielle Hach

Dated: _____

ALISA OSBORNE

By: _____
Alisa Osborne

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Carlie Zufelt

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Regina Cabral

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MEGHAN HERRERA

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Meghan Herrera

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DANIELLE HACH

By: _____
Danielle Hach

Dated: 10-5-17

ALISA OSBORNE

By: _____
Alisa Osborne

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Carlie Zufelt

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GENA TORRES

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Gena Torres

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Regina Cabral

Dated: _____

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Meghan Herrera

Dated: _____

DANIELLE HACH

By: _____
Danielle Hach

Dated: _____

ALISA OSBORNE

By: _____
Alisa Osborne

Dated: 10/11/2017

CARLIE ZUFELT

By: _____
Carlie Zufelt

Dated: _____

GENA TORRES

By: _____
Gena Torres

Dated: _____

REGINA CABRAL

By: _____
Regina Cabral

Dated: _____

MEGHAN HERRERA

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Meghan Herrera

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By: _____
Danielle Hach

Dated: _____

ALISA OSBORNE

By: _____
Alisa Osborne

Dated: _____

CARLIE ZUFELT

By: _____
Carlie Zufelt

Dated: 10/6/17

GENA TORRES

By: _____
Gena Torres

Dated: _____

REGINA CABRAL

By: _____
Regina Cabral

Dated: _____

MEGHAN HERRERA

By: _____
Meghan Herrera

Dated: _____

DANIELLE HACH

By: _____
Danielle Hach

Dated: _____

ALISA OSBORNE

By: _____
Alisa Osborne

Dated: _____

CARLIE ZUFELT

By: _____
Carlie Zufelt

Dated: _____

GENA TORRES

By: _____
Gena Torres

Dated: 10/4/17

REGINA CABRAL

By: _____
Regina Cabral

Dated: Oct 3, 2017

SABRINA PRECIADO

By: _____
Sabrina Preciado

Dated: October 3, 2017

CITY OF INDUSTRY HOSPITALITY VENTURE, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

FARMDALE HOSPITALITY SERVICES, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

HIGH EXPECTATIONS HOSPITALITY, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

INLAND RESTAURANT VENTURE I, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

KENTUCKY HOSPITALITY VENTURE, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

L.C.M., LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

MIDNIGHT SUN ENTERPRISES, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

NITELIFE, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

OLYMPIC AVENUE VENTURE, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

THE OXNARD HOSPITALITY SERVICES, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

PORTLAND HOSPITALITY VENTURE, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

RIALTO POCKETS, INCORPORATED

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

ROUGE GENTLEMEN'S CLUB, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

SANTA BARBARA HOSPITALITY SERVICES, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

SANTA MARIA RESTAURANT ENTERPRISES, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

SARIE'S LOUNGE, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

THE SPEARMINT RHINO COMPANIES WORLDWIDE, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

SPEARMINT RHINO CONSULTING WORLDWIDE, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

WPB HOSPITALITY, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

WASHINGTON MANAGEMENT, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

WILD ORCHID, INC.

By: _____

Print Name: Kathy Vercher, President

Dated: October 3, 2017

WORLD CLASS VENTURES, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

CITY OF INDUSTRY HOSPITALITY VENTURE, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

FARMDALE HOSPITALITY SERVICES, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

HIGH EXPECTATIONS HOSPITALITY DALLAS, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

INLAND RESTAURANT VENTURE I, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

KENTUCKY HOSPITALITY VENTURE LEXINGTON, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

LCM1, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

MIDNIGHT SUN ENTERPRISES, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

NITELIFE MINNEAPOLIS, LLC

By: Kathy Vercher

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

OLYMPIC AVENUE VENTURES, LLC

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Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

THE OXNARD HOSPITALITY SERVICES, LLC

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RIALTO POCKETS, LLC

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Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

DG HOSPITALITY VAN NUYS, LLC

By: Kathy Vercher

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

SANTA BARBARA HOSPITALITY SERVICES, LLC

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Dated: October 3, 2017

SANTA MARIA RESTAURANT ENTERPRISES, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

WPB HOSPITALITY WEST PALM BEACH, LLC

By _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

WASHINGTON MANAGEMENT LOS ANGELES, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

WILD ORCHID PORTLAND, LLC

By: _____

Print Name: Kathy Vercher, Manager

Dated: October 3, 2017

WORLD CLASS VENUES IOWA, LLC

By: _____

Print Name: Kathy Vercher, Manager

APPROVED AS TO FORM AND CONTENT:

Dated: October 3, 2017

GARRELL LAW, P.C.

By: _____

Peter E. Garrell
Attorneys for Defendants and the Clubs

Dated: _____

SHELLIST LAZARZ SLOBIN LLP

By: _____

Todd Slobin
Ricardo J. Prieto
Lead Class Counsel

Dated: 10-4-17

BARON & BUDD, P.C.

By: _____

Melinda Arbuckle
Co-Class Counsel

Dated: October 3, 2017

WORLD CLASS VENUES IOWA, LLC

By: _____

Print Name: Kathy Vercher, Manager

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By: _____

Peter E. Garrell
Attorneys for Defendants and the Clubs

Dated: 10-4-17

SHELLIST LAZARZ ~~SLOBIN LLP~~

By: _____

Todd Slobin
Ricardo J. Prieto
Lead Class Counsel

Dated: _____

BARON & BUDD, P.C.

By: _____

Melinda Arbuckle
Co-Class Counsel

Dated: 10/4/17

NAPOLI SHKOLNIK PLLC

By: _____
Jennifer Liakos
Salvatore C. Badala
Paul B. Maslo
Co-Class Counsel

Dated: _____

FELDMAN & FELDMAN, PC

By: _____
William X. King
Casey T. Wallace
Counsel for Intervenors

Dated: _____

NAPOLI SHKOLNIK PLLC

By: _____
Jennifer Liakos
Salvatore C. Badala
Paul B. Maslo
Co-Class Counsel

Dated: October 3, 2017

FELDMAN & FELDMAN, PC

By: _____
William K. King
Casey T. Wallace
Counsel for Intervenors

EXHIBIT 1

Second Amended Complaint

Todd Slobin (admitted *Pro Hac Vice*)
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Counsel for Plaintiffs and Proposed Class and Collective Action Members

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION - RIVERSIDE

LAUREN BYRNE, BAMBIE BEDFORD, and JENNIFER DISLA, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

CITY OF INDUSTRY HOSPITALITY VENTURE, INC., CITY OF INDUSTRY HOSPITALITY VENTURE, LLC, DG HOSPITALITY VAN NUYS, LLC, FARMDALE HOSPITALITY SERVICES, INC., FARMDALE HOSPITALITY SERVICES, LLC, HIGH EXPECTATIONS HOSPITALITY, LLC, HIGH EXPECTATIONS HOSPITALITY DALLAS, LLC, INLAND RESTAURANT VENTURE

Case No: 5:17-cv-00527

[PROPOSED] SECOND AMENDED COMPLAINT FOR VIOLATIONS OF FLSA AND STATE LAWS

COLLECTIVE ACTION AND CLASS ACTION

DEMAND FOR JURY TRIAL

I, INC., INLAND RESTAURANT VENTURE I, LLC, KENTUCKY HOSPITALITY VENTURE, LLC, KENTUCKY HOSPITALITY VENTURE LEXINGTON, LLC, L.C.M., LLC, LCM1, LLC, MIDNIGHT SUN ENTERPRISES, INC., MIDNIGHT SUN ENTERPRISES, LLC, NITELIFE, INC., NITELIFE MINNEAPOLIS, LLC, OLYMPIC AVENUE VENTURE, INC., OLYMPIC AVENUE VENTURES, LLC, RIALTO POCKETS, INCORPORATED, RIALTO POCKETS, LLC, ROUGE GENTLEMEN'S CLUB, INC., SANTA BARBARA HOSPITALITY SERVICES, INC., SANTA BARBARA HOSPITALITY SERVICES, LLC, SANTA MARIA RESTAURANT ENTERPRISES, INC., SANTA MARIA RESTAURANT ENTERPRISES, LLC, SARIE'S LOUNGE, LLC, THE OXNARD HOSPITALITY SERVICES, INC., THE OXNARD HOSPITALITY SERVICES, LLC, WASHINGTON MANAGEMENT, LLC, WASHINGTON MANAGEMENT LOS ANGELES, LLC, WILD ORCHID, INC., WILD ORCHID PORTLAND, LLC, WORLD CLASS VENUES, LLC, WORLD CLASS VENUES IOWA, LLC, W P B HOSPITALITY, LLC, WPB HOSPITALITY WEST PALM BEACH, LLC, THE SPEARMINT RHINO COMPANIES WORLDWIDE, INC., SPEARMINT RHINO CONSULTING WORLDWIDE, INC.,

Defendants.

Plaintiffs Lauren Byrne ("Byrne"), Bambie Bedford ("Bedford"), and Jennifer Disla ("Disla"), (collectively, "Plaintiffs"), on behalf of themselves and all others similarly situated, file this Second Amended Complaint against Defendants City of Industry Hospitality Venture, Inc., City of Industry Hospitality Venture, LLC, DG Hospitality Van Nuys, LLC, Farmdale Hospitality Services, Inc., Farmdale Hospitality Services, LLC, High Expectations Hospitality, LLC, High Expectations Hospitality Dallas, LLC, Inland Restaurant Venture I, Inc., Inland Restaurant Venture I, LLC, Kentucky Hospitality Venture, LLC, Kentucky Hospitality Venture Lexington, LLC, L.C.M., LLC, LCM1, LLC, Midnight Sun Enterprises, Inc., Midnight Sun Enterprises, LLC, Nitelife, Inc., Nitelife Minneapolis, LLC, Olympic Avenue Venture, Inc., Olympic Avenue Ventures, LLC, Rialto Pockets, Incorporated, Rialto Pockets, LLC, Rouge Gentlemen's Club, Inc., Santa Barbara Hospitality Services, Inc., Santa Barbara Hospitality Services, LLC, Santa Maria Restaurant Enterprises, Inc., Santa Maria Restaurant Enterprises, LLC, Sarie's Lounge, LLC, The Oxnard Hospitality Services, Inc., The Oxnard Hospitality Services, LLC, Washington Management, LLC, Washington Management Los Angeles, LLC, Wild Orchid, Inc., Wild Orchid Portland, LLC, World Class Venues, LLC, World Class Venues Iowa, LLC, W. P. B. Hospitality, LLC, WPB Hospitality West Palm Beach, LLC, The Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting Worldwide, Inc. (collectively "Defendants" or "Spearmint Rhino"), showing in support as follows:

I. INTRODUCTION AND NATURE OF ACTION

1. This is an action brought under the Fair Labor Standards Act, 29 U.S.C. §§ 201-219, and the Portal-to-Portal Act, 29 U.S.C. §§ 251-262 (collectively, the "FLSA") to redress Defendants' long standing abuse of the federal minimum wage and overtime standards. Plaintiffs bring this action as a collective action under 29 U.S.C. § 216(b). The FLSA violation raised in this lawsuit is straightforward – Defendants do not pay their exotic dancer employees anything.

2. This action is also brought by Byrne under the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200-17210, the California Labor Code and related regulations including the California Private Attorneys General Act, ("PAGA"), Cal. Wage Order No. 10-2001; Cal. Labor Code §§ 200-2699.5, (collectively, "California State Law"), for Defendants' various violations of California State Law including: (1) failure to pay employees working in California state-mandated minimum wages, (2) failure to pay employees working in California overtime compensation at a rate of one and one-half times the regular rate of pay for all hours worked over forty per week, or over eight per day, or for the first eight hours of work on the seventh consecutive day of work in a workweek (3) failure to pay employees working in California overtime compensation at a rate of twice the regular rate of pay for all hours worked in excess of 12 hours in one day, and for any hours worked in excess of eight hours on the seventh consecutive day of work in a workweek,(4) failure to pay employees working in California all wages due within the time specified by law, (5) failure to afford their employees

working in California with proper meal and rest periods, (6) for recordkeeping violations explained in greater detail below, and (7) for statutory penalties assessed in connection with PAGA. Byrne brings these claims as a class action under FED. R. CIV. P. 23.

3. This action is also brought as a class action pursuant to FED. R. CIV. P. 23 under California, Florida, Idaho, Iowa, Kentucky, Minnesota, Oregon, and Texas State Law, claims for including breach of contract and quantum meruit.

4. Defendants City of Industry Hospitality Venture, Inc., City of Industry Hospitality Venture, LLC, DG Hospitality Van Nuys, LLC, Farmdale Hospitality Services, Inc., Farmdale Hospitality Services, LLC, High Expectations Hospitality, LLC, High Expectations Hospitality Dallas, LLC, Inland Restaurant Venture I, Inc., Inland Restaurant Venture I, LLC, Kentucky Hospitality Venture, LLC, Kentucky Hospitality Venture Lexington, LLC, L.C.M., LLC, LCM1, LLC, Midnight Sun Enterprises, Inc., Midnight Sun Enterprises, LLC, Nitelife, Inc., Nitelife Minneapolis, LLC, Olympic Avenue Venture, Inc., Olympic Avenue Ventures, LLC, Rialto Pockets, Incorporated, Rialto Pockets, LLC, Rouge Gentlemen's Club, Inc., Santa Barbara Hospitality Services, Inc., Santa Barbara Hospitality Services, LLC, Santa Maria Restaurant Enterprises, Inc., Santa Maria Restaurant Enterprises, LLC, Sarie's Lounge, LLC, The Oxnard Hospitality Services, Inc., The Oxnard Hospitality Services, LLC, Washington Management, LLC, Washington Management Los Angeles, LLC, Wild Orchid, Inc., Wild Orchid Portland, LLC, World Class Venues, LLC, World Class Venues Iowa, LLC, W. P. B. Hospitality, LLC, WPB Hospitality West Palm Beach, LLC, The

Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting Worldwide, Inc. own and manage gentlemen's clubs located throughout the country operating under the name "Spearmint Rhino Gentlemen's Club" ("Spearmint Rhino"), "Dames N Games Topless Sports Bar & Grill" ("Dames N Games") and/or "Blue Zebra Adult Cabaret" ("Blue Zebra"). Plaintiffs, on behalf of themselves and all others similarly situated, allege that Defendants are joint employers and are jointly and severally liable for their damages and those of the respective putative Class and Collective Action Members.

5. Plaintiff Lauren Byrne is a non-exempt former employee of Spearmint Rhino who worked as an exotic dancer at Defendants' adult entertainment club in Santa Barbara, California. Plaintiff Bambie Bedford is a non-exempt former employee of Spearmint Rhino who worked as an exotic dancer at Defendants' adult entertainment club in Dallas, Texas. Plaintiff Jennifer Disla is a non-exempt former employee of Spearmint Rhino who worked as an exotic dancer at Defendants' adult entertainment club in West Palm Beach, Florida. During their tenure as dancers for Defendants, they did not receive the FLSA-mandated minimum wage for all hours worked, nor did they receive time-and-one-half her regular rate of pay for each hour worked over 40 in a given workweek.

6. In fact, Defendants did not compensate Byrne, Bedford, or Disla whatsoever for any hours they worked at the respective Spearmint Rhino locations. Byrne, Bedford, and Disla were first required to pay to enter the club, and their only compensation came in the form of tips received from club patrons. Moreover, Plaintiffs were required to divide those tips with certain Defendants and other

employees who do not customarily receive tips. Consequently, Defendants often failed to compensate Plaintiffs and other workers like them at federal- and state-mandated minimum wage rates, and failed to provide Plaintiffs and others like them with commensurate overtime when they worked over 40 hours in a given workweek, or per California State Law, over 8 hours in a given workday.

II. THE PARTIES

A. Plaintiff Lauren Byrne

7. Plaintiff Lauren Byrne is an individual residing in Ventura County, California. She has standing to file this lawsuit.

8. Byrne was an exotic dancer employee of Defendants. She worked exclusively for Defendants at their location at 22 East Montecito Street, Santa Barbara California, 93101, from approximately September 19, 2016 through approximately October 23, 2016.

9. Byrne's written consent to participate in this action was previously filed as an exhibit to the Original Complaint in this case.

B. Plaintiff Bambie Bedford

10. Plaintiff Bambie Bedford is an individual residing in Dallas, Texas. She has standing to file this lawsuit.

11. Bedford was an exotic dancer employee of Defendants. She worked exclusively for Defendants at their location at 10965 Composite Drive, Dallas, Texas 75220, during the relevant time period.

12. Bedford's written consent to participate in this action was previously filed in this case.

C. **Plaintiff Jennifer Disla**

13. Plaintiff Jennifer Disla is an individual residing in West Palm Beach, Florida. She has standing to file this lawsuit.

14. Disla was an exotic dancer employee of Defendants. She worked exclusively for Defendants at their location at 2154 Zip Code Place, West Palm Beach, Florida 33409, during the relevant time period.

15. Disla's written consent to participate in this action was previously filed in this case.

D. **Putative Collective Action Members**

16. The putative Collective Action Members are all current and former exotic dancers who worked for Defendants at any Spearmint Rhino location nationwide at any time within the three years prior to February 3, 2017 through the date of final disposition of this action who did not receive minimum wages or overtime premium pay for hours worked over 40 in a given workweek from Defendants.

17. Plaintiffs seek to represent the Collective Action Members, seeking damages for claims of unpaid minimum wages and overtime wages pursuant to the FLSA, and Plaintiffs are similarly situated to the Collective Action Members pursuant to 29 U.S.C. § 216(b).

E. **Putative California Class Action Members**

18. The putative California Class Action Members are all current and former exotic dancers who work or worked for Defendants at any Spearmint Rhino, Blue Zebra, and/or Dames N Games location in California at any time within the four years prior to February 3, 2017 through the date of the final disposition of this action.

19. Plaintiffs seek damages for the California State Law Claims, described further below.

F. Putative Florida Class Action Members

20. The putative Florida Class Action Members are all current and former exotic dancers who work or worked for Defendants at any Spearmint Rhino location in Florida at any time within the five years prior to February 3, 2017 through the date of the final disposition of this action.

21. Plaintiffs seek damages for the Florida State Law Claims, described further below.

G. Putative Idaho Class Action Members

22. The putative Idaho Class Action Members are all current and former exotic dancers who work or worked for Defendants at any Spearmint Rhino location in Idaho at any time within the three years prior to February 3, 2017 through the date of the final disposition of this action.

23. Plaintiffs seek damages for the Idaho State Law Claims, described further below.

H. Putative Iowa Class Action Members

24. The putative Iowa Class Action Members are all current and former exotic dancers who work or worked for Defendants at any Spearmint Rhino location in Iowa at any time within the three years prior to February 3, 2017 through the date of the final disposition of this action.

25. Plaintiffs seek damages for the Iowa State Law Claims, described further below.

I. Putative Kentucky Class Action Members

26. The putative Kentucky Class Action Members are all current and former exotic dancers who work or worked for Defendants at any Spearmint Rhino location in Kentucky at any time within the three years prior to February 3, 2017 through the date of the final disposition of this action.

27. Plaintiffs seek damages for the Kentucky State Law Claims, described further below.

J. Putative Minnesota Class Action Members

28. The putative Minnesota Class Action Members are all current and former exotic dancers who work or worked for Defendants at any Spearmint Rhino location in Minnesota at any time within the three years prior to February 3, 2017 through the date of the final disposition of this action.

29. Plaintiffs seek damages for the Minnesota State Law Claims, described further below.

K. Putative Oregon Class Action Members

30. The putative Oregon Class Action Members are all current and former exotic dancers who work or worked for Defendants at any Spearmint Rhino

location in Oregon at any time within the three years prior to February 3, 2017 through the date of the final disposition of this action.

31. Plaintiffs seek damages for the Oregon State Law Claims, described further below.

L. Putative Texas Class Action Members

32. The putative Texas Class Action Members are all current and former exotic dancers who work or worked for Defendants at any Spearmint Rhino location in Texas at any time within the three years prior to February 3, 2017 through the date of the final disposition of this action.

33. Plaintiffs seek damages for the Texas State Law Claims, described further below.

M. Defendant City of Industry Hospitality Venture, Inc.

34. Defendant City of Industry Hospitality Venture, Inc. is a California corporation that does business as Spearmint Rhino.

35. City of Industry Hospitality Venture, Inc. may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

36. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

37. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

38. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise

worked on goods or materials that have been moved in or produced for commerce by any person.

39. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

N. Defendant City of Industry Hospitality Venture, LLC

40. Defendant City of Industry Hospitality Venture, LLC is a California limited liability company in which entertainers can elect to be members.

41. City of Industry Hospitality Venture, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

42. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

43. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

44. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

45. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

O. Defendant DG Hospitality Van Nuys, LLC

46. Defendant DG Hospitality Van Nuys, LLC is a California limited liability company in which entertainers can elect to be members.

47. DG Hospitality Van Nuys, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

48. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

49. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

50. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

51. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

P. Defendant Farmdale Hospitality Services, Inc.

52. Defendant Farmdale Hospitality Services, Inc. is a California corporation that does business as Blue Zebra.

53. Farmdale Hospitality Services, Inc. may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

54. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

55. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

56. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

57. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

Q. Defendant Farmdale Hospitality Services, LLC

58. Defendant Farmdale Hospitality Services, LLC is a California limited liability company in which entertainers can elect to be members.

59. Farmdale Hospitality Services, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

60. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

61. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

62. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

63. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

R. Defendant High Expectations Hospitality, LLC

64. Defendant High Expectations Hospitality, LLC is a Texas limited liability company that does business as Spearmint Rhino.

65. High Expectations Hospitality, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

66. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

67. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

68. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

69. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

S. Defendant High Expectations Hospitality Dallas, LLC

70. Defendant High Expectations Hospitality Dallas, LLC is a California limited liability company in which entertainers can elect to be members.

71. High Expectations Hospitality Dallas, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

72. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

73. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

74. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

75. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

T. Defendant Inland Restaurant Venture I, Inc.

76. Defendant Inland Restaurant Venture I, Inc. is a California corporation that does business as Spearmint Rhino.

77. Inland Restaurant Venture I, Inc. may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

78. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

79. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

80. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

81. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

U. Defendant Inland Restaurant Venture I, LLC

82. Defendant Inland Restaurant Venture I, LLC is a California limited liability company in which entertainers can elect to be members.

83. Inland Restaurant Venture I, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

84. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

85. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

86. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

87. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

V. **Defendant Kentucky Hospitality Venture, LLC**

88. Defendant Kentucky Hospitality Venture, LLC is a Kentucky limited liability company that does business as Spearmint Rhino.

89. Kentucky Hospitality Venture, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

90. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

91. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

92. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

93. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

W. **Defendant Kentucky Hospitality Venture Lexington, LLC**

94. Defendant Kentucky Hospitality Venture Lexington, LLC is a California limited liability company in which entertainers can elect to be members.

95. Kentucky Hospitality Venture Lexington, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

96. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

97. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

98. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

99. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

X. <u>Defendant L.C.M., LLC</u>

100. Defendant L.C.M., LLC is an Idaho limited liability company that does business as Spearmint Rhino.

101. L.C.M., LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

102. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

103. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

104. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise

worked on goods or materials that have been moved in or produced for commerce by any person.

105. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

Y. Defendant LCM1, LLC

106. Defendant LCM1, LLC is a California limited liability company in which entertainers can elect to be members.

107. LCM1, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

108. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

109. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

110. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

111. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

Z. **Defendant Midnight Sun Enterprises, Inc.**

112. Defendant Midnight Sun Enterprises, Inc. is a California corporation that does business as Spearmint Rhino.

113. Midnight Sun Enterprises, Inc. may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

114. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

115. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

116. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

117. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

AA. **Defendant Midnight Sun Enterprises, LLC**

118. Defendant Midnight Sun Enterprises, LLC is a California limited liability company in which entertainers can elect to be members.

119. Midnight Sun Enterprises, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

120. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

121. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

122. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

123. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

BB. Defendant Nitelife, Inc.

124. Defendant Nitelife, Inc. is a Minnesota corporation that does business as Spearmint Rhino.

125. Nitelife, Inc. may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

126. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

127. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

128. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

129. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

CC. Defendant Nitelife Minneapolis, LLC

130. Defendant Nitelife Minneapolis, LLC is a California limited liability company in which entertainers can elect to be members.

131. Nitelife Minneapolis, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

132. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

133. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

134. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

135. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

DD. Defendant Olympic Avenue Venture, Inc.

136. Defendant Olympic Avenue Venture, Inc. is a California corporation that does business as Spearmint Rhino.

137. Olympic Avenue Venture, Inc. may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

138. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

139. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

140. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

141. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

EE. Defendant Olympic Avenue Ventures, LLC

142. Defendant Olympic Avenue Ventures, LLC is a California limited liability company in which entertainers can elect to be members.

143. Olympic Avenue Ventures, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

144. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

145. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

146. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

147. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

FF. Defendant Rialto Pockets, Incorporated

148. Defendant Rialto Pockets, Incorporated is a California corporation that does business as Spearmint Rhino.

149. Rialto Pockets, Incorporated may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

150. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

151. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

152. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

153. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

GG. Defendant Rialto Pockets, LLC

154. Defendant Rialto Pockets, LLC is a California limited liability company in which entertainers can elect to be members.

155. Rialto Pockets, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

156. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

157. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

158. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

159. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

HH. Rouge Gentlemen's Club, Inc.

160. Defendant Rouge Gentlemen's Club, Inc. is a California corporation that does business as Dames N Games.

161. Rouge Gentlemen's Club, Inc. may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

162. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

163. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

164. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

165. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

II. Defendant Santa Barbara Hospitality Services, Inc.

166. Defendant Santa Barbara Hospitality Services, Inc. is a California corporation that does business as Spearmint Rhino.

167. Santa Barbara Hospitality Services, Inc. may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

168. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

169. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

170. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

171. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

JJ. Defendant Santa Barbara Hospitality Services, LLC

172. Defendant Santa Barbara Hospitality Services, LLC is a California limited liability company in which entertainers can elect to be members.

173. Santa Barbara Hospitality Services, LLC may be served with summons through its registered agent, Joann Castillo at 1875 Tandem Way, Norco, California 92860.

174. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

175. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

176. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

177. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

KK. Defendant Santa Maria Restaurant Enterprises, Inc.

178. Defendant Santa Maria Restaurant Enterprises, Inc. is a California corporation that does business as Spearmint Rhino.

179. Santa Maria Restaurant Enterprises, Inc. may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

180. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

181. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

182. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

183. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

LL. Defendant Santa Maria Restaurant Enterprises, LLC

184. Defendant Santa Maria Restaurant Enterprises, LLC is a California limited liability company in which entertainers can elect to be members.

185. Santa Maria Restaurant Enterprises, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

186. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

187. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

188. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

189. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

MM. Defendant Sarie's Lounge, LLC

190. Defendant Sarie's Lounge, LLC is an Iowa limited liability company that does business as Spearmint Rhino.

191. Sarie's Lounge, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

192. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

193. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

194. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

195. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

NN. Defendant The Oxnard Hospitality Services, Inc.

196. Defendant The Oxnard Hospitality Services, Inc. is a California corporation that does business as Spearmint Rhino.

197. The Oxnard Hospitality Services, Inc. may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

198. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

199. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

200. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

201. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

OO. Defendant The Oxnard Hospitality Services, LLC

202. Defendant The Oxnard Hospitality Services, LLC is a California limited liability company in which entertainers can elect to be members.

203. The Oxnard Hospitality Services, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

204. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

205. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

206. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

207. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

PP. Defendant Washington Management, LLC

208. Defendant Washington Management, LLC is a California limited liability company that does business as Dames N Games.

209. Washington Management, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

210. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

211. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

212. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

213. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

QQ. Defendant Washington Management Los Angeles, LLC

214. Defendant Washington Management Los Angeles, LLC is a California limited liability company in which entertainers can elect to be members.

215. Washington Management Los Angeles, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

216. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

217. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

218. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

219. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

RR. Defendant Wild Orchid, Inc.

220. Defendant Wild Orchid, Inc. is an Oregon corporation that does business as Spearmint Rhino.

221. Wild Orchid, Inc. may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

222. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

223. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

224. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

225. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

SS. Defendant Wild Orchid Portland, LLC

226. Defendant Wild Orchid Portland, LLC is a California limited liability company in which entertainers can elect to be members.

227. Wild Orchid Portland, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

228. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

229. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

230. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

231. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

TT. Defendant World Class Venues, LLC

232. Defendant World Class Venues, LLC is an Iowa limited liability company that does business as Spearmint Rhino.

233. World Class Venues, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

234. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

235. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

236. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

237. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

UU. Defendant World Class Venues Iowa, LLC

238. Defendant World Class Venues Iowa, LLC is a California limited liability company in which entertainers can elect to be members.

239. World Class Venues Iowa, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

240. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

241. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

242. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

243. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

VV. **Defendant WPB Hospitality, LLC**

244. Defendant W P B Hospitality, LLC is a Florida limited liability company that does business as Spearmint Rhino.

245. W P B Hospitality, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

246. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

247. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

248. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

249. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

WW. **Defendant WPB Hospitality West Palm Beach, LLC**

250. Defendant WPB Hospitality West Palm Beach, LLC is a California limited liability company in which entertainers can elect to be members.

251. WPB Hospitality West Palm Beach, LLC may be served process through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

252. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

253. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

254. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

255. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

XX. Defendant The Spearmint Rhino Companies Worldwide, Inc.

256. Defendant The Spearmint Rhino Companies Worldwide, Inc. is a Nevada corporation doing business in California.

257. The Spearmint Rhino Companies Worldwide, Inc. may be served with summons through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

258. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

259. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

260. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise

worked on goods or materials that have been moved in or produced for commerce by any person.

261. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

YY. Defendant Spearmint Rhino Consulting Worldwide, Inc.

262. Defendant Spearmint Rhino Consulting Worldwide, Inc. is a Delaware corporation doing business in California.

263. Spearmint Rhino Consulting Worldwide, Inc. may be served with summons through its registered agent, Joann Castillo, at 1875 Tandem Way, Norco, California 92860.

264. At all times relevant to this lawsuit, Defendant has been an "enterprise engaged in commerce" as defined by the FLSA.

265. At all times relevant to this lawsuit, Defendant employed, and continues to employ, two or more employees.

266. At all times relevant to this lawsuit, Defendant employed two or more employees who engaged in commerce and/or who handled, sold or otherwise worked on goods or materials that have been moved in or produced for commerce by any person.

267. On information and belief, at all times relevant to this lawsuit, Defendant has had gross operating revenues or business volume in excess of $500,000.

III. JURISDICTION AND VENUE

268. This Court has federal question jurisdiction over all claims pursuant to 28 U.S.C. § 1331 and the FLSA at 29 U.S.C. § 216(b).

269. This Court also has supplemental jurisdiction over Plaintiffs' California State Law claims pursuant to 28 U.S.C. §1367 because those claims derive from a common nucleus of operative fact.

270. This Court is empowered to issue a declaratory judgment with respect to all claims pursuant to 28 U.S.C. §§ 2201 & 2202.

271. The United States District Court for the Central District of California has personal jurisdiction over Defendants because Defendants do business in California and in this District, and because many of the acts complained of and giving rise to the claims alleged occurred in California and in this District.

272. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to all claims occurred in this District.

IV. FACTUAL BACKGROUND (APPLICABLE TO ALL CLAIMS FOR RELIEF)

A. Related Case (*Trauth*) and Defendants' Prior Wage Scheme:

273. Like most (if not all) gentlemen's clubs throughout the country, Defendants' prior business practice was to classify all of their exotic dancer employees as independent contractors.

274. Defendants' prior misclassification of their exotic dancers as independent contractors was not due to any unique factor related to their employment or relationship with Defendants. Rather, as is common business

practice amongst gentlemen's clubs, Defendants simply misclassified all of their exotic dancers as independent contractors instead of employees. As a result of this uniform misclassification, exotic dancers of Spearmint Rhino were not paid minimum wages or overtime wages as required by relevant federal and state law.

275. On July 13, 2009, a group of exotic dancers filed a wage lawsuit ("the *Trauth* case") against Spearmint Rhino for wage violations under federal and state laws.[1] The exotic dancers in that lawsuit alleged that they were misclassified as independent contractors and were entitled to their wages for all hours worked. Eventually, the *Trauth* cases settled, and came before the Court for final approval. *See Trauth v. Spearmint Rhino Cos. Worldwide, Inc.*, Case No. EDCV 09-01316-VAP (DTBx), 2012 WL 12893448 (C.D. Cal. Nov. 7, 2012) (Phillips, C.J.). In the order approving the settlement, Chief Judge Virginia A. Phillips ordered Spearmint Rhino as follows:

> Within six months, the Clubs will no longer treat Dancers as independent contractors or lessees; instead the Clubs will treat Dancers "as either employees or owners (e.g. shareholder, limited partner, partner, member or other type of ownership stake)" of any Clubs in existence at the time of settlement. (Doc. No. 318-1 ¶ 4.2.) In California, Dancers will no longer be charged stage fees (i.e., fees a Dancer pays for the privilege of performing at a Club). (Id. ¶ 4.1.)

Id. at *1.

276. Thereafter, Defendants no longer classified their exotic dancers as independent contractors. Instead they are now, facially, "members" of newly

[1] *Tracy Dawn Trauth, et al v. Spearmint Rhino Companies Worldwide, Inc., et al*, Civ. A. No. 5:09-cv-01316-VAP-DTB, in the Central District of California Eastern Division – Riverside, Before United States District Chief Judge Virginia A. Phillips.

formed limited liability companies such as Santa Barbara Hospitality Services, LLC.

277. Apart from this solitary measure, every single aspect of the employment relationship between the exotic dancers and their employer, Spearmint Rhino, remains wholly unchanged. In fact, in direct contravention of Chief Judge Phillips order, Defendants continue to require their exotic dancer employees to pay fees for the privilege of performing at Spearmint Rhino locations. It is clear that Chief Judge Phillips intended Spearmint Rhino to reclassify their exotic dancers as employees or actual owners (or members) of Spearmint Rhino. It goes without saying, Chief Judge Phillips did not intend for the Club to continue its illegal pay practice of labeling its exotic dancers something other than employees (now "members" rather than "independent contractors") for the purpose of avoiding its federal and state wage obligations.

278. Defendants' actions instead leave their exotic dancer employees with no real ownership interest in the newly formed LLCs. The exotic dancers still work as employees for Spearmint Rhino, are still economically dependent on Spearmint Rhino in all respects relevant to the "economic realities" test described further below, and regularly make below minimum wage compensation.

B. Defendants' New Scheme to Avoid FLSA Compliance

279. Defendants now embroil their exotic dancer employees in a series of illusory contractual engagements to give the appearance that the exotic dancers are "members" of the limited liability companies formed subsequent to Chief Judge Phillips's order such as Santa Barbara Hospitality Services, LLC. However, all of

the agreements exotic dancers are forced to sign upon being hired with Spearmint Rhino cannot mask the reality that nothing has really changed in Spearmint Rhino's operations. In fact, Defendants use many (if not most) of the same kinds of documents, policies, and procedures found to create an employer/employee relationship in other exotic dancer cases with respect to Plaintiffs and Spearmint Rhino's other exotic dancers. Exotic dancers do not have any real decision-making authority, do not share equitably in the profitability of Spearmint Rhino, and do not have the right to control Spearmint Rhino management. In short, they are not owners of Spearmint Rhino in any demonstrable sense.

280. The exotic dancers remain economically dependent and under the complete control and direction of Defendants, but are paid no wages in connection with that work. They are still clearly integral to Defendants' business, since without the exotic dancers there would be no gentlemen's clubs. And finally, they still generate revenue for Spearmint Rhino, as they are still required to share the tips that they earn with Spearmint Rhino, and are otherwise treated as employees of Spearmint Rhino in all relevant respects as before.

281. The totality of the circumstances surrounding the relationship between Defendants and their exotic dancer employees establishes economic dependence by the exotic dancers on Defendants, and thus employee status. As a matter of economic reality, Plaintiffs and the putative Class and Collective Action Members are not in business for themselves, nor truly independent, but rather are economically dependent upon finding employment through Spearmint Rhino. Plaintiffs and the putative Class and Collective Action Members are not engaged in

occupations or business distinct from that of Defendants, in fact, their work is the basis of Defendants' business.

282. Defendants' business operation is to obtain the customers who desire the exotic dance entertainment and provide the workers who conduct the dance services on behalf of Defendants.

283. Indeed, a cursory review of Santa Barbara Hospitality Services, LLC's operating agreement shows that Defendants retain pervasive control over Spearmint Rhino's operations as a whole and that the exotic dancer's duties are integral to those operations.

1. Spearmint Rhino Exerts Control as Employers of the Plaintiffs and Putative Class and Collective Action Members.

284. Plaintiffs and Putative Class and Collective Action Members do not exert control over a meaningful part of Spearmint Rhino's business and do not stand as separate economic entities from Defendants. Defendants exercise control over all aspects of the working relationship with their exotic dancer employees.

285. Plaintiffs and Putative Class and Collective Action Members' economic status is inextricably linked to conditions over which Defendants have complete control. Exotic dancer employees of Defendants are completely dependent on Defendants for their income. Spearmint Rhino controls all of the advertising and promotion without which Plaintiffs and Putative Class and Collective Action Members could not survive economically. Moreover, Defendants create and control the atmosphere and surroundings at Spearmint

Rhino locations, the existence of which dictates the flow of customers into Spearmint Rhino clubs. The exotic dancers have no control over the customer volume or atmosphere at Spearmint Rhino clubs.

286. Defendants continue to employ guidelines and rules dictating the way in which their exotic dancer employees, including Plaintiffs and Putative Class and Collective Action Members, must conduct themselves. Defendants set the hours of operations, the lengths of shifts their exotic dancer employees must work, the show time during which an exotic dancer may perform, and set minimum dance tips. Defendants also determine the sequence in which a dancer may perform on stage during her stage rotation; the themes of dancers' performances, including their costuming and appearances; their conduct at work (*e.g.*, that they should be on the floor as much as possible when not on stage to mingle with club patrons); tip splits; and all other terms and conditions of employment.

287. Defendants require that their dancers work a minimum number of shifts each week, each shift comprising a set number of hours. Exotic dancer employees are required to report in and report out at the beginning and end of every shift. If an exotic dancer employee arrives late, leaves early, or misses a shift, she is subject to a fine, penalty, or reprimand by Defendants.

288. Defendants routinely schedule their exotic dancer employees to work in excess of 40 hours per week and knowingly permit dancers to work in excess of 40 hours per week regularly. Defendants also routinely schedule their exotic dancer employees to work in excess of eight hours in a day and knowingly permit dancers to work in excess of eight hours in a day with frequency.

289. Defendants, not exotic dancers, set the minimum tip amount that exotic dancer employees must collect from patrons when performing dances. Defendants announce the minimum tip amount to patrons in the club wishing to receive the dance entertainment.

290. The entire sum a dancer receives from a patron for a dance is not given to Defendants and taken into its gross receipts. Instead, the dancers keep their share of the payment under the tip share policy and pay over to Defendants the portion they demand as their share which they now term "rent and/or overhead." Defendants' aforementioned portion bears no actual relation to expenses associated with rent and/or overhead. For example, for a table dance, Plaintiffs would be required to pay the club a portion of the minimum tip set by Defendants once collected from a patron of the club.

291. Defendants establish the split or percentage which each exotic dancer employee is required to pay to Spearmint Rhino for each type of dance they may perform during their shift. In addition, amounts must be shared with disc jockeys, door staff, and other employees as part of Defendants' tip sharing policy. Further, exotic dancer employees are expected to assist Defendants in selling drinks during their shift. The foregoing non-exhaustively demonstrates that Defendants set the terms and conditions for the work of each exotic dancer employee.

2. Working as an Exotic Dancer Employee of Spearmint Rhino Does Not Require Special Skill or Initiative.

292. Plaintiffs and Putative Class and Collective Action Members do not exercise the skill and initiative of those in business for themselves.

293. Plaintiffs and Putative Class and Collective Action Members are not required to have any specialized or unusual skills to work at Defendants' club. Prior dance experience is not required as a prerequisite to employment. Dancers are not required to attain a certain level of skill in order to dance at Defendants' club. There are no certification standards for dancers. There are no dance seminars, no specialized training, no instructional booklets, and no choreography provided or required in order to work at Defendants' club. The dance skills utilized are commensurate with those exercised by ordinary people dancing at a typical nightclub or a wedding.

294. Plaintiffs, like the putative Class and Collective Action Members, did not have the opportunity to exercise business skills and initiative necessary to elevate their status to that of an owner of Spearmint Rhino. Dancers exercise no business management skills. They maintain no separate business structures or facilities. Exotic dancer employees do not actively participate in any effort to increase a club's client base, enhance goodwill, or establish contracting possibilities. The scope of a dancer's initiative is restricted to decisions involving what clothing to wear (within Defendants' guidelines) or how provocatively to dance.

295. Plaintiffs and Putative Class and Collective Action Members are not permitted to hire or contract other qualified individuals to provide dances to patrons and increase the club's revenue as an owner of the club would.

3. Spearmint Rhino's Relative Investment in Defendants' Operations Vastly Exceeds that of Plaintiffs and Putative Class and Collective Action Members.

296. Plaintiffs' investment in the exotic dancing business is minute when compared with that of Defendants.

297. Plaintiffs, like all other exotic dancer employees of Spearmint Rhino, has made no capital investment in the facilities, advertising, maintenance, sound systems, lights, food, beverage, inventory, or staffing at Defendants' club. A dancer's investment is limited to expenditures on costumes or makeup. But for Defendants' provision of the lavish club work environment, the dancers would earn nothing.

4. Plaintiffs and Putative Class and Collective Action Members Did Not Have the Ability to Alter their Opportunity for Profit and Loss Per the Economic Reality Test.

298. Defendants, not the exotic dancer employees such as Plaintiffs, manage all aspects of the business operation including attracting investors, establishing working hours and hours of operations, setting the atmosphere, coordinating advertising, hiring, selling a club's real and personal property, and controlling the staff. Defendants alone took the true business risks related to Spearmint Rhino clubs.

299. Exotic dancer employees, such as Plaintiffs and Putative Class and Collective Action Members, do not control the key determinations for profit and loss of the Spearmint Rhino enterprise. Specifically, Plaintiffs were not responsible for any aspect of the enterprise's ongoing business risk. For example, Defendants

are responsible for all financing, for the acquisition and/or lease of physical facilities and equipment, for inventory, for the payment of wages of individuals such as managers and bartenders (but not exotic dancer employees), and for obtaining appropriate business insurance, permits, and licenses.

300. Defendants, not exotic dancer employees, establish the minimum dance tip amounts that should be collected from patrons when dancing. Exotic dancer employees are not charged with the authority to accept a lower rate.

301. The tips received by exotic dancer employees are not a return on a capital investment. They are a gratuity for services rendered. From this perspective, it is clear that a dancer's supposed "return on investment" is no different than that of a waiter who serves food during a customer's meal at a restaurant.

5. Plaintiffs and Putative Class and Collective Action Members Worked Exclusively for Spearmint Rhino for Indefinite Periods of Time.

302. Plaintiffs worked exclusively for Defendants while employed as exotic dancers at a Spearmint Rhino club. Plaintiffs were not employed for a set term, but rather anticipated that their employment with Spearmint Rhino would be on an ongoing basis.

303. On information and belief, many exotic dancer employees work exclusively for Defendants for protracted periods of time, often for years at a time.

6. Exotic Dancers Provide Services at Spearmint Rhino Locations that Are Integral to the Financial Success of Defendants' Enterprise.

304. Plaintiffs and putative Class and Collective Action Members are essential to the success of Defendants' clubs. The continued success of clubs such as Defendants' turns upon the provision of dances by exotic dancers for the club's patrons. In fact, the sole reason establishments like the Spearmint Rhino exist is to showcase dancers' physical attributes for customers of the business.

305. Moreover, Defendants are able to charge higher admission prices and a much higher price for their drinks than a comparable establishment without dancers because exotic dancers are the main attraction of such clubs. As a result, the dancers are an integral part of Defendants' business.

306. The foregoing demonstrates that dancers like Plaintiffs and Putative Class and Collective Action Members are economically dependent on Defendants and subject to significant control by Defendants. Therefore, Plaintiffs and Putative Class and Collective Action Members are employees, not business owners, and should have been paid minimum wage at all times that they worked at Defendants' clubs. Similarly, they should have been afforded all rights and benefits of an employee pursuant to relevant state and federal law, including the payment of overtime wages whenever they worked over forty hours in a given workweek or over 8 hours in a given day in the state of California.

307. All actions described above are willful, intentional, and the result of design rather than mistake or inadvertence. Defendants were aware that the FLSA

applied to the operation of their clubs at all relevant times and were aware of the economic realities test under which its exotic dancers are clearly employees.

V. FLSA CLAIMS FOR MINIMUM WAGES, STRAIGHT TIME COMPENSATION, AND OVERTIME PAY

308. Plaintiffs incorporates the preceding paragraphs by reference as if set forth fully in this section.

A. FLSA Coverage

309. All conditions precedent to this suit, if any, have been fulfilled.

310. At all times relevant to this lawsuit, Defendants are/were eligible and covered employers under the FLSA pursuant to 29 U.S.C. § 203(d).

311. At all times relevant to this lawsuit, Defendants are/have been enterprises engaged in commerce under the FLSA pursuant to 29 U.S.C. § 203(s)(1)(A).

312. At all times relevant to this lawsuit, Defendants have employed, and continue to employ, employees including Plaintiffs and the putative Collective Action Members who engaged in commerce or in the production of goods for commerce as required by 29 U.S.C. §§ 206-207.

313. At all relevant times, Defendants have had gross operating revenues or business volume in excess of $500,000.

B. FLSA Allegations

314. The FLSA is to be construed expansively in favor of coverage, recognizing that broad coverage is essential to accomplish the goals of this remedial legislation, including the avoidance of unfair competition. *See Tony &*

Susan Alamo Found. v. Sec'y of Labor, 471 U.S. 290, 296-97 (1985); *Hale v. Arizona*, 993 F.2d 1387, 1402 (9th Cir. 1993).

315. "[N]either the common law concepts of 'employee' and 'independent contractor' nor contractual provisions purporting to describe the relationship are determinative of employment status." *Mathis v. Hous. Auth. of Umatilla Cty.*, 242 F. Supp. 2d 777, 783 (D. Or. 2002) *quoting Nash v. Res., Inc.*, 982 F. Supp. 1427, 1433 (D. Or. 1997).

316. Rather, to determine employment status under the FLSA's broad remedial purpose, courts across the nation apply some variant of the "economic realities test." In this Circuit, *Real v. Driscoll Strawberry Assocs., Inc.* sets out the relevant factor analysis:

> 1) the degree of the alleged employer's right to control the manner in which the work is to be performed; 2) the alleged employee's opportunity for profit or loss depending upon his managerial skill; 3) the alleged employee's investment in equipment or materials required for his task, or his employment of helpers; 4) whether the service rendered requires a special skill; 5) the degree of permanence of the working relationship; and 6) whether the service rendered is an integral part of the alleged employer's business.
>
> The presence of any individual factor is not dispositive of whether an employee/employer relationship exists. Such a determination depends "upon the circumstances of the whole activity."

603 F.2d 748 (9th Cir. 1979) *quoting Rutherford Food Corp. v. McComb*, 331 U.S. 722, 730 (1947). In the end, the factors are aids used to determine whether "as a matter of economic reality, the individuals 'are dependent upon the business to which they render service.'" *Donovan v. Sureway Cleaners*, 656 F.2d 1368, 1370 (9th Cir. 1981) *quoting Bartels v. Birmingham*, 332 U.S. 126, 130 (1947).

317. The FLSA recognizes the doctrine of joint employers. 29 U.S.C. § 203(d).

> Where the employee performs work which simultaneously benefits two or more employers [. . .] a joint employment relationship generally will be considered to exist [. . .] [w]*here the employers are not completely disassociated with respect to the employment of a particular employee and may be deemed to share control of the employee, directly or indirectly, by reason of the fact that one employer controls, is controlled by, or is under common control with the other employer.*

Chao v. A-One Med. Servs., Inc., 346 F.3d 908, 917-18 (9th Cir. 2003) *quoting* 29 C.F.R. § 791.2(b) (emphasis in original).

318. The FLSA applied to Plaintiffs and the putative Collective Action Members at all times that they worked as exotic dancers at the Spearmint Rhino locations of Defendants.

319. No exemptions to the application of the FLSA apply to Plaintiffs or the putative Collective Action Members. For instance, neither Plaintiffs nor any putative Collective Action Member have ever been a professional or artist exempt from the provisions of the FLSA. The dancing required by Spearmint Rhino does not require invention, imagination or talent in a recognized field of artistic endeavor and Plaintiffs and the putative Collective Action Members have never been compensated by Defendants on a set salary, wage, or fee basis. Rather, Plaintiffs and the Putative Collective Action Members' sole source of income while working for Defendants was tips given to them by the club's patrons (*i.e.*, stage dancing or single dancing tips).

320. At all relevant times, Plaintiffs and the Putative Collective Action Members were employees of Defendants pursuant to the FLSA. On information and belief, during the three years preceding the filing of this action more than one thousand exotic dancers have worked at Spearmint Rhino locations nationwide, all without receiving any wages from Defendants.

321. During the relevant time period, neither Plaintiffs nor any putative Collective Action Member received money from Defendants in the form of wages, nor did they receive any other category of compensation (*e.g.*, bonuses, shift differentials, *per diem* payments) from Defendants. Plaintiffs and putative Collective Action Members generated their income solely through tips they received from Defendants' customers when they performed dances for those patrons. Nonetheless, Defendants imposed a fee schedule that required Plaintiffs and the putative Collective Action Members to pay for the privilege of dancing at Spearmint Rhino locations. Defendants assessed a daily house fee to be paid by Plaintiffs and the putative Collective Action Members per shift and additionally demanded a portion of the gratuity an exotic dancer would receive per dance.

322. The money that Plaintiffs and the putative Collective Action Members would receive from customers at Spearmint Rhino locations is a tip, not a service charge as those terms are defined in relevant FLSA regulations. *See* 29 C.F.R. §§ 531.52, 531.53, & 531.55.

323. Those tips received by Plaintiffs and the putative Collective Action Members does not become part of the Defendants' gross receipts to be later distributed to the exotic dancers at a given location as wages. Instead, exotic

dancers at Spearmint Rhino locations merely pay the club a portion of their tips, which Spearmint Rhino pockets as pure profit.

324. Plaintiffs and the putative Collective Action Members are tipped employees under the FLSA, as they are engaged in an occupation in which they customarily and regularly receive more than $30 per month in tips. *See* 29 U.S.C. § 203(t).

325. However, Defendants are not entitled to take a tip credit for the amounts Plaintiffs and the putative Collective Action Members received as tips. 29 U.S.C. § 203(m) requires an employer to inform its employee that it intends to rely on the tip credit to satisfy its minimum wage obligations. Here, Defendants affirmatively informed Plaintiffs and the putative Collective Action Members that they would not be paid wages at all, much less paid a tip credit adjusted minimum wage.

326. Defendants' contractual scheme to label Plaintiffs and the putative Collective Action Members as so-called "members" of a limited liability company was designed to deny them their fundamental rights as employees to receive minimum wages, overtime, to demand and retain portions of tips given to putative Collective Action Members by Spearmint Rhino customers, and was all done to enhance Defendants' profits.

327. Defendants' contractual scheme to label Plaintiffs and the putative Collective Action Members as so-called "members" of an LLC rather than employees was willful. Defendants knew or should have known that Plaintiffs and

the putative Collective Action Members do not share in the benefits and privileges of actual ownership of the Spearmint Rhino.

328. Furthermore, workers cannot elect to be treated as members of a limited liability company instead of employees. *Real*, 603 F.2d at 755 ("Economic realities, not contractual labels, determine employment status for the remedial purposes of the FLSA."). Nor can workers agree to be paid less than the minimum wage. *Jewell Ridge Coal Corp. v. Local No. 6167, United Mine Workers of Am.*, 325 U.S. 161 177 (1945). Neither of the aforementioned legal concepts are new to Defendants. This is not Defendants' first attempt to contract around state and federal wage laws in order to deprive their employees of their rightfully earned wages. Defendants know, or should have known, their LLC "member" agreements are in violation of state and federal law.

329. Finally, federal law requires employers to make and keep accurate and detailed payroll data for non-exempt employees. 29 U.S.C. § 211(c); 29 C.F.R. § 516.2. Amongst other things, the regulations require employers to make and keep payroll records showing data such as the employee's name, social security number, occupation, time of day and day of week which the workweek begins, regular hourly rate of pay for any week in which overtime pay is due, hours worked each workday and total hours worked each workweek, total daily or weekly straight time earnings, total premium pay for overtime hours, total wages paid each pay period and date of payment and pay period covered by the payment, and records of remedial payments. 29 C.F.R. § 516.2(a)&(b). Employers are required to maintain the foregoing data for a minimum of three years. 29 C.F.R. § 516.5. Defendants

have failed to keep the aforementioned records despite their prior dealings with numerous wage and hour lawsuits. Defendants' continual failure to comply with and disregard of the FLSA's record keeping provision is willful and in violation of the law.

C. **Collective Action Allegations**

330. Plaintiffs seek to bring their claims under the FLSA on behalf of themselves and all other exotic dancers who worked for the Spearmint Rhino in the three years immediately preceding February 3, 2017 and continuing thereafter through the date on which final judgment is entered. Those who file a written consent will be a party to this action pursuant to 29 U.S.C. § 216(b) (the "FLSA Class").

331. Plaintiffs have actual knowledge that putative Collective Action Members have been denied wages for all hours worked in each workweek. Plaintiffs worked with other dancers at a Spearmint Rhino location. As such, they have personal knowledge of the pay violations. Furthermore, other exotic dancer employees at Defendants' establishments have shared with them that they experienced similar pay violations as those described in this complaint.

332. Other employees similarly situated to Plaintiffs work or have worked for Defendants at their gentlemen's club locations without being paid a wage.

333. The putative Collective Action Members are similarly situated to Plaintiffs in all relevant respects, having performed the same work duties as Plaintiffs and being similarly situated with regard to Defendants pay practices.

334. The putative Collective Action Members regularly work or have worked in excess of forty hours during a workweek.

335. The putative Collective Action Members are not exempt from receiving overtime and/or pay at the federally mandated minimum wage rate under the FLSA.

336. The putative Collective Action Members are similar to Plaintiffs in terms of job duties, pay structure, misclassification as supposed "members" of Santa Barbara Hospitality Services, LLC and similar newly-formed LLCs such as Midnight Sun Enterprises, LLC and Kentucky Hospitality Venture Lexington, LLC, and the denial of overtime and minimum wage.

337. Defendants' failure to pay overtime compensation and minimum wages results from generally applicable policies or practices, and does not depend on the personal circumstances of the putative Collective Action Members.

338. The experiences of Plaintiffs with respect to their pay, or lack thereof, is typical of the experiences of the putative Collective Action Members.

339. The specific job titles or precise job responsibilities of each putative Collective Action Member does not prevent collective treatment.

340. Although the exact amount of damages may vary among the putative Collective Action Members, the damages are easily calculable using a simple formula uniformly applicable to all of the exotic dancer employees.

341. Plaintiffs propose that the class of putative Collective Action Members be defined as:

All current and former exotic dancers who worked at any Spearmint Rhino, Dames N Games and/or Blue Zebra location in the United States from any time starting three years before February 3, 2017 to the present.

VI. CALIFORNIA STATE LAW CLAIMS

342. Plaintiffs incorporate the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

A. Controlling California State Law and Allegations

343. California law requires employers to pay all wages due to an employee immediately upon discharge and within the time required by law after their employment ends. Cal. Labor Code §§ 201, 202. Should an employer willfully fail to timely pay its employee, the employer must, as a penalty, continue to pay the subject employees' wages until the back wages are paid in full or an action is commenced, up to a maximum of thirty days wages. Cal. Labor Code § 203.

344. Defendants' scheme to categorize Byrne and the putative California Class as so-called members of an LLC while otherwise treating them as employees, on information and belief, involved retention of certain money to be paid to Byrne and the putative California Class under the auspices of a shareholder distribution payable pursuant to a tax Schedule K-1.

345. An indefinite sum of money was promised to Byrne pursuant to this scheme. When Byrne left her employment with Defendants, on information and belief, money was owed to her under this scheme. Byrne has not received any money pursuant to the promise to date.

346. As Byrne was an employee of Spearmint Rhino, Defendants' retention of money owed to her was a violation of California State Law.

347. On information and belief, this pay practice is applicable to certain members of the putative California Class who are former employees of Spearmint Rhino, Dames N Games and/or Blue Zebra, who were promised shareholder distributions payable pursuant to a tax Schedule K-1.

348. California law does not permit an employer to receive any part of a gratuity or tip, nor does it permit an offset or reduction against minimum wages due to employees based on tips received. Cal. Labor Code § 351.

349. Likewise, California law does not permit tip-splitting with managers who have the ability to hire, discharge, supervise, direct or control the acts of an employee, as those managers are agents of the employer. Cal. Labor Code § 350. *See also, Jameson v. Five Feet Rest., Inc.*, 107 Cal. App. 4th 138, 143-144 (Cal. Ct. App. 2003).

350. Throughout the time period relevant to this claim for relief, Byrne and the putative California Class, defined below, were required to tender tips to Defendants and those tips were unlawfully split with managers with the ability to hire, discharge, supervise, direct or control Byrne and the putative California Class.

351. California Labor Code § 351 does not provide a private cause of action for employees to recover misappropriated tips. *See also, Lu v. Hawaiian Gardens Casino, Inc.*, 50 Cal. 4th 592, 603-604 (Cal. 2010) (suggesting such claims could be pursued under theory of common law conversion). However the violation has been found actionable under California's Unfair Competition Law

("UCL"). *See Matoff v. Brinker Rest. Corp.*, 439 F. Supp. 2d 1035, 1038-1039 (C.D. Cal. 2006) (permitting restitution).

352. When on shift, Byrne and the putative California Class routinely worked in excess of five hour shifts. During their shifts, they were not permitted to take meal breaks during which time they were relieved of all duty.

353. Moreover, Byrne and the putative California Class routinely worked in excess of four hours without being relieved of all duty for a ten-minute rest period.

354. Byrne and the putative California Class never received timely, accurate, itemized wage statements including their hours of work completed.

355. Defendants' actions described herein with regard to Byrne and the putative California Class were willful, intentional, and not the result of mistake or inadvertence.

356. Defendants were aware that the California Labor Code, and other laws of the State of California applied to their operation of Spearmint Rhino, Dames N Games and Blue Zebra locations at all relevant times, and that under the relevant test Byrne and the putative California Class were employees of Spearmint Rhino, not true members of an LLC.

357. Defendants were aware of and/or the subject of previous litigation and enforcement actions relating to wage and hour law violations where the misclassification of exotic dancers as independent contractors was challenged, and refused to change their business arrangements in accord with prior Court Order.

358. Defendants were aware that their failure to pay minimum wage, overtime compensation, and that their retention of tips paid to Byrne and the putative California Class were unlawful pursuant to California State Law. Defendants were also aware that their policy to categorize Byrne and the putative California Class as so-called members of an LLC while otherwise treating them as employees is a violation of the relevant economic reality test for employees.

359. Despite prior litigation in this exact District, Defendants continued to require Byrne and the putative California Class to pay for the privilege of dancing at Spearmint Rhino, Dames N Games and Blue Zebra locations, to tender tips earned to Defendants, and did not pay Byrne and the putative California Class minimum or overtime wages.

B. Class Action Allegations

360. Byrne brings her claims for relief under California State Law, listed above, for violations of California's wage and hour laws as a class action, pursuant to FED. R. CIV. P. 23(a), (b)(2), & (b)(3).

361. Numerosity (FED. R. CIV. P. 23(a)(1)) – the California Class is so numerous that joinder of all members is impracticable. On information and belief, during the relevant time period at least one hundred individuals worked for Defendants in the State of California.

362. Commonality (FED. R. CIV. P. 23(a)(2)) – Common questions of law and fact exist as to putative members of the California Class, including, but not limited to, the following:

a. Whether Defendants unlawfully failed to pay all wages owed in violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200-17210, and the California Labor Code and related regulations including the California Private Attorneys General Act, ("PAGA"), Cal. Wage Order No. 10-2001; Cal. Labor Code §§ 200-2699.5;

b. Whether Defendants maintained a policy or practice of misclassifying the putative California Class as members of an LLC as opposed to employees;

c. Whether Defendants unlawfully failed to keep and furnish the putative California Class with records of hours worked, in violation of Cal. Labor Code §§ 226 & 1174;

d. Whether Defendants unlawfully failed to provide the putative California Class with meal and rest breaks, in violation of Cal. Labor Code §§ 226.7 & 512;

e. Whether Defendants' policy and practice of failing to pay the putative California Class all wages due immediately upon discharge violates the California Wage Payment Provisions elaborated above.

f. Whether Defendants' policy and practice of failing to pay the putative California Class all wages due within the time required by law after their employment ends violates California law; and

g. The proper measure of damages sustained by the putative California Class.

363. Typicality (FED. R. CIV. P. 23(a)(3)) – Plaintiffs' claims are typical of those of the putative California Class. Byrne, like other California Class members, was subjected to Defendants' policy and practice of refusing to pay wages owed to its exotic dancer employees in violation of California law. Byrne's job duties and claims are typical of those of the putative California Class.

364. Adequacy (FED. R. CIV. P. 23(a)(4)) – Plaintiffs will fairly and adequately represent and protect the interests of the putative California Class.

365. Adequacy of counsel (FED. R. CIV. P. 23(g)) – Byrne has retained counsel competent and experienced in complex class actions, the FLSA, and state labor and employment litigation. Byrne's counsel has litigated numerous class actions on behalf of nonexempt employees asserting off-the-clock claims under the FLSA and state law. Byrne's counsel intends to commit the necessary resources to prosecute this action vigorously for the benefit of all of the putative California Class.

366. Class certification of the California State Law claims is appropriate pursuant to FED. R. CIV. P. 23(b)(2) because Defendants have acted or refused to act on grounds generally applicable to the putative California Class, making appropriate declaratory and injunctive relief with respect to Byrne and the putative California Class as a whole. Byrne is entitled to injunctive relief to end Defendants' common and uniform practice of treating their exotic dancers as employees while misclassifying them as owners of an LLC.

367. Predominance and superiority (FED. R. CIV. P. 23(b)(3)) – Class certification of the California State Law claims is also appropriate under FED. R.

CIV. P. 23(b)(3) because questions of law and fact common to the putative California Class predominate over any questions affecting only individual members of the putative California Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendants' common and uniform policies and practices unlawfully fail to compensate the putative California Class. The damages suffered by individual members of the putative California Class are small compared to the expense and burden of individual prosecution of this litigation. In addition, class certification is superior because it will obviate the need for unduly duplicative litigation which might result in inconsistent judgments about Defendants' practices.

368. Notice (FED. R. CIV. P. 23(c)(2)(B)) – Byrne intends to send notice to all members of the putative California Class to the extent provided by Rule 23.

369. Byrne proposes that the class be defined as:

> **All current and former exotic dancers who worked at any Spearmint Rhino, Dames N Games and/or Blue Zebra location in the State of California from any time starting four years prior to February 3, 2017 until the date the case resolves.**

370. Byrne also brings this action as an aggrieved employee on behalf of herself and other current former employees pursuant to the California Private Attorneys General Act ("PAGA") of 2004, Cal. Labor Code §§ 2698-2699.5.

VII. FLORIDA STATE LAW CLAIMS

371. Plaintiffs incorporate the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

A. Controlling Florida State Law and Allegations

372. The foregoing conduct, as alleged, constitutes breach of contract under Florida law.

373. The putative Florida Class Members entered into implied and/or express contracts with Defendants for the former to provide services to the latter. Defendants offered employment to the putative Florida Class Members, and the latter accepted. The contract was supported by consideration – Defendants received the value of the work performed by the putative Florida Class Members and the putative Florida Class Members received money.

374. Defendants breached the contracts by failing to pay the putative Florida Class Members all wages owed for all hours worked for Defendants.

375. The putative Florida Class Members suffered damages resulting from Defendants' breach of contract. Such damages include lost wages, interest, and such relief as the Court deems just and proper.

376. As a result of Defendants' failure to pay wages earned and due, and its decision to withhold wages earned and due to the putative Florida Class Members, Defendants have breached – and continue to breach – their implied and/or express contracts with the putative Florida Class Members.

377. Plaintiffs, on behalf of the putative Florida Class Members, seek damages in the amount of the respective unpaid wages earned, interest, attorneys' fees and costs, and such other legal and equitable relief as the Court deems just and proper.

378. Furthermore, at all relevant times Defendants agreed to and were required to pay their exotic dancer employees for all hours they worked at a rate of no less than the higher of the prevailing federal or state minimum wage.

379. Defendants requested and/or knowingly accepted valuable services from the putative Florida Class Members, which benefited Defendants, and for which a reasonable person would have expected to receive pay. The putative Florida Class Members provided their services and labor with the reasonable expectation of receiving compensation from Defendants.

380. Defendants, however, have failed to properly compensate the putative Florida Class Members for all of the valuable services and labor they performed for Defendants' benefit.

381. Defendants have been unjustly enriched at the expense of the putative Florida Class Members.

382. It would be unjust for Defendants to retain the benefit the putative Florida Class Members' efforts without compensation therefore.

383. Defendants are liable to the putative Florida Class Members for damages caused by Defendants' failure to compensate the putative Florida Class Members for all hours that they worked for Defendants' benefit.

B. Class Action Allegations

384. Plaintiffs bring claims for relief under Florida State Law, listed above, for violations of Florida wage and hour laws as a class action, pursuant to FED. R. CIV. P. 23(a), (b)(2), & (b)(3).

385. Numerosity (FED. R. CIV. P. 23(a)(1)) – the Florida Class is so numerous that joinder of all members is impracticable. On information and belief, during the relevant time period at least one hundred individuals worked for Defendants in the State of Florida.

386. Commonality (FED. R. CIV. P. 23(a)(2)) – Common questions of law and fact exist as to putative members of the Florida Class, including, but not limited to, the following:

a. Whether Defendants unlawfully failed to pay all wages owed in violation of Florida law;

b. Whether Defendants maintained a policy or practice of misclassifying the putative Florida Class as members of an LLC as opposed to employees; and

c. The proper measure of damages sustained by the putative Florida Class.

387. Typicality (FED. R. CIV. P. 23(a)(3)) – Plaintiffs' claims are typical of those of the putative Florida Class. Plaintiffs, like the Florida Class members, were subjected to Defendants' policy and practice of refusing to pay wages owed to its exotic dancer employees in violation of Florida law. Plaintiffs' job duties and claims are typical of those of the putative Florida Class.

388. Adequacy (FED. R. CIV. P. 23(a)(4)) – Plaintiffs will fairly and adequately represent and protect the interests of the putative Florida Class.

389. Adequacy of counsel (FED. R. CIV. P. 23(g)) – Plaintiffs have retained counsel competent and experienced in complex class actions, the FLSA, and state

labor and employment litigation. Plaintiffs' counsel has litigated numerous class actions on behalf of nonexempt employees asserting off-the-clock claims under the FLSA and state law. Plaintiffs' counsel intends to commit the necessary resources to prosecute this action vigorously for the benefit of all of the putative Florida Class.

390. Class certification of the Florida State Law claims is appropriate pursuant to FED. R. CIV. P. 23(b)(2) because Defendants have acted or refused to act on grounds generally applicable to the putative Florida Class, making appropriate declaratory and injunctive relief with respect to the Florida Class. The Florida Class is entitled to injunctive relief to end Defendants' common and uniform practice of treating their exotic dancers as employees while misclassifying them as owners of an LLC.

391. Predominance and superiority (FED. R. CIV. P. 23(b)(3)) – Class certification of the Florida State Law claims is also appropriate under FED. R. CIV. P. 23(b)(3) because questions of law and fact common to the putative Florida Class predominate over any questions affecting only individual members of the putative Florida Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendants' common and uniform policies and practices unlawfully fail to compensate the putative Florida Class. The damages suffered by individual members of the putative Florida Class are small compared to the expense and burden of individual prosecution of this litigation. In addition, class certification is superior because it will obviate the need

for unduly duplicative litigation which might result in inconsistent judgments about Defendants' practices.

392. Notice (FED. R. CIV. P. 23(c)(2)(B)) – Plaintiffs intend to send notice to all members of the putative Florida Class to the extent provided by Rule 23.

393. Plaintiffs propose that the Florida Class be defined as:

> **All current and former exotic dancers who worked at any Spearmint Rhino location in the State of Florida from any time starting five years prior to February 3, 2017 until the date the case resolves.**

VIII. IDAHO STATE LAW CLAIMS

394. Plaintiffs incorporate the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

A. Controlling Idaho State Law and Allegations

395. The foregoing conduct, as alleged, constitutes breach of contract under Idaho law.

396. The putative Idaho Class Members entered into implied and/or express contracts with Defendants for the former to provide services to the latter. Defendants offered employment to the putative Idaho Class Members, and the latter accepted. The contract was supported by consideration – Defendants received the value of the work performed by the putative Idaho Class Members and the putative Idaho Class Members received money.

397. Defendants breached the contracts by failing to pay the putative Idaho Class Members all wages owed for all hours worked for Defendants.

398. The putative Idaho Class Members suffered damages resulting from Defendants' breach of contract. Such damages include lost wages, interest, and such relief as the Court deems just and proper.

399. As a result of Defendants' failure to pay wages earned and due, and its decision to withhold wages earned and due to the putative Idaho Class Members, Defendants have breached – and continue to breach – their implied and/or express contracts with the putative Idaho Class Members.

400. Plaintiffs, on behalf of the putative Idaho Class Members, seek damages in the amount of the respective unpaid wages earned, interest, attorneys' fees and costs, and such other legal and equitable relief as the Court deems just and proper.

401. Furthermore, at all relevant times Defendants agreed to and were required to pay their exotic dancer employees for all hours they worked at a rate of no less than the higher of the prevailing federal or state minimum wage.

402. Defendants requested and/or knowingly accepted valuable services from the putative Idaho Class Members, which benefited Defendants, and for which a reasonable person would have expected to receive pay. The putative Idaho Class Members provided their services and labor with the reasonable expectation of receiving compensation from Defendants.

403. Defendants, however, have failed to properly compensate the putative Idaho Class Members for all of the valuable services and labor they performed for Defendants' benefit.

404. Defendants have been unjustly enriched at the expense of the putative Idaho Class Members.

405. It would be unjust for Defendants to retain the benefit the putative Idaho Class Members' efforts without compensation therefore.

406. Defendants are liable to the putative Idaho Class Members for damages caused by Defendants' failure to compensate the putative Idaho Class Members for all hours that they worked for Defendants' benefit.

B. Class Action Allegations

407. Plaintiffs bring claims for relief under Idaho State Law, listed above, for violations of Idaho wage and hour laws as a class action, pursuant to FED. R. CIV. P. 23(a), (b)(2), & (b)(3).

408. Numerosity (FED. R. CIV. P. 23(a)(1)) – the Idaho Class is so numerous that joinder of all members is impracticable. On information and belief, during the relevant time period at least one hundred individuals worked for Defendants in the State of Idaho.

409. Commonality (FED. R. CIV. P. 23(a)(2)) – Common questions of law and fact exist as to putative members of the Idaho Class, including, but not limited to, the following:

a. Whether Defendants unlawfully failed to pay all wages owed in violation of Idaho law;

b. Whether Defendants maintained a policy or practice of misclassifying the putative Idaho Class as members of an LLC as opposed to employees; and

c. The proper measure of damages sustained by the putative Idaho Class.

410. Typicality (FED. R. CIV. P. 23(a)(3)) – Plaintiffs' claims are typical of those of the putative Idaho Class. Plaintiffs, like the Idaho Class members, were subjected to Defendants' policy and practice of refusing to pay wages owed to its exotic dancer employees in violation of Idaho law. Plaintiffs' job duties and claims are typical of those of the putative Idaho Class.

411. Adequacy (FED. R. CIV. P. 23(a)(4)) – Plaintiffs will fairly and adequately represent and protect the interests of the putative Idaho Class.

412. Adequacy of counsel (FED. R. CIV. P. 23(g)) – Plaintiffs have retained counsel competent and experienced in complex class actions, the FLSA, and state labor and employment litigation. Plaintiffs' counsel has litigated numerous class actions on behalf of nonexempt employees asserting off-the-clock claims under the FLSA and state law. Plaintiffs' counsel intends to commit the necessary resources to prosecute this action vigorously for the benefit of all of the putative Idaho Class.

413. Class certification of the Idaho State Law claims is appropriate pursuant to FED. R. CIV. P. 23(b)(2) because Defendants have acted or refused to act on grounds generally applicable to the putative Idaho Class, making appropriate declaratory and injunctive relief with respect to the Idaho Class. The Idaho Class is entitled to injunctive relief to end Defendants' common and uniform practice of treating their exotic dancers as employees while misclassifying them as owners of an LLC.

414. Predominance and superiority (FED. R. CIV. P. 23(b)(3)) – Class certification of the Idaho State Law claims is also appropriate under FED. R. CIV. P. 23(b)(3) because questions of law and fact common to the putative Idaho Class predominate over any questions affecting only individual members of the putative Idaho Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendants' common and uniform policies and practices unlawfully fail to compensate the putative Idaho Class. The damages suffered by individual members of the putative Idaho Class are small compared to the expense and burden of individual prosecution of this litigation. In addition, class certification is superior because it will obviate the need for unduly duplicative litigation which might result in inconsistent judgments about Defendants' practices.

415. Notice (FED. R. CIV. P. 23(c)(2)(B)) – Plaintiffs intend to send notice to all members of the putative Idaho Class to the extent provided by Rule 23.

416. Plaintiffs propose that the Idaho Class be defined as:

> **All current and former exotic dancers who worked at any Spearmint Rhino location in the State of Idaho from any time starting three years prior to February 3, 2017 until the date the case resolves.**

IX. IOWA STATE LAW CLAIMS

417. Plaintiffs incorporate the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

A. Controlling Iowa State Law and Allegations

418. The foregoing conduct, as alleged, constitutes breach of contract under Iowa law.

419. The putative Iowa Class Members entered into implied and/or express contracts with Defendants for the former to provide services to the latter. Defendants offered employment to the putative Iowa Class Members, and the latter accepted. The contract was supported by consideration – Defendants received the value of the work performed by the putative Iowa Class Members and the putative Iowa Class Members received money.

420. Defendants breached the contracts by failing to pay the putative Iowa Class Members all wages owed for all hours worked for Defendants.

421. The putative Iowa Class Members suffered damages resulting from Defendants' breach of contract. Such damages include lost wages, interest, and such relief as the Court deems just and proper.

422. As a result of Defendants' failure to pay wages earned and due, and its decision to withhold wages earned and due to the putative Iowa Class Members, Defendants have breached – and continue to breach – their implied and/or express contracts with the putative Iowa Class Members.

423. Plaintiffs, on behalf of the putative Iowa Class Members, seek damages in the amount of the respective unpaid wages earned, interest, attorneys' fees and costs, and such other legal and equitable relief as the Court deems just and proper.

424. Furthermore, at all relevant times Defendants agreed to and were required to pay their exotic dancer employees for all hours they worked at a rate of no less than the higher of the prevailing federal or state minimum wage.

425. Defendants requested and/or knowingly accepted valuable services from the putative Iowa Class Members, which benefited Defendants, and for which a reasonable person would have expected to receive pay. The putative Iowa Class Members provided their services and labor with the reasonable expectation of receiving compensation from Defendants.

426. Defendants, however, have failed to properly compensate the putative Iowa Class Members for all of the valuable services and labor they performed for Defendants' benefit.

427. Defendants have been unjustly enriched at the expense of the putative Iowa Class Members.

428. It would be unjust for Defendants to retain the benefit the putative Iowa Class Members' efforts without compensation therefore.

429. Defendants are liable to the putative Iowa Class Members for damages caused by Defendants' failure to compensate the putative Iowa Class Members for all hours that they worked for Defendants' benefit.

B. Class Action Allegations

430. Plaintiffs bring claims for relief under Iowa State Law, listed above, for violations of Iowa wage and hour laws as a class action, pursuant to FED. R. CIV. P. 23(a), (b)(2), & (b)(3).

431. Numerosity (FED. R. CIV. P. 23(a)(1)) – the Iowa Class is so numerous that joinder of all members is impracticable. On information and belief, during the relevant time period at least one hundred individuals worked for Defendants in the State of Iowa.

432. Commonality (FED. R. CIV. P. 23(a)(2)) – Common questions of law and fact exist as to putative members of the Iowa Class, including, but not limited to, the following:

a. Whether Defendants unlawfully failed to pay all wages owed in violation of Iowa law;

b. Whether Defendants maintained a policy or practice of misclassifying the putative Iowa Class as members of an LLC as opposed to employees; and

c. The proper measure of damages sustained by the putative Iowa Class.

433. Typicality (FED. R. CIV. P. 23(a)(3)) – Plaintiffs' claims are typical of those of the putative Iowa Class. Plaintiffs, like the Iowa Class members, were subjected to Defendants' policy and practice of refusing to pay wages owed to its exotic dancer employees in violation of Iowa law. Plaintiffs' job duties and claims are typical of those of the putative Iowa Class.

434. Adequacy (FED. R. CIV. P. 23(a)(4)) – Plaintiffs will fairly and adequately represent and protect the interests of the putative Iowa Class.

435. Adequacy of counsel (FED. R. CIV. P. 23(g)) – Plaintiffs have retained counsel competent and experienced in complex class actions, the FLSA, and state

labor and employment litigation. Plaintiffs' counsel has litigated numerous class actions on behalf of nonexempt employees asserting off-the-clock claims under the FLSA and state law. Plaintiffs' counsel intends to commit the necessary resources to prosecute this action vigorously for the benefit of all of the putative Iowa Class.

436. Class certification of the Iowa State Law claims is appropriate pursuant to FED. R. CIV. P. 23(b)(2) because Defendants have acted or refused to act on grounds generally applicable to the putative Iowa Class, making appropriate declaratory and injunctive relief with respect to the Iowa Class. The Iowa Class is entitled to injunctive relief to end Defendants' common and uniform practice of treating their exotic dancers as employees while misclassifying them as owners of an LLC.

437. Predominance and superiority (FED. R. CIV. P. 23(b)(3)) – Class certification of the Iowa State Law claims is also appropriate under FED. R. CIV. P. 23(b)(3) because questions of law and fact common to the putative Iowa Class predominate over any questions affecting only individual members of the putative Iowa Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendants' common and uniform policies and practices unlawfully fail to compensate the putative Iowa Class. The damages suffered by individual members of the putative Iowa Class are small compared to the expense and burden of individual prosecution of this litigation. In addition, class certification is superior because it will obviate the need for unduly duplicative litigation which might result in inconsistent judgments about Defendants' practices.

438. Notice (FED. R. CIV. P. 23(c)(2)(B)) – Plaintiffs intend to send notice to all members of the putative Iowa Class to the extent provided by Rule 23.

439. Plaintiffs propose that the Iowa Class be defined as:

All current and former exotic dancers who worked at any Spearmint Rhino location in the State of Iowa from any time starting three years prior to February 3, 2017 until the date the case resolves.

X. KENTUCKY STATE LAW CLAIMS

440. Plaintiffs incorporate the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

A. Controlling Kentucky State Law and Allegations

441. The foregoing conduct, as alleged, constitutes breach of contract under Kentucky law.

442. The putative Kentucky Class Members entered into implied and/or express contracts with Defendants for the former to provide services to the latter. Defendants offered employment to the putative Kentucky Class Members, and the latter accepted. The contract was supported by consideration – Defendants received the value of the work performed by the putative Kentucky Class Members and the putative Kentucky Class Members received money.

443. Defendants breached the contracts by failing to pay the putative Kentucky Class Members all wages owed for all hours worked for Defendants.

444. The putative Kentucky Class Members suffered damages resulting from Defendants' breach of contract. Such damages include lost wages, interest, and such relief as the Court deems just and proper.

445. As a result of Defendants' failure to pay wages earned and due, and its decision to withhold wages earned and due to the putative Kentucky Class Members, Defendants have breached – and continue to breach – their implied and/or express contracts with the putative Kentucky Class Members.

446. Plaintiffs, on behalf of the putative Kentucky Class Members, seek damages in the amount of the respective unpaid wages earned, interest, attorneys' fees and costs, and such other legal and equitable relief as the Court deems just and proper.

447. Furthermore, at all relevant times Defendants agreed to and were required to pay their exotic dancer employees for all hours they worked at a rate of no less than the higher of the prevailing federal or state minimum wage.

448. Defendants requested and/or knowingly accepted valuable services from the putative Kentucky Class Members, which benefited Defendants, and for which a reasonable person would have expected to receive pay. The putative Kentucky Class Members provided their services and labor with the reasonable expectation of receiving compensation from Defendants.

449. Defendants, however, have failed to properly compensate the putative Kentucky Class Members for all of the valuable services and labor they performed for Defendants' benefit.

450. Defendants have been unjustly enriched at the expense of the putative Kentucky Class Members.

451. It would be unjust for Defendants to retain the benefit the putative Kentucky Class Members' efforts without compensation therefore.

452. Defendants are liable to the putative Kentucky Class Members for damages caused by Defendants' failure to compensate the putative Kentucky Class Members for all hours that they worked for Defendants' benefit.

B. Class Action Allegations

453. Plaintiffs bring claims for relief under Kentucky State Law, listed above, for violations of Kentucky wage and hour laws as a class action, pursuant to FED. R. CIV. P. 23(a), (b)(2), & (b)(3).

454. Numerosity (FED. R. CIV. P. 23(a)(1)) – the Kentucky Class is so numerous that joinder of all members is impracticable. On information and belief, during the relevant time period at least one hundred individuals worked for Defendants in the State of Kentucky.

455. Commonality (FED. R. CIV. P. 23(a)(2)) – Common questions of law and fact exist as to putative members of the Kentucky Class, including, but not limited to, the following:

a. Whether Defendants unlawfully failed to pay all wages owed in violation of Kentucky law;

b. Whether Defendants maintained a policy or practice of misclassifying the putative Kentucky Class as members of an LLC as opposed to employees; and

c. The proper measure of damages sustained by the putative Kentucky Class.

456. Typicality (FED. R. CIV. P. 23(a)(3)) – Plaintiffs' claims are typical of those of the putative Kentucky Class. Plaintiffs, like the Kentucky Class members,

were subjected to Defendants' policy and practice of refusing to pay wages owed to its exotic dancer employees in violation of Kentucky law. Plaintiffs' job duties and claims are typical of those of the putative Kentucky Class.

457. Adequacy (FED. R. CIV. P. 23(a)(4)) – Plaintiffs will fairly and adequately represent and protect the interests of the putative Kentucky Class.

458. Adequacy of counsel (FED. R. CIV. P. 23(g)) – Plaintiffs have retained counsel competent and experienced in complex class actions, the FLSA, and state labor and employment litigation. Plaintiffs' counsel has litigated numerous class actions on behalf of nonexempt employees asserting off-the-clock claims under the FLSA and state law. Plaintiffs' counsel intends to commit the necessary resources to prosecute this action vigorously for the benefit of all of the putative Kentucky Class.

459. Class certification of the Kentucky State Law claims is appropriate pursuant to FED. R. CIV. P. 23(b)(2) because Defendants have acted or refused to act on grounds generally applicable to the putative Kentucky Class, making appropriate declaratory and injunctive relief with respect to the Kentucky Class. The Kentucky Class is entitled to injunctive relief to end Defendants' common and uniform practice of treating their exotic dancers as employees while misclassifying them as owners of an LLC.

460. Predominance and superiority (FED. R. CIV. P. 23(b)(3)) – Class certification of the Kentucky State Law claims is also appropriate under FED. R. CIV. P. 23(b)(3) because questions of law and fact common to the putative Kentucky Class predominate over any questions affecting only individual members

of the putative Kentucky Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendants' common and uniform policies and practices unlawfully fail to compensate the putative Kentucky Class. The damages suffered by individual members of the putative Kentucky Class are small compared to the expense and burden of individual prosecution of this litigation. In addition, class certification is superior because it will obviate the need for unduly duplicative litigation which might result in inconsistent judgments about Defendants' practices.

461. Notice (FED. R. CIV. P. 23(c)(2)(B)) – Plaintiffs intend to send notice to all members of the putative Kentucky Class to the extent provided by Rule 23.

462. Plaintiffs propose that the Kentucky Class be defined as:

> **All current and former exotic dancers who worked at any Spearmint Rhino location in the State of Kentucky from any time starting three years prior to February 3, 2017 until the date the case resolves.**

XI. MINNESOTA STATE LAW CLAIMS

463. Plaintiffs incorporate the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

A. Controlling Minnesota State Law and Allegations

464. The foregoing conduct, as alleged, constitutes breach of contract under Minnesota law.

465. The putative Minnesota Class Members entered into implied and/or express contracts with Defendants for the former to provide services to the latter. Defendants offered employment to the putative Minnesota Class Members, and the

latter accepted. The contract was supported by consideration – Defendants received the value of the work performed by the putative Minnesota Class Members and the putative Minnesota Class Members received money.

466. Defendants breached the contracts by failing to pay the putative Minnesota Class Members all wages owed for all hours worked for Defendants.

467. The putative Minnesota Class Members suffered damages resulting from Defendants' breach of contract. Such damages include lost wages, interest, and such relief as the Court deems just and proper.

468. As a result of Defendants' failure to pay wages earned and due, and its decision to withhold wages earned and due to the putative Minnesota Class Members, Defendants have breached – and continue to breach – their implied and/or express contracts with the putative Minnesota Class Members.

469. Plaintiffs, on behalf of the putative Minnesota Class Members, seek damages in the amount of the respective unpaid wages earned, interest, attorneys' fees and costs, and such other legal and equitable relief as the Court deems just and proper.

470. Furthermore, at all relevant times Defendants agreed to and were required to pay their exotic dancer employees for all hours they worked at a rate of no less than the higher of the prevailing federal or state minimum wage.

471. Defendants requested and/or knowingly accepted valuable services from the putative Minnesota Class Members, which benefited Defendants, and for which a reasonable person would have expected to receive pay. The putative

Minnesota Class Members provided their services and labor with the reasonable expectation of receiving compensation from Defendants.

472. Defendants, however, have failed to properly compensate the putative Minnesota Class Members for all of the valuable services and labor they performed for Defendants' benefit.

473. Defendants have been unjustly enriched at the expense of the putative Minnesota Class Members.

474. It would be unjust for Defendants to retain the benefit the putative Minnesota Class Members' efforts without compensation therefore.

475. Defendants are liable to the putative Minnesota Class Members for damages caused by Defendants' failure to compensate the putative Minnesota Class Members for all hours that they worked for Defendants' benefit.

B. Class Action Allegations

476. Plaintiffs bring claims for relief under Minnesota State Law, listed above, for violations of Minnesota wage and hour laws as a class action, pursuant to FED. R. CIV. P. 23(a), (b)(2), & (b)(3).

477. Numerosity (FED. R. CIV. P. 23(a)(1)) – the Minnesota Class is so numerous that joinder of all members is impracticable. On information and belief, during the relevant time period at least one hundred individuals worked for Defendants in the State of Minnesota.

478. Commonality (FED. R. CIV. P. 23(a)(2)) – Common questions of law and fact exist as to putative members of the Minnesota Class, including, but not limited to, the following:

a. Whether Defendants unlawfully failed to pay all wages owed in violation of Minnesota law;

b. Whether Defendants maintained a policy or practice of misclassifying the putative Minnesota Class as members of an LLC as opposed to employees; and

c. The proper measure of damages sustained by the putative Minnesota Class.

479. Typicality (FED. R. CIV. P. 23(a)(3)) – Plaintiffs' claims are typical of those of the putative Minnesota Class. Plaintiffs, like the Minnesota Class members, were subjected to Defendants' policy and practice of refusing to pay wages owed to its exotic dancer employees in violation of Minnesota law. Plaintiffs' job duties and claims are typical of those of the putative Minnesota Class.

480. Adequacy (FED. R. CIV. P. 23(a)(4)) – Plaintiffs will fairly and adequately represent and protect the interests of the putative Minnesota Class.

481. Adequacy of counsel (FED. R. CIV. P. 23(g)) – Plaintiffs have retained counsel competent and experienced in complex class actions, the FLSA, and state labor and employment litigation. Plaintiffs' counsel has litigated numerous class actions on behalf of nonexempt employees asserting off-the-clock claims under the FLSA and state law. Plaintiffs' counsel intends to commit the necessary resources to prosecute this action vigorously for the benefit of all of the putative Minnesota Class.

482. Class certification of the Minnesota State Law claims is appropriate pursuant to FED. R. CIV. P. 23(b)(2) because Defendants have acted or refused to act on grounds generally applicable to the putative Minnesota Class, making appropriate declaratory and injunctive relief with respect to the Minnesota Class. The Minnesota Class is entitled to injunctive relief to end Defendants' common and uniform practice of treating their exotic dancers as employees while misclassifying them as owners of an LLC.

483. Predominance and superiority (FED. R. CIV. P. 23(b)(3)) – Class certification of the Minnesota State Law claims is also appropriate under FED. R. CIV. P. 23(b)(3) because questions of law and fact common to the putative Minnesota Class predominate over any questions affecting only individual members of the putative Minnesota Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendants' common and uniform policies and practices unlawfully fail to compensate the putative Minnesota Class. The damages suffered by individual members of the putative Minnesota Class are small compared to the expense and burden of individual prosecution of this litigation. In addition, class certification is superior because it will obviate the need for unduly duplicative litigation which might result in inconsistent judgments about Defendants' practices.

484. Notice (FED. R. CIV. P. 23(c)(2)(B)) – Plaintiffs intend to send notice to all members of the putative Minnesota Class to the extent provided by Rule 23.

485. Plaintiffs propose that the Minnesota Class be defined as:

All current and former exotic dancers who worked at any Spearmint Rhino location in the State of Minnesota from any time starting three years prior to February 3, 2017 until the date the case resolves.

XII. OREGON STATE LAW CLAIMS

486. Plaintiffs incorporate the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

A. Controlling Oregon State Law and Allegations

487. The foregoing conduct, as alleged, constitutes breach of contract under Oregon law.

488. The putative Oregon Class Members entered into implied and/or express contracts with Defendants for the former to provide services to the latter. Defendants offered employment to the putative Oregon Class Members, and the latter accepted. The contract was supported by consideration – Defendants received the value of the work performed by the putative Oregon Class Members and the putative Oregon Class Members received money.

489. Defendants breached the contracts by failing to pay the putative Oregon Class Members all wages owed for all hours worked for Defendants.

490. The putative Oregon Class Members suffered damages resulting from Defendants' breach of contract. Such damages include lost wages, interest, and such relief as the Court deems just and proper.

491. As a result of Defendants' failure to pay wages earned and due, and its decision to withhold wages earned and due to the putative Oregon Class Members, Defendants have breached – and continue to breach – their implied and/or express contracts with the putative Oregon Class Members.

492. Plaintiffs, on behalf of the putative Oregon Class Members, seek damages in the amount of the respective unpaid wages earned, interest, attorneys' fees and costs, and such other legal and equitable relief as the Court deems just and proper.

493. Furthermore, at all relevant times Defendants agreed to and were required to pay their exotic dancer employees for all hours they worked at a rate of no less than the higher of the prevailing federal or state minimum wage.

494. Defendants requested and/or knowingly accepted valuable services from the putative Oregon Class Members, which benefited Defendants, and for which a reasonable person would have expected to receive pay. The putative Oregon Class Members provided their services and labor with the reasonable expectation of receiving compensation from Defendants.

495. Defendants, however, have failed to properly compensate the putative Oregon Class Members for all of the valuable services and labor they performed for Defendants' benefit.

496. Defendants have been unjustly enriched at the expense of the putative Oregon Class Members.

497. It would be unjust for Defendants to retain the benefit the putative Oregon Class Members' efforts without compensation therefore.

498. Defendants are liable to the putative Oregon Class Members for damages caused by Defendants' failure to compensate the putative Oregon Class Members for all hours that they worked for Defendants' benefit.

B. Class Action Allegations

499. Plaintiffs bring claims for relief under Oregon State Law, listed above, for violations of Oregon wage and hour laws as a class action, pursuant to FED. R. CIV. P. 23(a), (b)(2), & (b)(3).

500. Numerosity (FED. R. CIV. P. 23(a)(1)) – the Oregon Class is so numerous that joinder of all members is impracticable. On information and belief, during the relevant time period at least one hundred individuals worked for Defendants in the State of Oregon.

501. Commonality (FED. R. CIV. P. 23(a)(2)) – Common questions of law and fact exist as to putative members of the Oregon Class, including, but not limited to, the following:

a. Whether Defendants unlawfully failed to pay all wages owed in violation of Oregon law;

b. Whether Defendants maintained a policy or practice of misclassifying the putative Oregon Class as members of an LLC as opposed to employees; and

c. The proper measure of damages sustained by the putative Oregon Class.

502. Typicality (FED. R. CIV. P. 23(a)(3)) – Plaintiffs' claims are typical of those of the putative Oregon Class. Plaintiffs, like the Oregon Class members, were subjected to Defendants' policy and practice of refusing to pay wages owed to its exotic dancer employees in violation of Oregon law. Plaintiffs' job duties and claims are typical of those of the putative Oregon Class.

503. Adequacy (FED. R. CIV. P. 23(a)(4)) – Plaintiffs will fairly and adequately represent and protect the interests of the putative Oregon Class.

504. Adequacy of counsel (FED. R. CIV. P. 23(g)) – Plaintiffs have retained counsel competent and experienced in complex class actions, the FLSA, and state labor and employment litigation. Plaintiffs' counsel has litigated numerous class actions on behalf of nonexempt employees asserting off-the-clock claims under the FLSA and state law. Plaintiffs' counsel intends to commit the necessary resources to prosecute this action vigorously for the benefit of all of the putative Oregon Class.

505. Class certification of the Oregon State Law claims is appropriate pursuant to FED. R. CIV. P. 23(b)(2) because Defendants have acted or refused to act on grounds generally applicable to the putative Oregon Class, making appropriate declaratory and injunctive relief with respect to the Oregon Class. The Oregon Class is entitled to injunctive relief to end Defendants' common and uniform practice of treating their exotic dancers as employees while misclassifying them as owners of an LLC.

506. Predominance and superiority (FED. R. CIV. P. 23(b)(3)) – Class certification of the Oregon State Law claims is also appropriate under FED. R. CIV. P. 23(b)(3) because questions of law and fact common to the putative Oregon Class predominate over any questions affecting only individual members of the putative Oregon Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendants' common and uniform policies and practices unlawfully fail to compensate the

putative Oregon Class. The damages suffered by individual members of the putative Oregon Class are small compared to the expense and burden of individual prosecution of this litigation. In addition, class certification is superior because it will obviate the need for unduly duplicative litigation which might result in inconsistent judgments about Defendants' practices.

507. Notice (FED. R. CIV. P. 23(c)(2)(B)) – Plaintiffs intend to send notice to all members of the putative Oregon Class to the extent provided by Rule 23.

508. Plaintiffs propose that the Oregon Class be defined as:

> **All current and former exotic dancers who worked at any Spearmint Rhino location in the State of Oregon from any time starting three years prior to February 3, 2017 until the date the case resolves.**

XIII. TEXAS STATE LAW CLAIMS

509. Plaintiffs incorporate the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

A. Controlling Texas State Law and Allegations

510. The foregoing conduct, as alleged, constitutes breach of contract under Texas law.

511. The putative Texas Class Members entered into implied and/or express contracts with Defendants for the former to provide services to the latter. Defendants offered employment to the putative Texas Class Members, and the latter accepted. The contract was supported by consideration – Defendants received the value of the work performed by the Texas Class Members and the putative Texas Class Members received money.

512. Defendants breached the contracts by failing to pay the putative Texas Class Members all wages owed for all hours worked for Defendants.

513. The putative Texas Class Members suffered damages resulting from Defendants' breach of contract. Such damages include lost wages, interest, and such relief as the Court deems just and proper.

514. As a result of Defendants' failure to pay wages earned and due, and its decision to withhold wages earned and due to the putative Texas Class Members, Defendants have breached – and continue to breach – their implied and/or express contracts with the putative Texas Class Members.

515. Plaintiffs, on behalf of the putative Texas Class Members, seek damages in the amount of the respective unpaid wages earned, interest, attorneys' fees and costs, and such other legal and equitable relief as the Court deems just and proper.

516. Furthermore, at all relevant times Defendants agreed to and were required to pay their exotic dancer employees for all hours they worked at a rate of no less than the higher of the prevailing federal or state minimum wage.

517. Defendants requested and/or knowingly accepted valuable services from the putative Texas Class Members, which benefited Defendants, and for which a reasonable person would have expected to receive pay. The putative Texas Class Members provided their services and labor with the reasonable expectation of receiving compensation from Defendants.

518. Defendants, however, have failed to properly compensate the putative Texas Class Members for all of the valuable services and labor they performed for Defendants' benefit.

519. Defendants have been unjustly enriched at the expense of the putative Texas Class Members.

520. It would be unjust for Defendants to retain the benefit of the putative Texas Class Members' efforts without compensation therefore.

521. Defendants are liable to the putative Texas Class Members for damages caused by Defendants' failure to compensate Bedford and the putative Texas Class Members for all hours that they worked for Defendants' benefit.

B. Class Action Allegations

522. Plaintiffs bring claims for relief under Texas State Law, listed above, for violations of Texas wage and hour laws as a class action, pursuant to FED. R. CIV. P. 23(a), (b)(2), & (b)(3).

523. Numerosity (FED. R. CIV. P. 23(a)(1)) – the Texas Class is so numerous that joinder of all members is impracticable. On information and belief, during the relevant time period at least one hundred individuals worked for Defendants in the State of Texas.

524. Commonality (FED. R. CIV. P. 23(a)(2)) – Common questions of law and fact exist as to putative members of the Texas Class, including, but not limited to, the following:

a. Whether Defendants unlawfully failed to pay all wages owed in violation of Texas law;

b. Whether Defendants maintained a policy or practice of misclassifying the putative Texas Class as members of an LLC as opposed to employees; and

c. The proper measure of damages sustained by the putative Texas Class.

525. Typicality (FED. R. CIV. P. 23(a)(3)) – Plaintiffs' claims are typical of those of the putative Texas Class. Plaintiffs, like the Texas Class members, were subjected to Defendants' policy and practice of refusing to pay wages owed to its exotic dancer employees in violation of Texas law. Plaintiffs' job duties and claims are typical of those of the putative Texas Class.

526. Adequacy (FED. R. CIV. P. 23(a)(4)) – Plaintiffs will fairly and adequately represent and protect the interests of the putative Texas Class.

527. Adequacy of counsel (FED. R. CIV. P. 23(g)) – Plaintiffs have retained counsel competent and experienced in complex class actions, the FLSA, and state labor and employment litigation. Plaintiffs' counsel has litigated numerous class actions on behalf of nonexempt employees asserting off-the-clock claims under the FLSA and state law. Plaintiffs' counsel intends to commit the necessary resources to prosecute this action vigorously for the benefit of all of the putative Texas Class.

528. Class certification of the Texas State Law claims is appropriate pursuant to FED. R. CIV. P. 23(b)(2) because Defendants have acted or refused to act on grounds generally applicable to the putative Texas Class, making appropriate declaratory and injunctive relief with respect to the putative Texas Class. The Texas Class is entitled to injunctive relief to end Defendants' common

and uniform practice of treating their exotic dancers as employees while misclassifying them as owners of an LLC.

529. Predominance and superiority (FED. R. CIV. P. 23(b)(3)) – Class certification of the Texas State Law claims is also appropriate under FED. R. CIV. P. 23(b)(3) because questions of law and fact common to the putative Texas Class predominate over any questions affecting only individual members of the putative Texas Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendants' common and uniform policies and practices unlawfully fail to compensate the putative Texas Class. The damages suffered by individual members of the putative Texas Class are small compared to the expense and burden of individual prosecution of this litigation. In addition, class certification is superior because it will obviate the need for unduly duplicative litigation which might result in inconsistent judgments about Defendants' practices.

530. Notice (FED. R. CIV. P. 23(c)(2)(B)) – Plaintiffs intend to send notice to all members of the putative Texas Class to the extent provided by Rule 23.

531. Plaintiffs propose that the Texas Class be defined as:

> **All current and former exotic dancers who worked at any Spearmint Rhino location in the State of Texas from any time starting three years prior to February 3, 2017 until the date the case resolves.**

XIV. CAUSES OF ACTION

1. First Claim for Relief – Violation of the FLSA, Failure to Pay Statutory Minimum Wage and Overtime

532. Plaintiffs incorporate the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

533. The foregoing conduct, as alleged, violated the FLSA.

534. Although misclassified as so-called members of an LLC, Plaintiffs and the putative Collective Action are nonexempt employees entitled to be paid overtime compensation for all overtime hours worked, as defined above. *See* 29 U.S.C. § 203(e)(1).

535. Defendants were, at all times relevant to this claim for relief, joint employers of Plaintiffs and the putative Collective Action. *See* 29 U.S.C. § 203(d).

536. Defendants were, and are, required to pay their employees, Plaintiffs and the putative Collective Action, at least the minimum wage for all hours worked under forty in a given workweek. 29 U.S.C. § 206.

537. Defendants failed to pay Plaintiffs and the putative Collective Action the federally-mandated minimum wage for all hours worked under forty in a given workweek. Defendants did not pay Plaintiffs and Collective Action at all.

538. Defendants were, and are, required to pay their employees, Plaintiffs and the putative Collective Action, overtime premiums in an amount of one and one half times their regular rate of pay for all hours worked over forty hours in a given workweek. 29 U.S.C. § 207.

539. Defendants failed to pay Plaintiffs and the putative Collective Action their federally mandated overtime wages for all hours worked over 40 in a given workweek.

540. Defendant also unlawfully retained certain tips paid to Plaintiffs and the putative Collective Action. Those tips were the sole property of Plaintiffs and the putative Collective Action, and were not made part of Defendants' gross receipts. 29 C.F.R. §§ 531.52, 531.53, & 531.55.

541. Furthermore, no tip credit applies to reduce or offset Defendants' liability under the FLSA, because Defendants did not inform Plaintiffs and the putative Collective Action that they would be applying a tip credit to satisfy a portion of the statutory minimum wage, nor did Plaintiffs and the putative Collective Action retain all tips except those included in a tipping pool among employees who customarily receive tips. 29 U.S.C. § 203(m).

542. Accordingly, Plaintiffs and the putative Collective Action are entitled to the full statutory minimum wages set forth in 29 U.S.C. § 206 & 207.

543. Defendants' conduct was willful and done to avoid paying minimum wages and overtime. 29 U.S.C. § 255(a). Therefore, Plaintiffs and the putative Collective Action are entitled to a three (3) year statute of limitations.

544. Plaintiffs seek all damages to which they are entitled under the FLSA, including their back minimum wages, back overtime wages, liquidated damages, attorneys' fees and costs, post-judgment interest, and specifically plead recovery for the three (3) year period preceding February 3, 2017 through its resolution.

2. Second Claim for Relief – Violations of California Unfair Competition Law, Cal. Bus. & Prof. Code, §§ 17200-17210, Brought by Byrne on Behalf of Herself and the California Class

545. Byrne incorporates the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

546. Although misclassified as so-called members of an LLC, Byrne and the putative California Class are nonexempt employees entitled to be paid overtime compensation for all overtime hours worked, as defined above. *See* Cal. Labor Code § 350(b).

547. Relevant Defendants were, at all times relevant to this claim for relief, joint employers of Byrne and the putative California Class pursuant to California law and all other relevant law. *See* Cal. Labor Code §350(a).

548. The foregoing conduct, as alleged, violates the California Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code §§ 17200-17210. The UCL prohibits unfair competition by prohibiting, *inter alia*, any unlawful or unfair business acts or practices.

549. Beginning at some point after the *Trauth* case,[2] which was resolved more than four years ago, Defendants committed and continue to commit, acts of unfair competition, as defined by the UCL, by, among other things, engaging in the acts and practices described herein. Defendants' conduct as herein alleged has

[2] Amended Order Granting Plaintiffs' Renewed Motion for Final Approval of Class Action Settlement (Doc. No. 317) and Granting in Part Plaintiffs' Renewed Motion for Attorneys' Fees (Doc. No. 311) was signed on November 6, 2012. *See Trauth v. Spearmint Rhino Cos. Worldwide, Inc.*, No. EDCV 09-01316-VAP (DTBx) 2012 WL 12893448 (Nov. 7, 2012).

injured Byrne and the putative California Class by wrongfully denying them earned wages, and therefore was substantially injurious to Byrne and the putative California Class.

550. Defendants engaged in unfair competition in violation of the UCL by violating, *inter alia*, each of the following laws. Each of these violations constitutes an independent and separate violation of the UCL:

a. The Fair Labor Standards Act, 29 U.S.C. §§ 201-219, and the Portal-to-Portal Act, 29 U.S.C. §§ 251-262;

b. California Labor Code § 1194, which provides in pertinent part:

> Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit;

c. California Labor Code § 1182.12, which provides in pertinent part:

> Notwithstanding any other provision of this part, on and after July 1, 2014, the minimum wage for all industries shall be not less than nine dollars ($9) per hour, and on and after January 1, 2016, the minimum wage for all industries shall be not less than ten dollars ($10) per hour;

d. California Labor Code § 1182.13 and MW-2017, setting minimum wage for 2017 at $10.50 for employers with 26 or more employees;

e. California Labor Code §§ 201-203, 226, 226.7, and 512;

f. California Labor Code § 1174;

g. California Labor Code § 510, which provides in relevant part:

> Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee

and;

h. California Labor Code § 351.

551. Defendants' course of conduct, acts, and practices in violation of the California laws mentioned in the above paragraph constitute a separate and independent violation of the UCL. Defendants' conduct described herein violates the policy or spirit of such laws or otherwise significantly threatens or harms competition.

552. The unlawful and unfair business practices and acts of Defendants, described above, have injured Byrne and the putative California Class in that they were wrongfully denied payment of earned wages.

553. Byrne, on behalf of herself and the putative California Class, seeks restitution in the amount of the respective unpaid wages earned and due at a rate of not less than the minimum wage for all hours worked under 40 in a given workweek or under eight on a given day, and overtime wages earned and due at a rate not less than one and one-half times the regular rate of pay for work performed in excess of forty hours in a workweek, or eight hours in a day, or for the first eight

hours of work performed on the seventh consecutive day of work, and double the regular rate of pay for work performed in excess of twelve hours per day and for all work over eight hours on the seventh consecutive day of work in a workweek.

554. Byrne seeks recovery of attorneys' fees and costs of this action to be paid by Defendants, as provided by the UCL and California Labor Code §§ 218, 218.5, & 1194.

3. Third Claim for Relief – Minimum Wage Violations, Cal. Wage Order No. MW-2017; Cal. Labor Code §§ 1182.11, 1182.12, & 1194, Brought by Byrne on Behalf of Herself and the California Class

555. Byrne incorporates the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

556. Although misclassified as so-called members of an LLC, Byrne and the putative California Class are nonexempt employees entitled to be paid overtime compensation for all overtime hours worked, as defined above. *See* Cal. Labor Code § 350(b).

557. Relevant Defendants were, at all times relevant to this claim for relief, joint employers of Byrne and the putative California Class pursuant to California law and all other relevant law. *See* Cal. Labor Code §350(a).

558. The California Labor Code requires that all employees be paid minimum wages by their employers. The current California Minimum Wage is $10.50. Cal. Labor Code. § 1182.12, MW-2017. Before January 1, 2017, the California Minimum Wage was $10.00; before January 1, 2016, the California

Minimum Wage was $9.00; and before July 1, 2014, the California Minimum Wage was $8.00.[3]

559. The California Minimum Wage is and has, at all times relevant to this lawsuit, always been higher than the minimum wage required by the FLSA. Therefore, the higher California Minimum Wage applies to Byrne and all members of the putative California Class, defined below. 29 U.S.C. § 218(a).

560. Defendants' policy and practice of classifying Byrne and the putative California Class as so-called members of an LLC while treating them otherwise as employees resulted in a violation of these minimum wage provisions.

561. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Byrne and the putative California Class have sustained damages, including loss of earnings for hours worked under forty in a workweek, or under eight hours per day ("straight time") during the period relevant to this lawsuit in an amount to be established at trial, prejudgment interest, liquidated damages in an amount equal to the back wages[4] and costs and attorneys' fees, pursuant to statute and other applicable law.

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[3] *See generally*, State of Cal. Dep't of Indus. Relations, *History of California Minimum Wage* https://www.dir.ca.gov/iwc/MinimumWageHistory.htm (last accessed March 14, 2017).

[4] *See* Cal. Labor Code § 1194.2 (authorizing liquidated damages for an employer's failure to pay minimum wages).

4. Fourth Claim for Relief – Overtime Violations, Cal. Wage Order No. 10-2001; Cal. Labor Code §§ 510, 1194, Brought by Byrne on Behalf of Herself and the California Class

562. Byrne incorporates the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

563. Although misclassified as so-called members of an LLC, Plaintiffs and the putative California Class are nonexempt employees entitled to be paid overtime compensation for all overtime hours worked, as defined above. *See* Cal. Labor Code § 350(b).

564. Relevant Defendants were, at all times relevant to this claim for relief, joint employers of Byrne and the putative California Class pursuant to California law and all other relevant law. *See* Cal. Labor Code §350(a).

565. California law requires an employer to pay overtime compensation to all nonexempt employees at a rate of overtime compensation at a rate of one and one-half times the regular rate of pay for all hours worked over forty per week, or over eight per day, or for the first eight hours of work on the seventh consecutive day of work in a workweek, and at a rate of twice the regular rate of pay for all hours worked in excess of 12 hours in one day, and for any hours worked in excess of eight hours on the seventh consecutive day of work in a workweek. Cal. Labor Code § 510.

566. California wage and hour laws provide greater protections for workers than the FLSA. Therefore, California wage and hour laws apply to Byrne and all

members of the putative California Class, defined below, where they provide greater protections to workers. 29 U.S.C. § 218(a).

567. Throughout the time period relevant to this claim for relief, Byrne and the putative California Class worked in excess of eight hours in a workday and/or forty hours in a workweek. Byrne and the putative California Class also sometimes worked in excess of 12 hours in one day and for over eight hours on a seventh consecutive day of work.

568. Defendants' policy and practice of classifying Byrne and the putative California Class as so-called members of an LLC while treating them otherwise as employees resulted in a violation of these overtime wage provisions.

569. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Byrne and the putative California Class have sustained damages, including loss of earnings for hours of overtime worked on behalf of Defendants in an amount to be established at trial, prejudgment interest, and costs and attorneys' fees, pursuant to statute and other applicable law.

5. Fifth Claim for Relief – California Meal and Rest Provisions, Cal. Wage Order No. 10-2001; Cal. Labor Code §§ 218.5, 226.7, & 512, Brought by Byrne on Behalf of Herself and the California Class

570. Byrne incorporates the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

571. Although misclassified as so-called members of an LLC, Byrne and the putative California Class are nonexempt employees entitled to be paid overtime

compensation for all overtime hours worked, as defined above. *See* Cal. Labor Code § 350(b).

572. Relevant Defendants were, at all times relevant to this claim for relief, joint employers of Byrne and the putative California Class pursuant to California law and all other relevant law. *See* Cal. Labor Code §350(a).

573. Byrne and the putative California Class routinely work and have worked in excess of five-hour shifts without being afforded at least a half-hour meal break in which they were relieved of all duty, and more than ten-hour shifts without being afforded a second half-hour meal break in which they were relieved of all duty, as required by California Labor Code §§ 226.7 & 512 and Wage Order No. 10-2001, § 11(A) & (B).

574. In addition, Byrne and the putative California Class regularly work and have worked without being afforded at least one ten-minute rest break, in which they were relieved of all duty, per four hours of work performed or major fraction thereof, as required by California Labor Code § 226.7 and Wage Order No. 10-2001, § 12.

575. As a result of Defendants' failure to afford proper meal periods, they are liable to Byrne and the putative California Class for one hour of additional pay at the regular rate of compensation for each workday that the proper meal periods were not provided, pursuant to California Labor Code § 226.7 and Wage Order No. 10-2001, § 11(D).

576. As a result of Defendants' failure to afford proper rest periods, they are liable to Byrne and the putative California Class for one hour of additional pay

at the regular rate of compensation for each workday that the proper rest periods were not provided, pursuant to § 226.7 and Wage Order No. 10-2001, § 12(B).

6. Sixth Claim for Relief – California Record-Keeping Provisions, Cal. Wage Order No. 10-2001; Cal. Labor Code §§ 226, 1174, &1174.5, Brought by Byrne on Behalf of Herself and the California Class

577. Byrne incorporates the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

578. Although misclassified as so-called members of an LLC, Byrne and the putative California Class are nonexempt employees entitled to be paid overtime compensation for all overtime hours worked, as defined above. *See* Cal. Labor Code § 350(b).

579. Relevant Defendants were, at all times relevant to this claim for relief, joint employers of Byrne and the putative California Class pursuant to California law and all other relevant law. *See* Cal. Labor Code §350(a).

580. Defendants knowingly and intentionally failed to provide timely, accurate, itemized wage statements including, *inter* alia, hours worked, to Byrne and the putative California Class in accordance with California Labor Code § 226(a) and the applicable IWC Wage Order. Such failure caused injury to Byrne and the putative California Class by, among other things, impeding them from knowing the amount of wages to which they were and are entitled. On information and belief, at all times relevant herein, Defendants have failed to maintain records of hours worked by Byrne and the putative California Class as required under California Labor Code § 1174(d).

581. Byrne and the putative California Class are entitled to and seek injunctive relief requiring Defendants to comply with Labor Code §§ 226(e) &

1174(d), and further seek the amount provided under Labor Code §§ 226(e) & 1174.5, including the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period.

7. Seventh Claim for Relief – California Wage Payment Provisions, Cal. Labor Code §§ 201, 202, &203, Brought by Byrne on Behalf of Herself and the California Class

582. Byrne incorporates the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

583. Although misclassified as so-called members of an LLC, Byrne and the putative California Class are nonexempt employees entitled to be paid overtime compensation for all overtime hours worked, as defined above. *See* Cal. Labor Code § 350(b).

584. Relevant Defendants were, at all times relevant to this claim for relief, joint employers of Byrne and the putative California Class pursuant to California law and all other relevant law. *See* Cal. Labor Code §350(a).

585. California Labor Code §§ 201 and 202 require Defendants to pay their employees all wages due within the time specified by law. California Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must, as a penalty, continue to pay the subject employees' wages until the back wages are paid in full or an action is commenced, up to a maximum of thirty days of wages.

586. Byrne and the putative California Class members who ceased employment with Defendants are entitled to unpaid compensation and other monies, as alleged above, but to date have not received such compensation.

587. More than thirty days have passed since Byrne and certain putative California Class members left Defendants' employ.

588. As a consequence of Defendants' willful conduct in not paying compensation for all hours worked, Byrne and the putative California Class members whose employment ended during the class period are entitled to thirty days' wages under Labor Code § 203, together with interest thereon and attorneys' fees and costs.

8. Eighth Claim for Relief – California PAGA Claims Cal. Wage Order No. 10-2001; Cal. Labor Code §§ 2698-2699.5, Brought by Byrne on Behalf of Herself and the California Class

589. Byrne incorporates the preceding paragraphs by reference as if set forth fully in this section, unless inconsistent.

590. Although misclassified as so-called members of an LLC, Byrne and the putative California Class are nonexempt employees entitled to be paid overtime compensation for all overtime hours worked, as defined above. *See* Cal. Labor Code § 350(b).

591. Relevant Defendants were, at all times relevant to this claim for relief, joint employers of Byrne and the putative California Class pursuant to California law and all other relevant law. *See* Cal. Labor Code §350(a).

592. Under the California Private Attorneys General Act ("PAGA") of 2004, Cal. Labor Code §§ 2698-2699.5, an aggrieved employee, on behalf of himself or herself and other current or former employees as well as the general public, may bring a representative action as a private attorney general to recover penalties for an employer's violations of the California Labor Code and IWC Wage Orders. These civil penalties are in addition to any other relief available under the California Labor Code, and must be allocated 75% to California's Labor and Workforce Development Agency and 25% to the aggrieved employee. Cal. Labor Code § 2699.

593. Pursuant to Cal. Labor Code § 1198, Defendants' failure to pay proper compensation to Byrne and the putative California Class, failure to keep and furnish them with records of hours worked, failure to provide them with meal and rest breaks, misappropriation of tips, and failure to pay them all wages due immediately upon discharge and within the time required by law after their employment ended is unlawful and constitutes violations of the California Labor Code, each actionable under PAGA.

594. Byrne alleges, on behalf of herself and the putative California Class, as well as the general public, that Defendants have violated the following provisions of the California Labor Code and the following provisions of California Wage Orders that are actionable through the Cal. Labor Code and PAGA, as previously alleged herein: Cal. Wage Order No. 10-2001, Cal. Labor Code §§ 201-203, 510, 512, 1174, 1174.5, 1182.11, 1182.12, 1194. Each of these violations entitles Byrne, as a private attorney general, to recover the applicable statutory

civil penalties on her own behalf, on behalf of all aggrieved employees, and on behalf of the general public.

595. Cal. Labor Code § 2699(a), which is part of PAGA, provides in pertinent part:

> Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.

596. Cal. Labor Code § 2699(f), which is part of PAGA, provides in pertinent part:

597. Byrne is entitled to civil penalties to be paid by Defendants and allocated as PAGA requires, pursuant to Cal. Labor Code § 2699(a), for Defendants' violations of the California Labor Code and relevant IWC Wage Orders for which violations a civil penalty is already specifically provided by law. Further, Byrne is entitled to civil penalties to be paid by Defendants and allocated as PAGA requires, pursuant to § 2699(f) for Defendants' violations of the California Labor Code and IWC Wage Orders for which violations a civil penalty is not already specifically provided.

598. On March 21, 2017, Plaintiff Lauren Byrne provided written notice by certified mail and electronic submission to the California Labor & Workforce Development Agency ("LWDA") and to Defendants through their respective registered agents of the legal claims and theories of this case contemporaneously

with the filing of the Complaint in this action. As of May 25, 2017, the LWDA had not notified Byrne whether it intended to investigate the allegations described in her March 21, 2017, written notice. Pursuant to Cal. Labor Code § 2699.3(a)(2)(A), "[u]pon receipt of [notice to aggrieved employee that LWDA does not intend to investigate alleged violation] or if no notice is provided within 65 calendar days of the postmark date of the notice given . . . the aggrieved employee may commence a civil action pursuant to Section 2699." Accordingly, Byrne has exhausted her administrative remedies and may now assert this claim pursuant to Cal. Labor Code § 2699.3(a)(2).

599. Under PAGA, Byrne and the State of California are entitled to recover the maximum civil penalties permitted by law for the violations of the California Labor Code and Wage Order No. 5 that are alleged in this Complaint.

9. Ninth Claim for Relief – State Law Breach of Contract, Brought by Plaintiffs on Behalf of Themselves and the Florida, Idaho, Iowa, Kentucky, Minnesota, Oregon, and Texas Classes

600. Plaintiffs, on behalf of themselves and all members of the Florida, Idaho, Iowa, Kentucky, Minnesota, Oregon, and Texas Classes (the "State Law Classes"), reallege and incorporate by reference the preceding paragraphs as if they were set forth again herein.

601. The State Law Class Members entered into implied and/or express contracts with Defendants for the former to provide services to the latter. Defendants offered employment to putative State Law Class Members, and the latter accepted. The contract was supported by consideration – Defendants received

the value of the work performed by Plaintiffs and putative State Law Class Members and the putative State Law Class Members received money.

602. Defendants breached the contracts by failing to pay Plaintiffs and the putative State Law Class Members all wages owed for all hours worked for Defendants.

603. Plaintiffs and the putative State Law Class Members suffered damages resulting from Defendants' breach of contract. Such damages include lost wages, interest, and such relief as the Court deems just and proper.

604. As a result of Defendants' failure to pay wages earned and due, and its decision to withhold wages earned and due to Plaintiffs and the putative State Law Class Members, Defendants have breached – and continue to breach – their implied and/or express contracts with Plaintiffs and the putative State Law Class Members.

605. Plaintiffs, on behalf of themselves and the putative State Law Class Members, seeks damages in the amount of the respective unpaid wages earned, interest, attorneys' fees and costs, and such other legal and equitable relief as the Court deems just and proper.

10. Tenth Claim for Relief – State Law Quantum Meruit/Unjust Enrichment, Brought by Plaintiffs on Behalf of Themselves and the Florida, Idaho, Iowa, Kentucky, Minnesota, Oregon, and Texas Classes

606. Plaintiffs, on behalf of themselves and all members of the Florida, Idaho, Iowa, Kentucky, Minnesota, Oregon, and Texas Classes (the "State Law

Classes"), reallege and incorporate by reference the preceding paragraphs as if they were set forth again herein.

607. At all relevant times Defendants agreed to and were required to pay their exotic dancer employees for all hours they worked at a rate of no less than the higher of the prevailing federal or state minimum wage.

608. Defendants requested and/or knowingly accepted valuable services from Plaintiffs and the putative State Law Class Members, which benefited Defendants, and for which a reasonable person would have expected to receive pay. Plaintiffs and the putative State Law Class Members provided their services and labor with the reasonable expectation of receiving compensation from Defendants.

609. Defendants, however, have failed to properly compensate Plaintiffs and the putative State Law Class Members for all of the valuable services and labor they performed for Defendants' benefit.

610. Defendants have been unjustly enriched at the expense of Plaintiffs and the putative State Law Class Members.

611. It would be unjust for Defendants to retain the benefit of Plaintiffs and the putative State Law Class Members' efforts without compensation therefore.

612. Defendants are liable to Plaintiffs and the putative State Law Class Members for damages caused by Defendants' failure to compensate Plaintiffs and the putative State Law Class Members for all hours that they worked for Defendants' benefit.

XV. JURY DEMAND

613. Plaintiffs hereby demand a jury trial on all causes of action and claims for relief with respect to which they and the putative Collective and Class Action Members have a right to jury trial.

XVI. DAMAGES AND PRAYER

614. Plaintiffs asks that the Court issue summonses for Defendants to appear and answer, and that Plaintiffs and the Collective and Class Action Members be awarded a judgment against Defendants or order(s) from the Court for the following:

a. An order conditionally certifying this case as an FLSA collective action and requiring notice to be issued to all putative Collective Action Members;

b. An order certifying that the California, Florida, Idaho, Iowa, Kentucky, Minnesota, Oregon, and Texas State Law Claims may be maintained as (a) class action(s) pursuant to Federal Rule of Civil Procedure 23;

c. Designation of attorneys Todd Slobin and Ricardo J. Prieto, of Shellist Lazarz Slobin, LLP, and Melinda Arbuckle, of Baron & Budd, P.C., as Class Counsel for the California, Florida, Idaho, Iowa, Kentucky, Minnesota, Oregon, and Texas Class Action Members;

d. A declaratory judgment that the practices complained of herein are unlawful under the FLSA and California, Florida, Idaho, Iowa, Kentucky, Minnesota, Oregon, and Texas State law;

e. An injunction against Defendants and their officers, agents, successors, employees, representatives, and any and all persons acting in concert with Defendants, as provided by law, from engaging in each of the unlawful practices, policies, and patterns set forth herein;

f. An award of damages including all unpaid wages at the FLSA or state-mandated minimum wage rate, overtime compensation for all hours worked over forty in a workweek or, in California, over eight hours in a day and for the first eight hours worked on the seventh consecutive day of work in a workweek at the time rate for hours worked over 12 in a given day and for all hours over eight worked on the seventh consecutive day of work in a workweek, and all misappropriated tips, liquidated damages, and restitution to be paid by Spearmint Rhino;

g. Appropriate statutory penalties;

h. Costs of action incurred herein, including expert fees;

i. Attorneys' fees, including fees pursuant to 29 U.S.C. § 216;

j. Pre-judgment and post-judgment interest, as provided by law;

k. Such other injunctive and equitable relief as the Court may deem just and proper.

DATED: _____, 20___.

Respectfully submitted,

By: s/Melinda Arbuckle
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EXHIBIT 2

Class Notice

NOTICE OF PROPOSED WAGE/HOUR CLASS AND COLLECTIVE ACTION SETTLEMENT, FAIRNESS HEARING, AND CLAIMS PROCEDURE

Lauren Byrne v. Santa Barbara Hospitality, Inc., et al.
Case No. 5:17-CV-00527 JGB (KKx)
Jenetta L. Bracy v. DG Hospitality Van Nuys, LLC, et al.
Case No. 5:17-CV-00854 JGB (KKx)
United States District Court for the Central District of California

ATTENTION: You must timely complete, sign and return the enclosed Claim/Credit Benefit Form ("Claim/Credit Benefit Form") and W-9 Form (the "Class Notice Documents") to Kurtzman Carson Consultants, LLC (KCC, LLC), the Settlement Administrator, so that it is post-marked on or before _____, 2017 if you are to receive Settlement proceeds or Overhead Credit Benefits in Lieu of Cash. If you fail to file a valid and timely claim, you will not receive any Cash or Credit Benefits in Lieu of Cash under the Settlement.

I. DESCRIPTION OF THE ACTION

Plaintiffs contend that entertainers performing for customers at the adult clubs doing business as Spearmint Rhino, Blue Zebra, and Dames N Games, in the states of California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon and Texas owned by City of Industry Hospitality Venture, Inc. (Spearmint Rhino – City of Industry, CA), Farmdale Hospitality Services, Inc. (Blue Zebra – North Hollywood, CA), High Expectations Hospitality, LLC (Spearmint Rhino – Dallas, TX), Inland Restaurant Venture I, Inc. (Spearmint Rhino – Van Nuys, CA), Kentucky Hospitality Venture, LLC (Spearmint Rhino – Lexington, KY), L.C.M., LLC (Spearmint Rhino – Boise Idaho), Midnight Sun Enterprises, Inc. (Spearmint Rhino – Torrance, CA), Nitelife, Inc. (Spearmint Rhino – Minneapolis, MN), Olympic Avenue Venture, Inc. (Spearmint Rhino – Los Angeles, CA), The Oxnard Hospitality Services, Inc. (Spearmint Rhino – Oxnard, CA), Rialto Pockets, Incorporated (Spearmint Rhino – Rialto, CA), Rouge Gentlemen's Club, Inc. (Dames N Games – Van Nuys, CA), Santa Barbara Hospitality Services, Inc. (Spearmint Rhino – Santa Barbara, CA), Santa Maria Restaurant Enterprises, Inc. (Spearmint Rhino – Santa Maria, CA), Sarie's Lounge, LLC (Spearmint Rhino – Omaha, NE), Washington Management, LLC (Dames N Games – Los Angeles, CA) Wild Orchid, Inc. (Spearmint Rhino – Portland, OR), World Class Venues, LLC (Spearmint Rhino – Omaha, NE), (the "Clubs") should have been treated as employees rather than as owners (i.e., members of limited liability companies), and as a result were entitled to but did not receive adequate compensation and benefits in exchange for the services they provided to the Club(s). Plaintiffs further contend that Defendants failed to pay overtime, failed to provide meal and rest periods, failed to provide accurate, itemized wage statements, that Defendants were engaged in unlawful tip-sharing arrangements with the entertainers and that Defendants violated the Private Attorney General Act ("PAGA") (Cal. Labor Code §§ 2699, et seq.). Defendants in the Action dispute and deny any and all claims asserted in the Action. Defendants deny that they engaged in any wrongdoing, and deny that they are liable to the Class Members in any way.

Intervenors are current entertainers who have declined employment status and entered into individual LLC agreements to become Owners and/or LLC members to perform at any of the above-referenced Clubs. Intervenors seek an order and/or injunctive relief preserving their ownership status and their rights to continue to perform at Clubs pursuant to the individual LLC agreements as Owners and/or LLC Members. Intervenors seek to remain classified as Owners and/or LLC Members and not to be classified as employees.

The United States District Court for the Central District of California has *not* ruled on the merits of the foregoing claims.

II. PRELIMINARY APPROVAL AND CERTIFICATION OF SUBCLASSES

On _____, 2017, the United States District Court for the Central District of California granted preliminary approval of the proposed Settlement of this Action. The following Settlement Class has been certified: all individuals, who performed as an entertainer at any of the Clubs and falls within at least one of the following subclasses:

(1) "California Settlement Class": the individuals who worked as entertainers and who have provided nude, semi-nude and/or bikini entertainment for customers at one or more of the Clubs owned by the following entities at some point during the period of time from February 3, 2013 up to and including the entry of the Preliminary Approval Order: City of Industry Hospitality Venture, Inc. (Spearmint Rhino – City of Industry, CA); Farmdale Hospitality Services, Inc. (Blue Zebra – North Hollywood, CA); Inland Restaurant Venture I, Inc. (Spearmint Rhino – Van Nuys, CA); Midnight Sun Enterprises, Inc. (Spearmint Rhino, Torrance, CA); Olympic Avenue Venture, Inc. (Spearmint Rhino, Los Angeles, CA); The Oxnard Hospitality Services, Inc. (Spearmint Rhino, Oxnard, CA); Rialto Pockets, Incorporated (Spearmint Rhino, Rialto, CA); Rouge Gentlemen's Club, Inc. (Dames N Games, Van Nuys, CA); Santa Barbara Hospitality Services, Inc. (Spearmint Rhino, Santa Barbara, CA); Santa Maria Restaurant Enterprises, Inc. (Spearmint Rhino, Santa Maria, CA); and Washington Management, LLC (Dames N Games, Los Angeles, CA).

(2) "Florida Settlement Class": the individuals who performed as entertainers and who have provided nude, semi-nude, and/or bikini entertainment for customers at the Club owned by WPB Hospitality, LLC from February 3, 2012 to the entry of the Preliminary Approval Order.

(3) "Idaho Settlement Class": the individuals who performed as entertainers and who have provided nude, semi-nude, and/or bikini entertainment for customers at the Club owned by L.C.M., LLC from February 3, 2014 to the entry of the Preliminary Approval Order.

(4) "Iowa Settlement Class": the individuals who performed as entertainers and who have provided nude, semi-nude, and/or bikini entertainment for customers at the Club owned by Sarie's Lounge, LLC and World Class Ventures, LLC from February 3, 2014 to the entry of the Preliminary Approval Order.

(5) "Kentucky Settlement Class": the individuals who performed as entertainers and who have provided nude, semi-nude, and/or bikini entertainment for customers at the Club

owned by Kentucky Hospitality Venture, LLC from February 3, 2014 to the entry of the Preliminary Approval Order.

(6) "Minnesota Settlement Class": the individuals who performed as entertainers and who have provided nude, semi-nude, and/or bikini entertainment for customers at the Club owned by Nitelife, Inc. from February 3, 2014 to the entry of the Preliminary Approval Order.

(7) "Oregon Settlement Class": the individuals who performed as entertainers and who have provided nude, semi-nude, and/or bikini entertainment for customers at the Club owned by Wild Orchid, Inc. from February 3, 2014 to the entry of the Preliminary Approval Order.

(8) "Texas Settlement Class": the individuals who performed as entertainers and who have provided nude, semi-nude, and/or bikini entertainment for customers at the Club owned by High Expectations Hospitality Venture, LLC from May 3, 2014 to the entry of the Preliminary Approval Order.

(9) "FLSA Settlement Class": the individuals who are members of the California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon and Texas Settlement Classes who elect to participate in the Settlement and timely submit a Valid Claim/Credit Benefit Form.

(10) "Intervenor Class": the individuals who currently perform as members of limited liability companies at any Existing Clubs and wish to perform and remain classified as Owners or LLC Members and not as employees.

According to the Clubs' records, you fall within one or more of the subclasses.

III. SUMMARY OF THE SETTLEMENT AGREEMENT

A. The Settlement provides for a Gross Cash Settlement Amount of up to five million five hundred thousand dollars ($5,500,000); and a Credit Benefit Settlement Amount up to three million dollars ($3,000,000). Class Members may also elect to receive Credit Benefits in Lieu of Cash in a sum equal to two (2) times the cash amount. Said election, however, shall not reduce the amount of Credit Benefits available when elected in lieu of cash.

B. The Gross Cash Settlement Amount shall be used first to pay the following, as directed by the Court:

1. The attorneys' fees and costs of Class Counsel, not to exceed 25% percent of the combined value to the Gross Cash Settlement Amount and the Credit Benefit Settlement Amount plus reasonable costs and expenses, not to exceed $2,144,646 ($2,125,000 in fees and $19,646.86 in costs);

2. Incentive fees to the Class Representatives – Lauren Byrne, Jenetta L. Bracy, Bambie Bedford, and Jennifer Disla. Class Counsel may apply to the Court for an award of incentive fees up to two thousand five hundred ($2,500) to each Class Representative.

3. The Administrative Costs of Settlement, including Class Notice, internet notice, claims administration, and any fees and costs incurred or charged by the Settlement Administrator, in connection with the execution of its duties under the Agreement, in an amount not to exceed Eighty-Five Thousand Dollars $85,000.

4. A total of One Hundred Thousand Dollars and Zero Cents ($100,000.00) shall be allocated to PAGA (Cal Labor Code § 2699). Seventy-five (75) percent of that amount or Seventy Five Thousand Dollars and Zero Cents ($75,000.00) shall be paid by the following entities to the LWDA for penalties under the Private Attorneys General Act: City of Industry Hospitality Venture, Inc., Farmdale Hospitality Services, Inc., Inland Restaurant Venture I, Inc., Midnight Sun Enterprises, Inc., Olympic Avenue Venture, Inc., The Oxnard Hospitality Services, Inc., Rialto Pockets, Incorporated, Rouge Gentlemen's Club, Inc., Santa Barbara Hospitality Services, Inc., and Santa Maria Restaurant Enterprises, Inc. The Seventy Five Thousand Dollars and Zero Cents ($75,000.00) shall be deducted from the portion of the Net Settlement Fund or the pool allocated for payment to the California Settlement Class. The Twenty Five Thousand Dollars and Zero Cents ($25,000.00) remaining of the amount allocated to the Labor Code Section 2699 claim shall remain a part of the pool allocated to the payment of claims for the California Settlement Classes.

C. The amount remaining after payment of the amounts referred to above in paragraph B is the Net Cash Settlement Amount from which the individual Members of the Settlement Classes will be paid. This amount will result in an estimated payment to eligible class members of between $6.90 and $11.93 per dance day. This amount is an estimate only, and various factors may lead to this number being different at the time of final approval of the settlement, e.g., which pool the Class Member is a member of, the number of dance days being used to calculate the amount per dance day which class members are eligible to receive, and the amount of the attorney fee award, and the amount of the incentive fee awards. The Class Members will receive Settlement payments on a pro rata basis, based upon the number of Dance Days performed. In lieu of receiving the Settlement payment by check, each individual Class Member may elect in writing to receive credit in the amount of two (2) times the Settlement payment to be applied solely towards the amount of the Overhead Payment(s) at her Qualifying Club, such credit to be in an amount equivalent to two (2) times the Settlement payment attributable to such Class Member. Application of the Settlement payment towards Overhead Payment(s) shall be subject to the satisfaction of certain criteria, including without limitation, submitting a valid Overhead Payment Voucher to the Settlement Administrator, the existence of a valid LLC Contract, redemption of the Overhead Payment Voucher within a specified period, and other related criteria to effectively administer the Overhead Payment Voucher benefits among eligible Class Members. This Credit Benefit will be good for twelve (12) months following the Effective Date.

D. Credit Benefit. Class Members who do not opt out of the Settlement and who do not validly select to receive a cash fee award will be eligible to receive a Credit Benefit. The Credit Benefit will be based on the total number of Dance Days performed at her Qualifying Club during the applicable Class Period, and will provide Credit Benefits of two to twenty Overhead Payments depending upon the amount of service at her Qualifying Club. Receipt of the Credit Benefit by Class Members is subject to applicable redemption criteria such as submitting a Claim/Credit Benefit Form, scheduling the Credit Benefit redemption date on

available redemption dates, the existence of a valid LLC Contract, redemption within twelve (12) months of the Effective Date, and other related criteria to effectively administer the Credit Benefit among eligible Class Members.

E. Injunctive Relief. The Clubs will continue to make available and prominently publicize the options available to entertainers to elect employee or owner status. Such prominent displays will include reference to state and federal laws relating to employee status and will reference rules regarding prohibitions on mandatory tipping of certain employees, such as Club managers. Entertainers electing owner status will not be required to pay "fines" for violations of Club rules. Entertainers electing owner status will not be subject to dance performance minimum quotas. Entertainers may, on an elective rather than mandatory basis, participate in an in-person meeting with Club representatives to resolve any disputes that may arise. The Clubs shall maintain a hotline number for reporting entertainer related claims as well as any fines levied against entertainers, which may be reported on a confidential basis.

F. Intervenor Injunctive Relief. Intervenors shall seek and Plaintiffs and Defendants shall not oppose the entry of a Declaratory Judgment which shall allow current and future entertainers to perform as members of an LLC and be classified as members of the LLC and owners and not as employees as that term is defined by the Fair Labor Standards Act or any state law in California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon and Texas; and that they may continue to perform as members of the LLC agreement. This Settlement Agreement is expressly conditioned upon entry of the Declaratory Judgment by the Court. The Court shall maintain jurisdiction for a period of ten years. Intervenor Class Counsel shall file semi-annual reports with the Court and provide status reports using Assessment Criteria and Assessment Criteria Forms as to whether entertainers are being treated as and wish to be classified as owners and members of LLCs.

F. The Settlement Administrator shall cause the Settlement payment(s) to the Class Members who have made Valid Claims to be mailed thirty (30) days following the date on which the Court's decision regarding the last dispute by the Members of the Settlement Classes becomes Final.

G. In addition to the effect of any final Judgment that the Court will enter if the Settlement is approved by the Court, the Settlement Agreement provides a full and complete release by each Class Member and her heirs, successors, and assigns, to City of Industry Hospitality Venture, Inc. (Spearmint Rhino – City of Industry, CA); Farmdale Hospitality Services, Inc. (Blue Zebra – North Hollywood, CA); High Expectations Hospitality, LLC (Spearmint Rhino – Dallas, TX); Inland Restaurant Venture I, Inc. (Spearmint Rhino – Van Nuys, CA); Kentucky Hospitality Venture, LLC (Spearmint Rhino – Lexington, KY); L.C.M., LLC (Spearmint Rhino – Boise, Idaho); Midnight Sun Enterprises, Inc. (Spearmint Rhino – Torrance, CA); Nitelife, Inc. (Spearmint Rhino – Minneapolis, MN); Olympic Avenue Venture, Inc. (Spearmint Rhino – Los Angeles, CA); The Oxnard Hospitality Services, Inc. (Spearmint Rhino – Oxnard, CA); Rialto Pockets, Incorporated (Spearmint Rhino – Rialto, CA); Rouge Gentlemen's Club, Inc. (Dames N Games – Van Nuys, CA); Santa Barbara Hospitality Services, Inc. (Spearmint Rhino – Santa Barbara, CA); Santa Maria Restaurant Enterprises, Inc. (Spearmint Rhino – Santa Maria, CA); Sarie's Lounge, LLC (Spearmint Rhino – Omaha, NE); Washington Management, LLC (Dames N Games – Los Angeles, CA); Wild Orchid, Inc.

(Spearmint Rhino – Portland, OR); World Class Venues, LLC (Spearmint Rhino – Omaha, NE); W P B Hospitality, LLC (Spearmint Rhino – West Palm Beach, FL); Industry Hospitality Venture, LLC (Spearmint Rhino – City of Industry, CA); DG Hospitality Van Nuys, LLC (Dames N Games – Van Nuys, CA); Farmdale Hospitality Services, LLC (Blue Zebra – North Hollywood, CA); High Expectations Hospitality Dallas, LLC (Spearmint Rhino – Dallas, TX); Inland Restaurant Venture I, LLC (Spearmint Rhino – Van Nuys, CA); Kentucky Hospitality Venture Lexington, LLC (Spearmint Rhino – Lexington, KY); LCM1, LLC (Spearmint Rhino – Boise Idaho); Midnight Sun Enterprises, LLC (Spearmint Rhino – Torrance, CA); Nitelife Minneapolis, LLC (Spearmint Rhino – Minneapolis, MN); Olympic Avenue Ventures, LLC (Spearmint Rhino – Los Angeles, CA); The Oxnard Hospitality Services, LLC (Spearmint Rhino – Oxnard, CA); Rialto Pockets, LLC (Spearmint Rhino – Rialto, CA); Santa Barbara Hospitality Services, LLC (Spearmint Rhino – Santa Barbara, CA); Santa Maria Restaurant Enterprises, LLC (Spearmint Rhino – Santa Maria, CA); Washington Management Los Angeles, LLC (Dames N Games – Los Angeles, CA); Wild Orchid Portland, LLC (Spearmint Rhino – Portland, OR); World Class Venues Iowa, LLC (Spearmint Rhino – Omaha, NE/Carter Lake, IA); WPB Hospitality West Palm Beach, LLC (Spearmint Rhino – West Palm Beach, FL); The Spearmint Rhino Companies Worldwide, Inc., and Spearmint Rhino Consulting Worldwide, Inc., and their current or former officers, directors, employees, agents, insurers, attorneys, auditors, accountants, experts, parent companies, subsidiaries, affiliates, divisions, stockholders, members, heirs, executors, representatives, predecessors, successors, and/or assigns from any and all actions and/or causes of action, suits, obligations, etc. whether asserted in the Action, with respect to the allegations in the Second Amended Complaint. All Class Members who submit Valid Claims shall also be deemed to have opted in to the FLSA Settlement Class and shall be deemed to have released all claims relating to the FLSA.

The summary of the terms of the release should be read in conjunction with, and is entirely qualified by, the complete text of the release set forth in the Settlement Agreement, which can be found at [website to be provided by claims administrator].

H. If the Court approves the Settlement, lawsuits by Class Members who made claims or did not exclude themselves from the Settlement, related to any Released Claims (including Unknown Claims) which arose or may have arisen, in connection with work performed at any of the Clubs by Class Members, and which could have been asserted in the action, and up to preliminary approval of the settlement in the action, but only with respect to claims related to misclassification of entertainers as independent contractors, stage fees, and allocation of dance fees, will be prohibited.

I. Defendants have denied that they have any liability as a result of the claims brought in the Action.

IV. TO RECEIVE MONEY AND CLAIM YOUR SHARE OF THE SETTLEMENT OR CREDIT BENEFITS IN LIEU OF CASH

If you want to claim your share of the Settlement in Cash or Credit Benefits in Lieu of Cash, you must complete and mail the Claim/Credit Benefit Form (which is enclosed with this Class Notice) to the Settlement Administrator at the address listed below.

Lauren Byrne v. Santa Barbara Hospitality, Inc., et al.
Jenetta L. Bracy v. DG Hospitality Van Nuys, LLC, et al.
KCC, LLC
Add: TBD – to be provide by KCC
Phone: TBD – to be provided by KCC

YOUR CLAIM MUST BE POSTMARKED IN THE PRE-ADDRESSED STAMPED ENVELOPE ON OR BEFORE _____. The Claim/Credit Benefit Form must be sent by United States Postal Service first class mail or the equivalent. If a Claim/Credit Benefit Form is not received by _____, it will be accepted as long as it bears a postmark bearing that date.

If you do not submit the Claim/Credit Benefit Form and W-9 Form, or if you do not exclude yourself from the Settlement, you will be bound by all the terms of the Settlement, including a full release of claims that will prevent you from suing Defendants, their employees, officers, directors, parent companies, or any other related persons or entities for the matters being settled in this Action.

If you submit the Claim/Credit Benefit Form and W-9 form to receive Cash or Credit Benefits in Lieu of Cash or accept Credit Benefits, you will be opting into the Federal Labor Standards Act claims and the release of those claims in addition to other claims.

You have the option to elect on the Claim/Credit Benefit Form to receive Cash or you may receive Credit Benefits in Lieu of Cash in an amount of two (2) times any cash amount.

If your submitted Claim/Credit Benefit Form contains a number of Dance Days that does not exceed 10% of the number of Dance Days reflected in the Clubs' records, the amount requested on your Claim/Credit Benefit Form shall be paid. The Settlement Administrator will mail each Class Member whose Claim/Credit Benefit Form contains a number of Dance Days that exceeds 10% of the number of Dance Days reflected in the Clubs' records, within 10 days of receipt of the completed Class Action Documents, a statement informing her of this fact and that she has the option of: (i) accepting the number of Dance Days for that Class Member contained in the Clubs' records as the basis for her claim; or (ii) submitting supporting documentation and evidence supporting the number of Dance Days in the Claim/Credit Benefit Form pursuant to the procedures set forth below. If the Class Member does nothing further or fails to timely submit additional documentation supporting the number of Dance Days stated on her Claim/Credit Benefit Form, her claim shall be calculated based on the number of Dance Days for that Class Member contained in the Clubs' records.

If the Claim/Credit Benefit Form you send in lists Dance Days that are greater than 10% of those Dance Days contained in the Clubs' records, you shall have the right to challenge payment based upon the number of Dance Days contained in the Clubs' records. The challenge shall be made as follows:

(1) You must submit, within 10 days of the notification described above additional documentation supporting the number of Dance Days stated on your Claim/Credit Benefit Form to the Settlement Administrator who will provide the information to Class Counsel and Defendants' Counsel;

(2) Class Counsel and Defendants' Counsel will then meet and confer in an attempt to resolve the dispute. Such a decision must be made within seven (7) days of the receipt of your submission of the additional documentation.

(3) If the dispute cannot be resolved informally between the Parties, Class Counsel will notify the Settlement Administrator and the dispute shall be submitted to the Settlement Administrator for a non-binding ruling, which shall be made within fourteen (14) days of the notification by Class Counsel.

(4) Within fourteen (14) days after mailing of the Settlement Administrator's non-binding ruling, either you or the Clubs may request a hearing with the Court for a ruling.

If the Club(s) listed on your submitted Claim/Credit Benefit Form matches the information contained in the Clubs' records reflecting the Clubs at which you performed, your payment will be calculated using the names of the Clubs on the Claim/Credit Benefit Form. The Settlement Administrator will mail each Class Member whose Claim/Credit Benefit Form contains a statement that she danced at any Club(s) not reflected in the Clubs' records, within ten (10) days of receipt of the completed Claim/Credit Benefit Form, a statement informing her of this fact and that she has the option of: (i) accepting the identity of the Club(s) at which the entertainer worked that are contained in the Clubs' records as the basis for her claim; or (ii) submitting supporting documentation and evidence supporting her claim that she danced at additional or different Club(s) pursuant to the procedures set forth below. If the Class Member does nothing further or fails to timely submit additional documentation supporting her claim that she worked at additional or different Clubs, her claim shall be calculated based on the Clubs' records regarding the identity of the Clubs at which the Class Member performed.

If your submitted Claim/Credit Benefit Form states that you performed at any Club(s) that are not contained in the Clubs' records, you will have the right to challenge the information contained in the Clubs' records. The challenge shall be made as follows:

(1) You must submit, within ten (10) days of the notification described above additional documentation supporting your claim that you performed at Club(s), different from or in addition to those contained in the Clubs' records, to the Settlement Administrator who will provide the information to Class Counsel and Defendants' Counsel;

(2) Class Counsel and Defendants' Counsel will meet and confer in an attempt to reach a joint decision regarding whether your Settlement payment should be based upon Dance Days at Clubs at which the Clubs' records reflect you did not work. Such a decision must be made within seven (7) days of receipt of your submission of the additional documentation.

(3) If the determination of whether your Settlement payment should be based on the information in your submitted Claim/Credit Benefit Form or not cannot be resolved informally between the Parties, Class Counsel will notify the Settlement Administrator and the dispute shall be submitted to the Settlement Administrator for a non-binding ruling, which shall be made within fourteen (14) days of the notification by Class Counsel.

(4) Within fourteen (14) days after mailing of the Settlement Administrator's non-binding ruling, you or the Club(s) may request a hearing with the Court for a ruling, subject only to applicable appeals of orders of the Court, subject only to applicable appeals of orders of the Court.

The Settlement Administrator shall cause the Settlement payment(s) to the Class Members who have made Valid Claims to be mailed thirty (30) days following the date on which the Court's decision regarding the last dispute by the Members of the Settlement Classes becomes Final.

V. TAXES

The Settlement Administrator will issue 1099 forms or other applicable tax forms to each recipient of any monies paid from the Gross or Net Settlement Amount pursuant to this Settlement. You will be obligated to obtain your own tax advice concerning the proper reporting and tax consequences of any payments received under this Settlement Agreement, and you shall assume the responsibility of remitting to the Internal Revenue Service and any other relevant taxing authority, any amounts required by law for any monies paid under this Agreement without any further contribution from any of the Defendants or Clubs.

VI. EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not wish to participate in the Settlement, you may exclude yourself by submitting a request for exclusion. Your request for exclusion must be signed, dated, completed and returned by first class U.S. mail, or the equivalent to the Settlement Administrator at the address set forth above.

The request for exclusion must be received by the Settlement Administrator no later than _____, 20__. The request for exclusion must be sent by United States Postal Service first class mail or the equivalent. If the request for exclusion is received after _____, it will be accepted as long as it bears a postmark that bears that date.

If you submit a complete and timely request for exclusion, you shall, upon receipt, no longer be a Member of the Settlement Classes, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement. You will retain whatever rights or claims you may have, if any, against Defendants or related persons or entities, and you will be free to pursue them on an individual basis, if you choose to do so.

Do not submit both a Claim/Credit Benefit Form and W-9 and a request for exclusion. If you submit both a Claim/Credit Benefit Form and W-9 and also a request for exclusion, the request for exclusion will be disregarded and you will be included in the Settlement Classes, you will be

paid your portion of the Settlement, and you will be bound by the terms of the Settlement, including the release of all claims.

If you do not request to be excluded from the Action, and you do not object to the proposed Settlement in the manner provided above, you will be deemed to have approved the proposed Settlement and to have waived any objections, and you will be forever foreclosed from objecting to the fairness or adequacy of the proposed Settlement, the payment of attorneys' fees and costs, the claims process, the payments to the Class Representatives, or any other aspect of the Settlement. If the Settlement is not approved, the Action will continue to be prepared for trial or other judicial resolution.

VII. OBJECTING TO THE SETTLEMENT AND ENTRY OF APPEARANCE

If you believe the Settlement is unfair or inadequate in any respect, you may object to the Settlement by filing a written objection with the United States District Court for the Central District of California and mailing a copy of your objection to Class Counsel, Intervenors' Counsel and Defense Counsel, at the addresses listed below, and to the Settlement Administrator at the address listed above.

CLASS COUNSEL

Todd Slobin, Esq.
Ricardo J. Prieto, Esq.
SHELLIST | LAZARZ | SLOBIN LLP
11 Greenway Plaza, Suite 1515
Houston, TX 77046

Melinda Arbuckle, Esq.
BARON & BUDD, P.C.
15910 Ventura Boulevard, Suite 1600
Encino, CA 91436

Salvatore C. Badala, Esq.
Paul B. Maslo, Esq.
Napoli Shkolnik PLLC
360 Lexington Avenue
New York, NY 10017

DEFENSE COUNSEL

Peter E. Garrell, Esq.
John M. Kennedy, Esq.
GARRELL LAW, P.C.
1875 Tandem Way
Norco, CA 92860

INTERVENORS' COUNSEL

William X. King, Esq.
Casey T. Wallace, Esq.
Feldman & Feldman, PC
3355 W. Alabama St.
Suite 1220
Houston, TX 77098

COURT

United States District Court,
Central District of California
3470 Twelfth Street,
Riverside, CA 92501-3801

All objections must be filed with the Court no later than _____ . Copies of your objections mailed to Class Counsel, counsel for Defendants, Intervenor's Counsel and the Class Administrator must be postmarked no later than _____, 20__. All objections must state with particularity the factual and legal bases for each objection raised, furnish copies of any documents you wish to submit in support of your position; and provide a list of any other objections you have submitted to any class action settlements in any state or federal court in the

United States in the past five (5) years. If you have not objected to any other class action settlement in any court in the United States in the past five (5) years, you shall affirmatively so state in the written materials provided in connection with the objection to this Settlement. All objections must be signed and set forth your name and the name of the case and case number *Lauren Byrne v. Santa Barbara Hospitality, Inc., et al.* Case No. 5:17-CV-00527 JGB (KKx); *Jenetta L. Bracy v. DG Hospitality Van Nuys, LLC, et al.;* Case No. 5:17-CV-00854 JGB (KKx) United States District Court for the Central District of California. In addition, the following information must be sent to the Settlement Administrator along with a copy of your objection (but not filed with the Court): your current address, telephone number, California (or other applicable jurisdiction), any Stage Name(s), the Club(s) you performed at; the approximate date ranges (month(s)/year(s)) you performed as an entertainer at each Club, and your mailing address and telephone number at the time you performed as an entertainer at each Club.

Further, if you object and intend to appear at the Fairness Hearing, either in person or through counsel, you must include with the objection a written statement of the purpose for your appearance. The notice of intention to appear must: (i) state how much time you and/or counsel anticipates needing to present the objection; (ii) identify, by name, address, and telephone number any witnesses you and/or your attorney intends to present; (iii) identify all exhibits you and/or your attorney intends to offer in support of the objection; and (iv) attach complete copies of all such exhibits. If you do not provide an objection and/or notice of intention to appear in complete accordance with the deadlines and other requirements set forth herein and in the Class Notice you will be deemed to have waived any objections to the Settlement and shall be barred from speaking or otherwise presenting any views at the Fairness Hearing or from pursuing any appeals.

If you intend to file an objection, but you also wish to preserve your right to receive benefits under the Settlement in the event your objection is overruled, you must file a Claim/Credit Benefit Form and W-9 Form in the manner described above. If the Court approves the Settlement despite any objections, and you do not have a Claim/Credit Benefit Form and W-9 Form on file, you will not receive any Settlement proceeds and you will be barred from filing a lawsuit in the future relating to the allegations of the Action.

If you object to this Settlement and if any proponent of the Settlement chooses to take a deposition or requests that you respond to written discovery, you must make yourself available upon reasonable notice for a deposition taken by the proponents of the Settlement and/or to respond to written discovery.

VIII. FINAL HEARING ON PROPOSED SETTLEMENT

The Final Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, the enhancement awards to the named class representatives, and Class Counsel's request for attorneys' fees and costs will be held on _____, 2018 at _____ a.m., in Courtroom 1 of the United States District Court, Central District of California, located at 3470 Twelfth Street, Riverside, CA 92501-3000. This Hearing may be continued to a later date without further notice.

You have the right to appear at the Final Hearing, or to otherwise intervene in the Action through an attorney of your own choosing, at your own expense.

IX. OTHER LAWSUITS

The Parties are aware of a similar putative class collective/PAGA actions filed in the Los Angeles Superior Court and in the Federal District Court for the Central District of California on behalf of groups of individuals who performed as entertainers and who provided nude, semi-nude, and/or bikini entertainment for customers at nightclubs in the State of California doing business as Spearmint Rhino, Blue Zebra and Rouge (the "Other Lawsuits"). None of these classes in these cases have been certified. The following are the Other Lawsuits: *Adriana Ortega v. The Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting Worldwide, Inc. and Midnight Sun Enterprises, LLC,* United States District Court for the Central District of California, Eastern Division; Case No. 5:17-cv-00206-JGB-KK; and *Shala Nelson v. Farmdale Hospitality Services, LLC*, Los Angeles Superior Court, Case No. BC671852. If a judgment is entered in this Action and it becomes Final, the parties will ask those Courts not to proceed with those actions.

X. ADDITIONAL INFORMATION

This Class Notice only summarizes the Action, the Settlement and related matters. For more information, you may:

(a) Inspect the Court files at the United States District Court, Central District of California, located at 3470 Twelfth Street, Room 134, Riverside, CA 92501-3000, from 10:00 a.m. to 4:00 p.m. Monday through Friday.

(b) Log on to PACER at https://ecf.cacd.uscourts.gov/cgi-bin/login.pl using the case name and number listed on page 1 of this notice to examine the pleadings in this action for minimal cost.

(c) Examine the full Settlement Agreement, the notice and the claim form maintained online at [TBD].

(d) Contact the Settlement Administrator at the address and telephone number noted above; or

(e) Class Counsel can be contacted by writing to Todd Slobin, Esq. at the following address or calling him at the following toll free number:

Todd Slobin, Esq.

tslobin@eeoc.net
Ricardo J. Prieto, Esq.
rprieto@eeoc.net
SHELLIST | LAZARZ | SLOBIN LLP
11 Greenway Plaza, Suite 1515
Houston, Texas 77046
Tel: (713) 621-2277

(f) Intervenors' Counsel can be contacted by writing to Casey T. Wallace, Esq. at the following address or calling him at the following number:

Casey T. Wallace, Esq.
Feldman & Feldman, PC
3355 W. Alabama St. Suite 1220
Houston, TX 77098
Tel: (713) 986-9471

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS CLASS NOTICE

DATE: _____

_____
Hon. Jesus G. Bernal

EXHIBIT 3

Claim/Credit Benefit Form

Lauren Byrne ("Plaintiff") v.
Santa Barbara Hospitality Services, Inc., et al. ("Defendants")
United States District Court for the Central District of California
Case No. 5:17-CV-00527 JGB (KKx)
and
Jenetta L. Bracy ("Plaintiff") v.
DH Hospitality Van Nuys, LLC, et al. ("Defendants")
United States District Court for the Central District of California
Case No. 5:17-CV-00854 JGB (KKx)

CLASS ACTION CLAIM/CREDIT BENEFIT FORM

COMPLETE EACH OF THE FOLLOWING IN ORDER TO BE ELIGIBLE FOR A CASH PAYMENT OR CREDIT BENEFIT

YOU MUST COMPLETE, SIGN AND MAIL THIS CLAIM FORM BY FIRST CLASS MAIL OR EQUIVALENT, POSTAGE PAID POSTMARKED ON OR BEFORE _____, 2017 ADDRESSED AS FOLLOWS, IN ORDER TO BE ELIGIBLE TO RECEIVE RECOVERY, OR SEE DOCUMENTS AT www.kccllc.com/performersettlement.

MAIL TO:

Byrne v. Santa Barbara, et al. Settlement Administrator
Bracy v. DG Hospitality Van Nuys, LLC, et al. Settlement Administrator
KCC, LLC
Address: TBD
Phone: TBD

Failure to Complete All Sections Or Failure to Submit This Claim Form Before the Deadline Will Result in Denial of Your Claim. *Please Print Clearly. Note*: You will be taxed on any Settlement payment monies you are paid and will receive a Form 1099, or other applicable tax forms(s).

SECTION A: CLAIMANT INFORMATION

Name/Address Change, if any (*please print*)

<First Name> <Last Name> _____
<Address 1> _____
<City>, <State> <Zip> _____

If the pre-printed address above on the left is incorrect or out of date or if there is no pre-printed data, YOU MUST provide your current name and address on the blank lines above. If you move after submitting this form and prior to receiving payment, please send the Settlement Administrator your new address. You are responsible for ensuring the Settlement Administrator has your current and correct address.

Additional Required Information (You MUST also provide the below information to make a Valid Claim to be eligible to receive a Credit Benefit or Cash Payment):

SOCIAL SECURITY NUMBER: _____

DRIVER'S LICENSE NUMBER: _____

Telephone number: _____ Email: _____

SECTION B: DANCE HISTORY

PLEASE LIST BELOW THE NAMES OF THE CLUB(S) WHERE YOU PERFORMED, THE DATE(S) YOU PERFORMED AS AN ENTERTAINER AT THE CLUB(S) AND THE NUMBER OF DANCE DAYS YOU PERFORMED.

Name(s)/Location(s) of Club	Date(s) Performed	Stage Name	Your Address and Telephone Number at the Time You Performed

PLEASE ATTACH COPIES *(NOT ORIGINALS)* OF ANY SUPPORTING DOCUMENTS YOU HAVE. THE SETTLEMENT ADMINISTRATOR MAY CONTACT YOU FOR FURTHER INFORMATION.

SECTION C: CERTIFICATION, FORM OF PAYMENT ELECTION, AND SIGNATURE OF CLAIMANT

I have read and understood the accompanying Notice of Class Action Settlement ("Notice") and am choosing to participate in this action and make a claim under the terms of the Settlement Agreement. I agree to release the claims as described in the Notice to the fullest extent of the law, including all claims arising under the Federal Fair Labor Standards Act relating to the claims made in the Second Amended Complaint. **I understand that I will be responsible for the payment of all taxes owed as a result of receiving any Settlement payment, whether in the form of a Cash Payment or Credit Benefit, and that I will receive an I.R.S. Form 1099 tax reporting form (or other applicable tax form(s)) reflecting any Cash Payment I receive pursuant to the Settlement, and that I am not receiving any tax advice related to this payment from Class Counsel, Intervenors' Counsel or Defendants.**

In the event that I am eligible to receive a Settlement payment, the form of Settlement payment that I choose to receive is the following (check one):

☐ **Cash Payment (Payment will be issued by check.)**

☐ **Credit Benefit (Payment in lieu of cash. Credit will be issued in the amount of two (2) times the Cash Payment, to be used at my Qualifying Club for credit against the Overhead Payment for future Performances.)**

I further understand that if I elect to receive a Credit Benefit and am determined eligible, that I must redeem the Credit Benefit at the Qualifying Club, schedule a Date of Performance at least seven (7) days in advance with the general manager of the Qualifying Club, be an LLC Member in good standing, and redeem the Credit Benefit within twelve (12) months from the Effective Date.

The undersigned hereby certifies under penalty of perjury under the laws of the United States of America that all of the information provided in this Claim Form is true and correct.

Date: _____
(must be filled in by Claimant)

_____
Signature

_____
Print Name

EXHIBIT 4

Opt-Out/Request for Exclusion Form

Lauren Byrne ("Plaintiff") v.
Santa Barbara Hospitality Services, Inc., et al. ("Defendants")
United States District Court for the Central District of California
Case No. 5:17-CV-00527 JGB (KKx)
and
Jenetta L. Bracy ("Plaintiff") v.
DH Hospitality Van Nuys, LLC, et al. ("Defendants")
United States District Court for the Central District of California
Case No. 5:17-CV-00854 JGB (KKx)

OPT-OUT/REQUEST FOR EXCLUSION

YOU MUST COMPLETE, SIGN AND MAIL THIS DOCUMENT BY FIRST CLASS MAIL OR EQUIVALENT, POSTAGE PAID POSTMARKED ON OR BEFORE _____, 2017 ADDRESSED AS FOLLOWS, IN ORDER TO BE EXCLUDED FROM THE SETTLEMENT.

MAIL TO:

Byrne v. Santa Barbara, et al. Settlement Administrator
Bracy v. DG Hospitality Van Nuys, LLC, et al. Settlement Administrator
KCC, LLC
Address: TBD
Phone: TBD

Please exclude me from the proposed class in the *Byrne v. Santa Barbara, et al.* and the *Bracy v. DG Hospitality Van Nuys, LLC, et al.* litigations. IT IS MY DECISION NOT TO PARTICIPATE IN THE CLASS ACTION SETLLEMENT REFERRED TO IN THE NOTICE, AND TO BE EXCLUDED FROM THE CLASS OF PLAINTIFFS AND THE CLASS OF INTERVENORS IN THIS CLASS ACTION.

By signing below, I understand that, by excluding myself from the Settlement, I am not entitled to receive any payment from the Settlement and that this Opt-Out/Request for Exclusion Form will be filed with the Court. However, if I should later decide to participate, I have up to a year from the Effective Date to claim my non-monetary Overhead Payment Credit Benefit through the Club. If I submit both this Opt-Out/Request for Exclusion Form and a Claim Form, the Claim Form will be controlling and the Opt-Out/Request for Exclusion Form disregarded.

Date: _____

_____
Signature

_____
Print Name

_____
Telephone

_____
Street Address / Apt. No.

_____
City, State, Zip

EXHIBIT 5

Intervenor's Declaratory Judgment

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

EASTERN DIVISION

LAUREN BYRNE, on behalf of herself and all others similarly situated,

Plaintiff,

vs.

SANTA BARBARA HOSPITALITY SERVICES, INC., THE SPEARMINT RHINO COMPANIES WORLDWIDE, INC., SPEARMINT RHINO CONSULTING WORLDWIDE, INC., and SANTA BARBARA HOSPITALITY SERVICES, LLC,

Defendants.

Case No. 5:17-cv-00527 JGB (KKx)

[Assigned for All Purposes to The Hon. Jesus G. Bernal]

DECLARATORY JUDGMENT

Date Action Filed: March 21, 2017
Trial Date: NONE

Pending before the Court is Intervenors' Unopposed Motion for Declaratory Judgment ("Motion"). Upon consideration of the Motion, pleadings, and stipulation of Intervenors and Defendants, it is the opinion of this Court that Intervenors' LLC Agreements with Defendant Clubs (as contained in Doc. ___) as required pursuant to the injunctive relief ordered in *Trauth v. Spearmint Rhino Consulting Worldwide, Inc., et al.*, Case No. EDCV09-1316 VAP (DTBx) in 2010 and as modified by the present Settlement Agreement, and Intervenors' and Defendant Clubs' performance pursuant to such LLC Agreements do not violate the Fair Labor Standards Act ("FLSA") or the governing laws of California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon, and Texas, and the Motion is hereby GRANTED.

The Court FINDS that Intervenors are not "employees" under the meaning of the FLSA and the governing laws of California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon, and Texas. The Court FURTHER FINDS that Defendants do not exercise control over Intervenors as an employer under the meaning of the FLSA and the governing laws of California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon, and Texas. The Court FURTHER FINDS that the extent of the relative investment of Intervenors in their business with Defendants indicate they are not employees under the FLSA and the governing laws of California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon, or Texas. The Court FURTHER FINDS that Intervenors' opportunity for profit or loss is not determined by Defendants. The Court FURTHER FINDS that Intervenors' skill and initiative indicate they are not employees under the FLSA and the governing laws of California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon, or Texas,. The Court FURTHER FINDS that the Agreements between Intervenors and Defendants do not constitute a employer-employee relationship. It is, therefore,

ORDERED, ADJUDGED, and DECREED that Intervenors' Motion for Declaratory Judgment is GRANTED, and Intervenors' Agreements with Defendant Clubs (as contained in Ct. Dkt. # ____), and Intervenors' and Defendant Clubs'

performance pursuant to such Agreements do not violate the Fair Labor Standards Act or the governing laws of California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon, or Texas, and they shall be classified as Owners and/or LLC Members and not as employees. It is further ORDERED, ADJUDGED, and DECREED that Intervenors, for a period of no less than ten years, shall file bi-annual reports with the Court addressing the issue of whether performers are continuing to be treated as bona fide owners pursuant to the LLC Agreements and the Settlement Agreement approved by the Court on _____.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____

_____
HONORABLE JESUS G. BERNAL
United States District Judge

EXHIBIT 6

Judgment

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

EASTERN DIVISION

LAUREN BYRNE, on behalf of herself and all others similarly situated, Plaintiff, vs. SANTA BARBARA HOSPITALITY SERVICES, INC., THE SPEARMINT RHINO COMPANIES WORLDWIDE, INC., SPEARMINT RHINO CONSULTING WORLDWIDE, INC., and SANTA BARBARA HOSPITALITY SERVICES, LLC, Defendants.	Case No. 5:17-cv-00527 JGB (KKx) [Assigned for All Purposes to The Hon. Jesus G. Bernal] **[PROPOSED] JUDGMENT** Date Action Filed: March 21, 2017 Trial Date: NONE

INTRODUCTION AND RECITALS

1. Upon consideration of (i) the motion of Plaintiffs for final approval of the Settlement[1] of this Action pursuant to the terms of an Agreement dated as of October ___, 2017 by and among the Plaintiffs, the Class Representatives, the Intervenors and the Defendants; (ii) the applications of Class Counsel for an award of attorneys' fees and reimbursement of expenses; (iii) the applications of Lauren Byrne, Jenetta L. Bracy, Bambie Bedford, and Jennifer Disla, for awards of incentive fees; and (iv) the motion of the Intervenors for a Declaratory Judgment (collectively, the "Motions");

2. The Court having entered an Order on _____, 2017 preliminarily approving the Settlement, certifying the Settlement Classes' state law claims under Federal Rule of Civil Procedure 23(b)(3) as opt-out classes for purposes of proceeding to consider final approval of the Settlement, approving the form of Class Notice and directing the manner of delivery thereof, and scheduling a hearing to consider the fairness of the Settlement (the "Preliminary Approval Order");

3. The Court having entered an Order on _____, 2017 preliminarily certifying the Settlement Class' Fair Labor Standards Act ("FLSA") claims pursuant to 29 U.S.C. Section 216(b) as an opt-in class;

4. The Court, having received a declaration from the Claims Administrator attesting to the delivery of the Class Notice in accordance with the Preliminary Approval Order; and

5. A Fairness Hearing having been held before this Court on _____, 2018 (i) to consider the fairness of the Settlement, and to determine whether to enter this Order approving the Settlement; (ii) to finally determine whether to certify the Settlement Classes for purposes of Settlement; (iii) to consider the applications of

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[1] Unless otherwise specified, capitalized terms used herein shall have the meanings set forth in the Stipulation and Settlement Agreement.

Class Counsel for an award of attorneys' fees and reimbursement of expenses; (iv) to consider the applications of Lauren Byrne, Jenetta L. Bracy, Bambie Bedford, and Jennifer Disla, for incentive fee awards; (v) to consider the Motion of the Intervenors for a Declaratory Judgment and (vi) to rule upon such other matters as the Court might deem appropriate.

COURT ORDER AND JUDGMENT

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

A. Class Certification

1. The Court finds that the prerequisites for a class action have been satisfied in that:

2. The Settlement Classes and Intervenor Class, consisting of thousands of members, are so numerous that joinder of all members is impracticable;

3. There are questions of law and fact common to the Settlement Classes, as alleged by the Plaintiffs, specifically, the questions of: (i) whether entertainers were misclassified as Owners and/or LLC Members as opposed to employees; (ii) whether Defendants failed to pay minimum wage; (iii) whether Defendants took portions of gratuities left for entertainers by patrons; and (iv) whether Defendants failed to provide accurate itemized wage statements;

4. The Class Representatives, Lauren Byrne, Jenetta L. Bracy, Bambie Bedford, and Jennifer Disla, are members of the Class, and their claims are typical of the claims of the Settlement Class;

5. The Class Representatives have and will fairly and adequately represent the interests of the Settlement Classes, have no interests antagonistic to the Settlement Classes and have retained qualified, experienced and able counsel;

6. The Settlement class definitions are sufficiently precise and proper notice was provided to the Settlement Classes;

7. There are questions of law and fact common to the Settlement Classes, as alleged by the Defendants that (i) all sums paid to members of the Settlement

Classes for their performances apply to negate and/or reduce any recovery of lost wages are entirely common; and (ii) that Defendants have properly complied with the injunctive relief ordered by the Court in *Trauth v. Spearmint Rhino Consulting Worldwide, Inc., et al.*, Case No. EDCV09-1316 VAP (DTBx) and provided entertainers the choice as to whether to be treated as either employees or owners (e.g., shareholder, limited partner, partner, member, or other type of ownership stake) within six months of the Effective Date of the *Trauth* Settlement Agreement.

8. There are questions of law and fact common to the Settlement Classes, as acknowledged by all parties, that in *In Epic Systems Corp. v. Lewis* (U.S. Jan. 13, 2017) (No. 16-285); *Ernst & Young LLP v. Morris* (U.S. Jan. 13, 2017) (No. 16-300), and *NLRB v. Murphy Oil USA, Inc.* (U.S. Jan. 13, 2017) (No. 16-307) (collectively referred to herein as "Morris"), the United States Supreme Court will likely determine the validity of class action waivers as it granted certiorari on the question of: "Whether an agreement that requires an employer and an employee to resolve employment-related disputes through individual arbitration, and waive class and collective proceedings, is enforceable under the Federal Arbitration Act, notwithstanding the provisions of the National Labor Relations Act."

9. There are questions of law and fact common to the Intervenors who seek a Declaratory Judgment in favor of the Intervenor Class affirming and preserving their classification as Owners and/or LLC Members (and not employees) and their rights to continue to perform at Clubs or Existing Clubs pursuant to LLC agreements. Further, Intervenors request that the Court shall maintain jurisdiction for a period of ten years during which time period Intervenor Class Counsel shall file semi-annual reports with the Court and provide status reports as to whether entertainers are being treated as Owners and/or LLC Members versus employees.

10. The Intervenors, Meghan Herrera, Danielle Hach, Alisa Osborne, Carlie Zufelt, Gena Torres, Regina Cabral and Sabrina Preciado, are members of the Intervenor Class, and their claims are typical of the claims of the Intervenor Class

Settlement Class.

11. The Intervenor Representatives have and will fairly and adequately represent the interests of the Intervenor Class, have no interests antagonistic to the Intervenor Class and have retained qualified, experienced and able counsel;

12. Lead Class Counsel and Class Counsel are appropriately qualified and suitable for appointment to represent the Settlement Classes;

13. Intervernor Class Counsel are appropriately qualified and suitable for appointment to represent the Settlement Classes;

14. Accordingly, this Court hereby finally certifies the Settlement Classes as opt-out classes under Federal Rules of Civil Procedure 23(a), 23(b)(2) and (b)(3) consisting of all individuals who worked as exotic entertainers and who have provided nude, semi-nude and/or bikini entertainment for customers at one or more of the Clubs and fall within at least one of the following subclasses: The California Settlement Class, the Florida Settlement Class, the Idaho Settlement Class, the Idaho Settlement Class, the Iowa Settlement Class, the Kentucky Settlement Class, the Minnesota Settlement Class, the Oregon Settlement Class, the Texas Settlement Class: during the following periods of time:

- For the California Settlement Class from February 3, 2013 to _____ [date of entry of the Preliminary Approval Order];
- For the Florida Settlement Class from February 3, 2012 to _____ [date of entry of the Preliminary Approval Order];
- For the Idaho Settlement Class from February 3, 2014 to _____ [date of entry of the Preliminary Approval Order];
- For the Iowa Settlement Class from February 3, 2014 to _____ [date of entry of the Preliminary Approval Order];
- For the Kentucky Settlement Class from February 3, 2014 to _____ [date of entry of the Preliminary Approval Order];

- For the Minnesota Settlement Class from February 3, 2014 to _____ [date of entry of the Preliminary Approval Order];
- For the Oregon Settlement Class from February 3, 2014 to _____ [date of entry of the Preliminary Approval Order];
- For the Texas Settlement Class from February 3, 2014 to _____ [date of entry of the Preliminary Approval Order];

15. This Court also certifies the FLSA Settlement Class as an opt-in collective action for purposes of the Federal Labor Standards Act claims as follows:

> those individuals who are members of the California Settlement Class, the Florida Settlement Class, the Idaho Settlement Class, the Idaho Settlement Class, the Iowa Settlement Class, the Kentucky Settlement Class, the Minnesota Settlement Class, the Oregon Settlement Class, or the Texas Settlement Class who elect to participate in the Settlement and timely submit a Valid Claim Form and who performed at one or more of the Clubs as exotic entertainers and who provided nude, semi-nude and/or bikini entertainment for customers at the Clubs during the time period from February 3, 2014 to _____[date of entry of the Preliminary Approval Order.]

B. Class Notice

In accordance with the Court's Preliminary Approval Order, Class Notice was timely given to all members of the Settlement Classes who could be identified with reasonable effort by the Settlement Administrator through the date of this Order. The form and methods of notifying the Settlement Classes of the terms and conditions of the proposed Agreement met the requirements of Federal Rules of Civil Procedure 23, due process, and any other applicable law, constituted the best

notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

C. Order Approving Settlement

1. The motion for approval of the Settlement is hereby GRANTED, and the Settlement is APPROVED as fair, reasonable and adequate. The Parties are directed to consummate the Settlement in accordance with the terms of the Settlement Agreement.

D. Releases

1. Upon this Judgment becoming Effective (after expiration of any appeals periods), the California Releasing Persons, with the exception of those individuals who have excluded themselves from the Settlement Class, shall be deemed to have, and by operation of the Judgment shall have, absolutely and unconditionally released, waived, and forever discharged the Released Persons from any and all claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification claims, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, the Clubs, Consulting and/or Companies' treatment of the California Settlement Class Members as Owners and/or LLC Members during the applicable Class Period, including but not limited to claims under Labor Code §§ 201, 202, 203, 204, 212, 218, 218.6, 221, 224, 226, 226.7, 350, 351, 353, 402, 435, 510, 512, 1174, 1194, 1197, 1199, 2802, and the Private Attorneys General Act, Labor Code 2698 *et seq.*,

Wage Commission Orders 5 and 10, and Business & Professions Code §§ 17200, *et seq.* ,as it relates to the underlying California Labor Code claims, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

2. Upon this Judgment becoming Effective (after expiration of any appeals periods), the Florida Releasing Persons, with the exception of those individuals who have excluded themselves from the Settlement Classes, shall be deemed to have, and by operation of the Judgment shall have, absolutely and unconditionally released, waived, and forever discharged the Released Persons from any and all claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, the Clubs, Consulting and/or Companies' treatment of the Florida Settlement Class Members as Owners and/or LLC Members during the Florida Class Period, including but not limited to claims arising under Florida Statute §§ 448.01, *et seq.*, the Florida Minimum Wage Act, Florida Stat. § 448.110, and Florida Constitution, Art. X § 24, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs

3. Upon this Judgment becoming Effective (after expiration of any appeals periods), the Idaho Releasing Persons, with the exception of those individuals who have excluded themselves from the Settlement Class shall be deemed to have, and by operation of the Judgment shall have, absolutely and unconditionally released, waived, and forever discharged the Released Persons from any and all claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, the Clubs, Consulting and/or Companies' treatment of the Idaho Settlement Class members as Owners and/or LLC Members during the Idaho Class Period including those claims arising under Idaho Hours Worked Act, I.C.A. §§ 44-1201, *et seq.*, and Minimum Wage Law, I.C.A. §§ 44-1501, *et seq*, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

4. Upon this Judgment becoming Effective (after expiration of any appeals periods), the Iowa Releasing Persons, with the exception of those individuals who have excluded themselves from the Settlement Class shall be deemed to have, and by operation of the Judgment shall have, absolutely and unconditionally released, waived, and forever discharged the Released Persons from any and all claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including

Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, the Clubs, Consulting and/or Companies' treatment of the Iowa Settlement Class members as Owners and/or LLC Members during the Iowa Class Period including those claims arising under the Iowa Wage Payment Collection Law (IWPCL), Iowa Code § 91A, *et seq.*, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

5. Upon this Judgment becoming Effective (after expiration of any appeals periods), the Kentucky Releasing Persons, with the exception of those individuals who have excluded themselves from the Settlement Class shall be deemed to have, and by operation of the Judgment shall have, absolutely and unconditionally released, waived, and forever discharged the Released Persons from any and all claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification, overtime, minimum wages, missed or inadequate

meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, the Clubs, Consulting and/or Companies' treatment of the Kentucky Settlement Class members as Owners and/or LLC Members during the Kentucky Class Period including those claims arising under KRS Chapters 207, 337, 342 or 344, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

6. Upon this Judgment becoming Effective (after expiration of any appeals periods), the Minnesota Releasing Persons, with the exception of those individuals who have excluded themselves from the Settlement Class shall be deemed to have, and by operation of the Judgment shall have, absolutely and unconditionally released, waived, and forever discharged the Released Persons from any and all claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, the Clubs, Consulting and/or Companies' treatment of the Minnesota Settlement Class members as Owners and/or LLC Members during the Minnesota Class Period including those claims arising under MN Statutes §177.24, *et seq.*, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all

claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

7. Upon this Judgment becoming Effective (after expiration of any appeals periods), the Oregon Releasing Persons, with the exception of those individuals who have excluded themselves from the Settlement Class shall be deemed to have, and by operation of the Judgment shall have, absolutely and unconditionally released, waived, and forever discharged the Released Persons from any and all claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, the Clubs, Consulting and/or Companies' treatment of the Oregon Settlement Class members as Owners and/or LLC Members during the Oregon Class Period including those claims arising under ORS 653.010, , *et seq.*, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

8. Upon this Judgment becoming Effective (after expiration of any appeals periods), the Texas Releasing Persons, with the exception of those individuals who have excluded themselves from the Settlement Class shall be deemed to have, and by operation of the Judgment shall have, absolutely and unconditionally released, waived, and forever discharged the Released Persons from any and all claims,

liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal or state law, and whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, the Clubs, Consulting and/or Companies' treatment of the Texas Settlement Class members as Owners and/or LLC Members during the Texas Class Period including those claims arising under the Texas Payment of Wages Act, Tex. Lab. Code Ann. §§ 61.001, *et seq.*, Minimum Wage Act, Tex. Lab. Code Ann. §§ 62.001, *et seq.* and Texas Payday Rules, 40 Tex. Admin. Code §§ 821.1, *et seq*, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages including all claims for benefits under any benefit plan subject to ERISA that arise from such failure, and any interest, attorneys' fees and costs.

9. Upon this Judgment becoming Effective (after expiration of any appeals periods), all members of the California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon and Texas Classes who sign the Claim Form and submit it to the Settlement Administrator or make a Redemption of Credit Benefits either in lieu of cash or as otherwise provided herein shall be deemed to have opted into the FLSA collective action and shall be deemed to have, and by operation of the Judgment shall have, absolutely and unconditionally released, waived, and forever discharged the Released Persons from any and all claims, liabilities, demands, causes of action, or lawsuits, known or unknown, including Unknown Claims, whether legal, statutory, equitable or of any other type or form, whether under federal or state law, and

whether brought in an individual, representative or any other capacity, that in any way relate to or arise out of or in connection with acts, omissions, facts, statements, matters, transactions, or occurrences that have been or could have been alleged in the Actions, including but not limited to misclassification, overtime, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record keeping violations, and waiting time penalties, arising in connection with such claims from the Defendants, the Clubs, Consulting and/or Companies' treatment of the FLSA Settlement Class members as Owners and/or LLC Members during the FLSA Class Period including any and all misclassification and wage-related claims of any kind, including but not limited to claims pursuant to FLSA and Unknown Claims that any of the FLSA Releasing Persons has, had, might have or might have had against any of the Released Persons based on any act or omission that occurred, during the FLSA Class Period, in any way related to any of the facts or claims alleged or could have been alleged in the Actions or by reason of the negotiations leading to this settlement, even if presently unknown and/or un-asserted. The matters released by the FLSA Releasing Persons herein also include any FLSA retaliation claims that could be brought by FLSA Settlement Class Members against any Released Persons based on any act or omission that occurred during the FLSA Class Period, any breach of contract claims, and any state common law wage claims including, but not limited to, claims of unjust enrichment and *quantum meruit*, and any and all claims pursuant to or derived from ERISA that arise from any alleged failure to pay wages, including any claims for benefits under any benefit plans subject to ERISA that arise from any such alleged failure, and any wage-and-hour laws or wage-related claims under other laws, and any other claims of any kind related to the Released Persons' alleged failure to pay wages to FLSA Settlement Class Members during the FLSA Class Period.

E. Monetary Awards

1. Class Representatives Lauren Byrne, Jenetta L. Bracy, Bambie Bedford,

and Jennifer Disla are hereby each awarded, as an incentive fee award for their roles in prosecuting the Actions on behalf of the Settlement Classes, the amount of $_____, per individual, or a total amount of _____, to be paid out of the Gross Cash Settlement Amount. The Settlement Administrator will pay the incentive fees awarded by the Court to the Class Representatives within ten days of the Effective Date.

2. Class Counsel are hereby awarded, as and for attorney fees and costs, $_____, which the Court finds to be fair and reasonable, and for reimbursement of costs and expenses, the sum of $_____, to be paid out of the Gross Cash Settlement Amount.

3. Attorneys' fees and costs awarded by the Court shall be paid to Class Counsel, with the first payment being made within thirty (30) days of the Effective Date and shall be paid in not less than six equal monthly installments. Interest shall not accrue on any amount awarded by the Court if payment is timely made under this Section.

F. Injunctive Relief

1. Within 30 days following the Effective Date, the Existing Clubs shall prominently display, to the extent not already displayed, in its dressing rooms, or as close thereto as reasonably practical, a Federal and/or State Department of Labor poster, so its entertainers have access to the applicable laws related to employee status, should the entertainers elect to be treated as an employee rather than an Owner. Each Club shall also prominently display in dressing rooms, or as close thereto as reasonably practical, rules that state entertainers who elect to be classified as employees shall not tip out ineligible tip employees of the Club such as managers. Each Club shall also prominently display and provide to the entertainers a Human Resources hotline phone number to contact if they believe wage laws have been violated or any other employment issue arises. The entertainers may report complaints via the hotline confidentially. The LLC agreement shall state that the

Clubs shall not require the entertainers pay "fines" for violations of Club rules. The Clubs' display of rules shall ask entertainers to report via its hotline any Club that levies fines against its entertainers.

2. Within 30 days following the Effective Date, Defendants shall modify the limited liability company agreements; which changes include, but are not limited to: (i) elimination of dance performance minimum quotas, and (ii) elective rather than mandatory requirements to participate in an in-person meeting to resolve disputes.

G. Intervenor Relief and Continuing Jurisdiction

1. Intervenors have filed a motion for entry of a Declaratory Judgment, which this Court has GRANTED. The Declaratory Judgment provides that current entertainers who perform as LLC Members and Owners may be classified as and continue to perform as LLC Members and/or Owners (as ordered in the *Trauth* case) and not as employees as that term is defined by the Fair Labor Standards Act or any state law in California, Idaho, Iowa, Florida, Kentucky, Minnesota, Oregon and Texas. At any time, any Intervenor or Class Member who wishes to change her status from LLC Member and/or Owner may do so and begin to perform and be classified as an employee; and shall suffer no adverse consequences for making such a choice.

2. Pursuant to the Declaratory Judgment, this Court shall maintain jurisdiction for a period of ten years. During that time period, Intervenor Class Counsel shall file semi-annual reports with the Court and provide status reports. The status reports shall provide the Court with updates that address, among any other relevant issues, whether Intervenors and/or Class Members are continuing to be treated as Owners and/or LLC Members versus employees; whether Intervenors and/or Class Members wish to continue to be classified as Owners and/or LLC Members.

3. Jurisdiction is therefore retained over this Action, the Parties, the Settlement Class Members, the Defendants and the Intervenors for all matters relating to the Action, including (without limitation) the administration,

interpretation, effectuation or enforcement of the Settlement Agreement and this Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the Settlement proceeds to the members of the Settlement Classes for a period of ten years following the Effective Date of the Agreement (which is the date when all appeal periods have concluded).

4. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____

_____
The Honorable Jesus G. Bernal
United States District Court Judge

EXHIBIT 7

Application Notice

NOTICE TO ENTERTAINER

OF OPPORTUNITY FOR EMPLOYMENT OR

PARTICIPATION AS MEMBER

(SUMMARY GUIDELINES)

(ENTITY NAME) ("Club")
(ENTITY LOCATION) ("Premises")

You may choose to become an employee of ~~the~~ Club as described in the first column below. Or, you may choose to become a member of the~~with~~ Club as described in the second column below. The relationship of employee differs from that of a member. These are guidelines only which contain information regarding entertainer as an employee rather than a member. ~~The~~ Club does not take a position regarding your choice. You have the right and opportunity to first engage an attorney and/or financial advisor to advise you in all respects regarding your decision and to receive a copy of this Notice, LCC Membership Application and the Operating Agreement as well as the Employee Employment Application and Employee handbook before making decision. If anyone at ~~the~~ Club attempts to influence you to elect one of the options as preferable, this is to be reported to ~~the~~ Club's Human Resources Department at ~~[INSERT PHONE NUMBER]~~(951) 371-3788 immediately.

Employee	**Member**
1. Receive a complete New Employee Hire package. There is a Human Resource Dept. ("HR") which is available to provide you assistance as may be necessary in completing this package and providing you with all required information;	1. Receive a Limited Liability Company's ("LLC") Operating Agreement for review and execution upon acceptance of all terms and conditions;
2. The job duties of employee-entertainer are to perform stage performances and sell and perform other dance entertainment services in a nude, semi-nude (topless) or bikini state, although you may be required to fill in for other job positions including waitress or other positions in the Club, and receive work assignments relating to ~~the~~ Club at locations apart from the Premises, as needed;	2. Be a Class A Member in an LLC with Club, the owner and operator of the Premises, as the Class B Member. The LLC is a form of business organization that is treated as a partnership for income tax purposes;
3. You will be required to report tips to management at the end of each shift, as required by Federal and/or State tip reporting rules. Tips are such amounts received by entertainer in excess of wages and the commission set forth below, which you are entitled to retain;	3. Control your own work schedule, to be coordinated with ~~the~~ Club Manager, to provide stage performances and perform other dance entertainment services in a nude, semi-nude (topless) or bikini state for the benefit of the LLC;
4. You will have a minimum sales quota as posted in ~~the~~ Club per performance set for sales of dance performances, and after satisfying such minimum quota, you will have a commission split with ~~the~~ Club as posted in ~~the~~ Club for your subsequent sales of dance performances, which will be paid on your bi-weekly paycheck as described below (sales are not commissionable until the sales quota threshold is satisfied);	4. Not be in an employer - employee relationship (if, following becoming a Class A Member you elect to terminate your membership with the LLC, you may at any time, subject to eligibility and an available position, request to apply for employment directly with ~~the~~ Club [the left column describes an overview of a potential employment opportunity]);
5. ~~The~~ Club will assign your days and hours of work for up to five shifts per week, with a full shift being an 8 hour period. Club may cancel a shift at its discretion;	5. Have a capital contribution of $100 to LLC, payable in equal $20 monthly installments or as a debit against distributions otherwise payable to you based upon your Member Pool Participation ("MPP"). Additional contributions are subject to approval by a minimum of 51% of the Class A Members and relate to marketing, advertising or promotions. If approved, the Class B Member Club will match these contributions;
6. You will be required to arrive at work consistent with your scheduled time and to clock in and out, including for all meals and breaks as may be provided for under applicable federal and/or state law;	6. Pay a specified amount per full set towards LLC overhead as posted at ~~the~~ Club;
7. ~~The~~ Club may require you to wear a specific uniform or other promotional costume and under some circumstances ~~the~~ Club will provide such uniform or costume at its	7. Pay administrative costs for redemption of chips or other applicable Club scrip received from patrons relating to Class A Member's performance services;
	8. Vote relative to benefits available to Class A members;

expense;

8. You will be an "at will" employee, which means like all other club employees, you or ~~the~~ Club can terminate the employment relationship with or without notice and with or without cause. If you elect to terminate your employment with ~~the~~ Club, you may at any time, subject to eligibility and availability, apply for membership in the LLC (described in the right column);

9. You will be required to abide by all Club rules, policies and procedures including, but not limited to, those set forth in the employee handbook as made available with the New Employee Hire Package;

10. You may be scheduled for "on call" duty as often as two times per month;

11. You will be required to assist ~~the~~ Club in selling of non-alcoholic beverages;

12. You will be scheduled, as needed, to work shifts outside of ~~the~~ Club for promotional events, and will be required to wear no less than a bikini in public (e.g., nightclubs, boxing events, car shows, etc.) which you will be compensated at the current applicable hourly minimum wage;

13. All agreements in any way relating to ~~the~~ Club, including any current LLC or independent contractor agreement, lease agreement, or otherwise that you have with ~~the~~ Club prior to the acceptance of employment will be terminated effective as of the date of your employment as an employee;

14. Any issues that an entertainer may feel she has relating in any way to her employment with ~~the~~ Club should be reported to HR;

15. Club and entertainer employee will submit to binding arbitration for the resolution of all claims or disputes, except as prohibited by statute; ~~and further, in advance thereof entertainer employee shall give prior written notice to Club of the claim or dispute and pertinent facts and circumstances with the right to cure by Club at its discretion~~. An employee may elect to opt-out of arbitration pursuant to the arbitration agreement's opt-out instructions;

16. You will be paid minimum wage and such additional amount as required by law for overtime, if any, and you will receive a commission on all dance sales per shift in excess of the required minimum number of dance sales required for each shift, such applicable commission shall be as posted in ~~the~~ Club;

17. You will be paid bi-weekly for all hours worked and commissions earned less all required withholdings, including required tax withholdings (including from commissions); and

18. Receive a W-2 form for income tax purposes.

9. Have a Representative elected by a Majority of the Class A Members. The Representative interacts with the Class B Member relative to programs they may want the LLC to adopt, e.g. medical plan or child care program, or demand for reprimand, probation, suspension or termination of employment of a Club Manager;

10. Receive a portion of the Member Performance Fee ("MPF"), payable upon set completion. The MPF is set by Class B Member and may change from time to time;

11. Report "tips" received from a customer. Tips are taxable to you;

12. Receive a pro-rata distribution, based upon Member's ownership interest, with all qualified Class A Members eligible to receive an applicable percentage of net income generated from chip commissions or other applicable Club scrip, and sales by Club of merchandise and non-alcoholic beverages, which will fund the MPP. To be qualified for the distribution, you must have satisfied performance obligations within the applicable accounting period and satisfied payment of the full amount of the capital contribution to the LLC. This distribution is paid quarterly;

13. Any issues that a Class A Member may feel she has relating in any way to her membership activities at ~~the~~ Club are to be reported by such Class A Member to the District Manager assigned to ~~the~~ Club;

14. Club, LLC and Member will submit to binding arbitration for the resolution of all claims or disputes, except as prohibited by statute and Member may elect to opt-out of arbitration within the time period and in the manner referred in Exhibit C to the Operating Agreement;

15. All agreements in any way relating to ~~the~~ Club, including any current independent contractor agreement or lease agreement you have with ~~the~~ Club prior to membership in LLC, will be terminated effective as of the date you become a Class A Member; and

16. Receive a K-1-Form for income tax purposes;

THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT AGREEMENT OR MEMBERSHIP INTEREST, NOR DOES IT SET FORTH ANY PROSPECTIVE ARRANGEMENT WITH A CLUB OR LLC OTHER THAN AN AT-WILL EMPLOYMENT RELATIONSHIP OR MEMBERSHIP INTEREST. A MEMBER IS SUBJECT TO THE TERMS AND CONDITIONS OF THE CORRESPONDING OPERATING AGREEMENT AND APPLICABLE LAWS. AN EMPLOYEE IS SUBJECT TO THE TERMS GOVERNING SUCH EMPLOYMENT,

AS WELL AS ALL APPLICABLE LAWS IN THE PERFORMANCE OF SUCH EMPLOYEE'S RELATED JOB DUTIES.

IF YOU DO NOT CHOOSE TO APPLY FOR EMPLOYMENT AS AN EMPLOYEE, AS INDICATED BY YOUR SIGNATURE BELOW AS APPROPRIATE, YOU MAY CHOOSE TO PERFORM AT CLUB AS A CLASS A MEMBER OF THE LLC, AS INDICATED BY YOUR SIGNATURE BELOW AS APPROPRIATE.

IT IS NECESSARY FOR YOU TO ADVISE ~~THE~~ CLUB MANAGER OF YOUR DECISION AS TO WHETHER YOU WISH TO APPLY AS AN EMPLOYEE OR CLASS A MEMBER.

NO CLUB MANAGER OR OTHER PERSON AFFILIATED WITH CLUB OR LLC IS AUTHORIZED TO, NOR DOES, RENDER ANY OPINION WHATSOEVER REGARDING YOUR CHOICE OF EITHER BECOMING AN EMPLOYEE OR MEMBER, OR ANY ATTENDANT BENEFITS OR BURDENS THEREOF, AND NO PROMISES HAVE BEEN MADE AS TO EITHER STATUS, EITHER EXPRESS OR IMPLIED. THIS IS AN INDIVIDUAL DECISION BY YOU, AND ONE WHICH YOU MAY WISH TO CONSULT FIRST WITH AN ATTORNEY AND/OR FINANCIAL ADVISOR. IT IS A DECISION WHICH YOU ACKNOWLEDGE TO HAVE BEEN MADE FREELY, VOLUNTARILY, KNOWINGLY AND OF YOUR OWN VOLITION.

BY YOUR SIGNATURE BELOW, YOU ACKNOWLEDGE THAT YOU HAVE REVIEWED THIS NOTICE TO ENTERTAINER IN ITS ENTIRETY, YOU HAD ADEQUATE TIME TO CONSIDER IT AND TO SEEK THE ADVICE OF AN ATTORNEY AND/OR FINANCIAL ADVISOR, OR VOLUNTARILY ELECTED NOT TO DO SO.

IF YOUR APPLICATION TO BECOME AN EMPLOYEE OF ~~THE~~ CLUB IS ACCEPTED AND YOU ARE EMPLOYED, YOU MAY AT ANY TIME ELECT TO TERMINATE YOUR EMPLOYMENT RELATIONSHIP WITH ~~THE~~ CLUB AND THEREAFTER APPLY FOR MEMBERSHIP AS A CLASS A MEMBER OF THE LLC AS DESCRIBED IN THE RIGHT COLUMN ABOVE. LIKEWISE, IF YOUR APPLICATION TO BECOME A CLASS A MEMBER OF THE LLC IS ACCEPTED AND YOU BECOME A CLASS A MEMBER, YOU MAY AT ANY TIME ELECT TO TERMINATE YOUR MEMBERSHIP AND APPLY FOR EMPLOYMENT WITH ~~THE~~ CLUB AS AN EMPLOYEE AS DESCRIBED IN THE LEFT COLUMN ABOVE. APPLICATIONS FOR MEMBERSHIP OR EMPLOYMENT, AS APPLICABLE, ARE SUBJECT TO ELIGIBILITY AND AVAILIBILITY.

BY YOUR SIGNATURE BELOW, INDICATE WHETHER YOU CHOOSE TO BE TREATED AS AN APPLICANT EMPLOYEE OF ~~THE~~ CLUB (LEFT COLUMN) OR APPLICANT CLASS A MEMBER OF THE LLC (RIGHT COLUMN). BASED UPON YOUR DECISION, YOU WILL REVIEW, COMPLETE AND SUBMIT EITHER THE NEW EMPLOYEE HIRE PACKAGE TO ~~THE~~ CLUB, OR THE LLC OPERATING AGREEMENT TO THE LLC, FOR REVIEW AND DETERMINATION BY CLUB OR THE LLC OF WHETHER OR NOT TO ACCEPT YOUR APPLICATION FOR EMPLOYMENT, OR AS A CLASS A MEMBER, RESPECTIVELY.

THE UNDERSIGNED BY SIGNATURE BELOW HEREBY ACKNOWLEDGES HAVING READ AND UNDERSTOOD THE AFOREMENTIONED. I CHOOSE employment status. Request is made for Club's New Employee Hire Package. Dated: _____ _____ Entertainer's name (signature of employee applicant) Print Name: _____	I DECLINE employment status and CHOOSE to be a MEMBER. Request is made for company's LLC Operating Agreement. Dated: _____ _____ Entertainer's name (signature of LLC member applicant) Print Name: _____

EXHIBIT 8

LLC Operating Agreement

*This Agreement is slightly modified with respect to alcohol polices of the applicable jurisdiction, which polices are not at issue in the subject litigation.

(ENTITY NAME), LLC

OPERATING AGREEMENT

THE LIMITED LIABILITY COMPANY INTERESTS EVIDENCED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION PURSUANT TO THE SECURITIES ACT OF 1933, AS AMENDED, QUALIFIED WITH THE CALIFORNIA CORPORATIONS COMMISSIONER PURSUANT TO THE CALIFORNIA CORPORATE SECURITIES LAW OF 1968, AS AMENDED, OR OTHERWISE REGISTERED OR QUALIFIED PURSUANT TO THE SECURITIES LAWS OF ANY OTHER STATE OR JURISDICTION. THE LIMITED LIABILITY COMPANY INTERESTS EVIDENCED BY THIS AGREEMENT ARE OFFERED FOR INVESTMENT PURPOSES AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF EXCEPT IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. ANY UNAUTHORIZED ASSIGNMENT OR TRANSFER OF A LIMITED LIABLITIY COMPANY INTEREST IN THIS COMPANY WILL BE VOID.

This (ENTITY NAME), LLC ("Company"), OPERATING AGREEMENT ("Agreement") is made as of _____, 201___ by the Persons (defined in Section 1.14 below) who are signatories hereto (collectively the "Class A Members") and ENTITY NAME ("Class B Member"). The Class A Members and Class B Member may hereinafter be referred to singularly as "Member" and collectively as "Members" as the context requires.

R E C I T A L S

A. Each Class A Member has elected to become a Member of the Company after carefully reviewing this Agreement and providing their informed consent by execution hereof, the Notice to Entertainer of Opportunity for Employment or Participation as a Member (Summary Guidelines), and all attachments hereto, including:

- Nature of the Business and Class A Members' Role;
- Profit And Losses;
- Mutual Agreement To Arbitrate Claims and Class/ Collective Action Waiver;
- Member Release, Consent and Assignment Re: Media;
- Anti-Prostitution Statement;
- Prohibited Activities Statement;
- Statement Against Harassment;
- Consent to Text Message Communications; and
- Assumption of Risk and Release to Participate in Potentially Dangerous Activities

incorporated herein by this reference as though fully set forth as Exhibits "A","B","C", "D", "E" "F", "G", "H", and "I" respectively.

B. The Company was formed as a limited liability company under the laws of the state of California.

C. The Company is authorized to undertake and perform all business purposes permitted pursuant to the laws of the State of California, and in accordance with its Articles of Organization without limitation except as

provided by applicable law; however, the nature of the Company's business contemplated for purposes of its formation include, without limitation, live adult female entertainment and the offering, service and sale of beverages, goods, chips/Club scrip, merchandise and related hospitality services which include ~~private and semi-private~~ stage and other dance performances and stage performances in varying states of dress such as, topless, semi-nude, bikini, and/or fully nude states.

D. The Members desire to execute this Agreement in order to provide for the governance of the Company and the conduct of its business.

NOW, THEREFORE, the Members hereby declare as follows:

ARTICLE 1
DEFINITIONS

The following capitalized terms used in this Agreement have the meanings specified in this Article or elsewhere in this Agreement:

1.1 "Capital Account" means an account to which a Member's Capital Contribution is credited pursuant to Sections 3.1, 3.2, 3.3 and 3.5.

1.2 "Capital Contribution" means the money contributed to the Company by a Member in exchange for such Member's ownership interest in Company. A Capital Contribution is not a loan.

1.3 "Club" means the adult entertainment club which is owned and operated by the Class B Member at (ADDRESS OF ENTITY) ("Premises"). The Class B Member shall allow the Company to provide adult entertainment on Premises which shall be compliant with any and all rules, regulations, statutes, ordinances or other laws imposed by any federal, state or local governmental entity.

1.4 "Club Manager" means the management personnel employed to manage the operations of the Club at the Premises, including without limitation, any manager, assistant manager, or manager in training.

1.5 "Company" means the company named in Section 2.2.

(a) "Member Performance Fee" or "MPF" means a fixed fee established by the Club for the price of chair, table and couch dances performed on the Premises.

(b) "Member Participation Pool," "MPP" or "Pool" means an income pool

established by the Company for the Members consisting of a designated percentage of net income generated and pooled from the sales of merchandise, non-alcoholic beverages and chip commissions or other applicable Club scrip as further set forth in Exhibit "B".

1.6 "Distributions to a Class A Member" means the distributions of (i) cash made to a Class A Member in accordance with the allocation of the Member Performance Fee applicable to such distribution as set forth in the attached Schedule B-1 to Exhibit "B", subject to modification by the Manager of Company from time to time due to fluctuating financial market conditions, the financial performance of the Company, economic predictions, trends, risks, or other events or determinations which affects or may have an effect on the Company business, upon notice to the Class A Members by posting such modification in the Club or pursuant to a special meeting called by the Class B Member for such purpose, and such modification shall be incorporated herein and deemed a part of this Agreement on the effective date of such modification, and (ii) payments to Member out of the Member Participation Pool as set forth in Exhibit "B".

1.7 "Distributions to the Class B Member" means the distributions of cash made to the Class B Member out of the remaining portion of the Member Performance Fee not distributable to the Class A Members, and all net sales attributable to the Member Performance Pool as set forth in Exhibit "B" in addition to all alcoholic beverage sales (as applicable) and all other net profit of Company's business operations.

1.8 "Entertainer" means a Class A Member: (i) an individual who is of legal age based upon her representation and warranty and presentation of identification attesting to her age and which she represents to be valid and authentic, or (ii) a Person which is a corporation or limited liability company that is (a) in good standing, (b) qualified to transact business in the state where the Club is located, and (c) owned and operated solely by the sole shareholder or member, as applicable, that is an individual of legal age based upon her representation and warranty and presentation of identification attesting to her age and which she represents to be valid and authentic. In the case of an Entertainer/Member which is a corporation or limited liability company, for any circumstances requiring the personal fulfillment or performance of any service or obligation by an individual relating to this Operating Agreement, such service or obligation shall be performed by Member's sole shareholder or member, as applicable. Class A Members will provide adult entertainment on the Premises compliant with any and all rules, regulations, statutes, ordinances or other laws imposed by any federal, state or local governmental entity.

1.9 "Majority of the Class A Members" means at least fifty-one percent (51%) of the Class A Members of the Company.

1.10 "Manager" means such Person who is designated by the Class B Member as the Manager of the Company.

1.11 "Overhead Payment" means the payment made by each Class A Member to the Class B Member for each day that such Class A Member performs a set as provided in Exhibit "B" to help pay for the overhead expenses payable by the Class B Member. An Overhead Payment is not a Capital Contribution.

1.12 "Performance" means the providing of live female entertainment of an adult cabaret nature, including without limitation, stage performances, by the Class A Members at the Club.

1.13 "Person" means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company, or other entity, whether domestic or foreign.

1.134 "Profits and Losses" means, for each fiscal year or other period specified in this Agreement, an amount equal to the Company's taxable income or loss for such year or period, determined by the accountants for the Company.

1.145 "Representative" means such Person, or the successor of such Person, who is elected by a Majority of the Class A Members to represent the Class A Members. If no Representative is elected by the Class A Members, the Class B Member shall appoint a Representative, who upon acceptance of such appointment, shall represent the Class A Members until the successor is elected by a Majority of the Class A Members.

ARTICLE II
CERTIFICATE OF FORMATION

2.1 The Articles of Organization were filed with the California Secretary of State on (Month, Date, Year, file number#).

2.2 The name of the Company is "ENTITY NAME, LLC."

2.3 The principal executive office of the Company is located at 1875 Tandem Way, Norco, CA 92860, or such other place or places as may be determined by the Members.

2.4 The initial agent for service of process for the Company is Joann Castillo whose address is as indicated in Section 2.3. The Members may change the Company's agent for service of process.

2.5 The Company is formed to provide live adult entertainment and as further described in Recital C above.

2.6 The term of existence of the Company shall commence on Month, Date, Year, and shall continue until terminated by the provisions of this Agreement or as provided by law.

ARTICLE III
CAPITALIZATION

3.1 Each Class A Member shall contribute to the capital of the Company the sum of One Hundred Dollars ($100.00) as the Member's Capital Contribution which shall be credited to that Member's Capital Account. Such Capital Contribution shall be paid by a Class A Member as follows:

(i) Five (5) consecutive monthly installments of Twenty Dollars ($20.00) each; or,

(ii) Any accrued and unpaid amounts that Class A Member is eligible for pursuant to the MPP will be credited to the Capital Account, with any shortfall after credit of the MPP amount to be paid directly by the Class A Member to satisfy payment of the Capital Contribution pursuant to the schedule set forth in Section 3.1(i) above.

3.2 Each Class A Member shall make additional Capital Contributions to the Company from time to time in an amount determined by a Majority of the Class A Members pursuant to Section 5.2(g) in order to pay for Marketing, Advertising or Promotions, for the Club, or such other plans or programs such as medical insurance plans or child care programs.

3.3. The Class B Member shall make an additional matching Capital Contribution from time to time in an amount equal to the additional Capital Contributions which are made by the Class A Members pursuant to Section 3.2.

3.4 In the event a Class A Member does not make an additional Capital Contribution within thirty (30) days of the decision of the Majority of the Class A Members to require an additional Capital Contribution pursuant to Section 5.2(g), the Company shall, in addition to other remedies, have the right to (i) reduce such Member's Capital Account, and/or to (ii) withhold distributions otherwise payable to such Member, in an amount equal to such additional Capital Contribution.

3.5 The Class B Member shall contribute all capital funds necessary for the formation of the Company, including applicable governmental fees, and accounting and legal fees, and to the extent of business operation losses.

3.6 No interest shall be paid on funds contributed to the capital of the Company or on the balance of a Member's Capital Account.

ARTICLE IV
ALLOCATIONS AND DISTRIBUTIONS

4.1 The Profits of the Company shall first be allocated as Distributions to Class A Members. Any remaining Profit and any Losses of the Company shall then be allocated to the Class B Member.

4.2 All Distributions to Class A Members and all Distributions to the Class B Member shall be made pursuant to Exhibit "B" attached hereto.

4.3 Fines shall not be assessed against Class A Members.

ARTICLE V
MANAGEMENT; MEETINGS OF MEMBERS; VOTING

5.1

(a) Conduct of Company Business. Business of the Company shall be managed by the Members as set forth herein. The Class A Members shall elect a Representative. The Representative shall serve until the Representative's resignation or removal by a Majority of Class A Members.

(b) The Class B Member shall elect a Manager who shall be in charge of the overall management of the Company and to do and perform all acts as may be necessary or appropriate to the conduct of Company's business, without approval of the Members, except in the event that the approval of the Members is expressly required by this Agreement or as required by nonwaivable provisions of the California Revised Uniform Limited Liability Company Act, contained in California Corp. Code Sections 17701.01 et seq., as amended from time to time ("Act"). Manager has full and complete authority, power and discretion to manage and control the business, affairs and properties of Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary to incident to the management of Company's business, and to the greatest extent waivable by the Members, Manager also has full and complete authority, power and discretion to manage, control and perform the following acts without approval of the Members:

(i) acquire any real or personal property from any Person, whether or not such Person is directly or indirectly affiliated or connected with the Manager or any Member;

(ii) borrow money for Company from banks, other lending institutions, the Manager, Members, or affiliates of the Manager or Members on such terms as the Manager deems appropriate, and in connection therewith, to hypothecate, mortgage, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums;

(iii) construct, operate, maintain and improve any real and personal property owned by the Company;

(iv) prepay, in whole or in part, refinance, amend, modify or extend any mortgages or trust deeds affecting the assets of the Company and in connection therewith to execute for and on behalf of the Company any extensions, renewals or modifications of such mortgages or trust deeds;

(v) purchase liability and other insurance to protect the Company's property and business;

(vi) hold and own Company real and personal properties in the name of the Company;

(vii) invest Company funds in time deposits, short-term governmental obligations, commercial paper or other investments;

(viii) sell, lease, exchange or otherwise dispose of all or substantially all of the assets of the Company, with or without goodwill, outside Company's ordinary course of business, as long as such disposition is not in violation of, or a cause of a default under, any other written agreement to which Company may be bound;

(ix) execute on behalf of the Company all instruments and documents, including, without limitation, checks, drafts, notes, negotiable instruments and other evidences of indebtedness obligating the Company to pay money to a third party; mortgages or deeds of trusts; security agreements; financing statements; documents providing for the acquisition, mortgage or disposition of the Company's property; assignments and bills of sale; leases; and any other instruments or documents necessary or desirable to the business of the Company;

(x) endorse checks, drafts or other evidence of indebtedness to the Company for deposit into one of the Company's accounts;

(xi) employ employees accountants, legal counsel, managing agents, tradesmen, contractors, subcontractors or other Persons to perform services for Company;

(xii) enter into any and all other agreements on behalf of the Company, in such forms as the Manager may approve;

(xiii) commence lawsuits and other proceedings on behalf of the Company;

(xiv) apply for, acquire, and respond to all inquiries relating to entitlements, approvals, permits and licenses relating to Company business;

(xv) approve a merger or conversion of Company, so long as such approval is not in violation of Corporations Code § 11701.10(c)(1); and

(xvi) all other acts outside the ordinary course of the activities of Company.

Any document or instrument of any and every nature, including without limitation, any agreement, contract, deed, promissory note, mortgage or deed of trust, security agreement, financing statement, pledge, assignment, bill of sale and certificate, which is intended to bind Company or convey or encumber title to its real or personal property shall be valid and binding for all purposes only if executed by Manager.

a. Liability for Certain Acts. Manager shall perform its duties as Manager in good faith, in a manner it reasonably believes to be in the best interests of Company. Manager shall satisfy its duty of care and obligation of good faith and fair dealing to Company if Manager reasonably believes such acts performed by Manager are in the best interests of Company. The Manager shall have solely the following duties with respect to the duty of loyalty of Manager: (1) the duty to account, (2) the duty to refrain from self-dealing and (3) the duty to refrain from competing,

except as permitted hereunder. Manager shall not be required to manage Company as its sole and exclusive function and it may have other business interests and engage in activities in addition to those relating to Company, including but not limited to activities that may be competitive with Company. Neither Company nor any Member shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of Manager or to the income or proceeds derived therefrom. Manager shall incur no liability to Company or any Member as a result of engaging in any other business interests or activities. Upon full disclosure to all Members of all material facts, if such membership of Company constituting at least 51% of Company nonetheless authorizes or ratifies a specific act or transaction that otherwise would violate the duty of loyalty, such act or transaction shall be deemed not to violate such duty.

b. Reimbursement to Manager. Company shall reimburse Manager for all ordinary, necessary and direct expenses incurred by Manager on behalf of Company in carrying out Company's business activities including, without limitation, salaries of representatives who are carrying out Company's business activities.

c. Reimbursement to Members. No Member shall be reimbursed for any expense incurred on behalf of Company in their capacity as Member unless such expense is approved in writing by Manager and a valid, written receipt for such expense is provided to Manager at the time for such Member's request for reimbursement.

5.2 Meetings of and Voting by Members.

(a) Meetings of the Members shall not be required to take place regularly, unless the Class A Members desire to hold regular meetings, and in such event the regular meeting of the Members shall be in accordance with the schedule posted in the Club dressing room by the Representative.

(b) A special meeting of Class A Members may be called at any time by the Class A Members' Representative, or by Members representing more than ten percent (10%) of the membership interests.

Notice of the special meeting will be provided to a Member by: (1) text to the last indicated cell phone number, provided the Member has consented to the Text Message Policy attached as an Exhibit hereto; (ii) email; (iii) publication on the specific Facebook page promoted by the Club, and/or (iv) posted in the Club dressing room, any of which individually or collectively shall constitute adequate written notice. For the purposes of providing notice for meetings, the contact information of a Class A Member shall be maintained on a confidential basis by the Class B Member and will not be disclosed by the Class B Member to other Class A Members, unless otherwise agreed to by such Class A Member. Meetings of Members shall be held at the Premises or as otherwise properly noticed within the same County, or similar jurisdiction, as the Premises is located, designated by the Person or Persons calling the meeting not less than ten (10) nor more than sixty (60) days before such meeting. The notice shall state the time, place, and purpose of the meeting.

Notwithstanding the foregoing provisions, each Member who is entitled to notice may waive notice, either before or after the meeting, by executing a written waiver of such notice (Exhibit "D" attached hereto), or by appearing at and participating, in person in the meeting or by proxy.

Any Class A Member designating a proxy shall provide the Class B Member with a "Proxy Designation" form. Unless this Agreement provides otherwise, at a meeting of Class A Members, the presence in person or by proxy of fifty-one percent (51%) of the then active Members constitutes a quorum. A Member may vote either in person or by written proxy or by the Member's duly authorized attorney in fact. Each Class A Member shall have one (1) vote.

(c) Except as otherwise provided in this Agreement, the affirmative vote of a Majority of the Class A Members present at the meeting in person or by proxy shall be required to approve any matter coming before the Members.

(d) Instead of a meeting, Class A Members may take action by written consents specifying the action to be taken provided the combined voting power of the consents represents at least 51% of the then active Class A Members. Consents must be executed and delivered to the Company by Class A Members in writing. Any such approved action shall be effective immediately. The Company shall give prompt notice to all Members of any action approved by Members by less than unanimous consent.

(e) Members consent to electronic delivery via email of any document relating to the business operations of Company. This includes, but is not limited to, meeting notices and meeting minutes, if any, annual

reports, tax information, financial information, voting information, and all other notices, reports and information.

This consent applies to all electronic transmissions sent by and to the Company.

Member shall provide to Company a current email address accessible solely by Member for the purpose of receiving electronic transmissions. Members will promptly advise Company, either in writing or electronically, of any change in Member's email address for the receipt of electronic transmissions, and promptly notify Company in the event Member knows or suspects that the privacy of Member's email account is compromised.

(f) An amendment to the Articles of Organization or an amendment to this Agreement, excluding a modification to the Member Performance Fee ("Exhibit B") which shall not constitute an amendment of the Operating Agreement and may be modified by Manager of Company, shall require the vote or consent of a Majority of the Class A Members and the Class B Member.

(g) The following matters shall require the consent of a Majority of the Class A Members:

(i) The assessment of an additional Capital Contribution to be made by each Class A Member pursuant to Section 3.2 in order to fund in part the Marketing, Advertising and/or Promotions for the Club. The Class B Member shall match concurrently all such additional Capital Contributions made by the Class A Members pursuant to Section 3.3.

(ii) A Majority of Class A Members may, through their Representative, present to the Manager the Class A Members' approved tentative plan or program that they want to adopt to further benefit the Class A Members, including, but not limited to, marketing, admissions of additional Class A Members, a medical plan or a child care program. In such event, the Class A Representative and Manager will investigate the feasibility, costs and mechanism to implement such a plan or program through the Company. Actual implementation of such tentative plan or program is subject to final written approval of the Class A Members. Upon final approval, the Representative will communicate such approval to the Manager, and additional Capital Contributions shall be made by each Class A Member pursuant to Section 3.2 in order to fund in part the plan or program. The Class B Member shall match concurrently all such additional Capital Contributions by the Class A Members pursuant to Section 3.3.

(iii) A Majority of Class A Members may, through their Representative, present to the Manager, a demand for the reprimand, probation, suspension or termination of employment of any Club Manager and

provide Manager with a written statement of the reason(s) in support thereof which shall include, without limitation, specific dates, facts, circumstances and identification of percipient witnesses sufficient for the Manager's review, investigation and consideration of such employment action.

(iv) A Majority of Class A Members may, through their Representative, present to the Manager their request that certain rules and regulations of Club, excepting all that are governed by applicable local, state or federal laws, be modified and provide Manager with a written statement of the reason(s) in support thereof and the modification sufficient for Manager's review, investigation and consideration for implementation.

ARTICLE VI
ACCOUNTS AND RECORDS

6.1 Complete books of the Company's business shall be kept at the Company's principal executive office.

6.2 Financial books and records of the Company shall be kept on the accrual basis method of accounting. A balance sheet and income statement of the Company shall be prepared promptly following the close of each fiscal year in a manner appropriate to and adequate for the Company's business and for carrying out the provisions of this Agreement. The fiscal year of the Company is from January 1 through December 31 of each year.

6.3 At all times during the term of existence of the Company, and beyond that term if the Members deem it necessary, the Class B Member shall keep or cause to be kept the books of account referred to in Section 6.2, electronically stored, including the following:

(a) A current list of the full name and last known business or residence address of each Class A Member, together with the capital contributions and the share in profits and losses of each Member;

(b) A copy of the Articles of Organization, as amended;

(c) Copies of the Company's federal, state, and local income tax or information returns and reports, if any, for the seven most recent taxable years;

(d) Executed counterparts of this Agreement, as amended;

(e) Any powers of attorney under which the Articles of Organization or any amendments thereto were executed;

(f) Minutes of any general or special meetings held by Members for which the Representative provides, in addition to any written requests received from the Representative following such meetings; and

(g) Financial statements of the Company for the seven most recent fiscal years.

6.4 Following execution of this Agreement, Company will use reasonable efforts, but shall not be required, to make this Operating Agreement and related documents and information pertinent thereto available to Class A Members through a secure website. Upon the reasonable request of a Class A Member for a purpose reasonably related to the interest of that Member of the Company, the Manager shall provide portal access to the website established for the purpose of permitting Member review thereof, in addition to information required to be and actually maintained by the Company.

6.5 In addition to website access pursuant to Section 6.4, each Class A Member has the right upon reasonable request, and for purposes reasonably related to the interest of that Member, to do the following:

(a) To inspect during normal business hours any of the records required to be or actually maintained by the Company; and

(b) To obtain from the Company promptly after becoming available, a copy of the Company's federal, state and local income tax or information returns for each year.

Member acknowledges and agrees that such records of Company are confidential and/or proprietary in nature and subject to protection pursuant to the provisions of Article XI.

6.6 The Company shall send or shall cause to be sent to each Member within ninety (90) days after the end of each fiscal year of the Company, such information as is necessary to complete such Member's federal and state income tax or information returns.

6.7 The Class B Member shall serve as the Tax Matters Partner and shall, based on the advice of the Company's accountants, make all decisions concerning tax issues affecting Company.

ARTICLE VII
TERMINATION OF A MEMBER'S INTEREST

7.1 Voluntary Withdrawal.

(a) A Member may withdraw from the Company ("Voluntary Withdrawal") at any time upon oral or written notice to the Manager.

Upon the Voluntary Withdrawal of a Member, such Member's interest in the Company shall terminate and such Member shall receive the payments set forth in Section 7.3 below. Voluntary Withdrawal forms are available from the Class B Member.

7.2 Involuntary Withdrawal/Expulsion.

(a) A Class A Member may be subject to "Involuntary Withdrawal," which means the occurrence of any of the following events:

(i) The expulsion of a Member, including such Member's services, for violating any law, rule or regulation or any of the Company's policies or understandings concerning illegal or impermissible activities, which include but are not limited to:

a. Breach of this Agreement;
b. Acts with a tendency to affect or have an effect on Company's licensure with and permits issued by local, state and federal governmental authorities;
c. Willful or repeated neglect, destruction or loss of the Company's property;
d. Failure to perform or being unfit to perform Member's functions in connection with this Agreement, including without limitation, the dedication of time reasonably necessary to maintain Company's then expected profitability objectives ~~and dance performance minimums~~;
e. Unlawful conduct;
f. Disruptive behavior;
g. Divulging confidential information of Company or another Member to any non-authorized party inside or outside of Company;
h. Conflicts of interest, including kickbacks or diversion of profits;
i. Jeopardizing or interfering with the safety of others;

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j. Possession of dangerous items or a weapon on the Premises;
k. Failure to recognize that Member has limited privacy rights with respect to personal property brought in Club, and to permit inspection by Club Manager of such property;
l. Failure to maintain good bodily hygiene during performance sets or a professional, well-groomed, physically fit appearance in a manner customary to the industry standards;
m. Disclosing matters or images to the media or providing interviews or commentary to any media or third party, including any news organization, regarding any policies or incidents relating to the Company that may impact or otherwise affect the Company and failing to refer such party to the Company Manager;
n. Photographing, recording, taping, filming, including audio or video, in or at the Club or at any Club related promotional event, or displaying, publicizing or broadcasting any image, visual, likeness, audio, biographical information, statements, or performance relating to the Club without the prior written consent of the Company;

and further including such Company policies and understandings concerning solicitation or prostitution, inappropriate acts of a sexual nature, or other violation of the policies of the Company (See also Exhibits "E", "F" and "G" attached hereto;

~~(ii) Without limiting the provisions of Section 7.2(a)(i) above, in the event Member fails to complete and meet the minimum quota of at least twenty-one (21) hours per week as an Entertainer performing in the Club ("Performance Obligation"), Member shall be deemed to have abandoned their membership and Voluntarily Withdrawn, absent the prior written agreement between Member, Class B Member, and Company relating to such lack of participation in Company as provided in Section 7.5.~~

~~(iii)~~ (ii) The death or disability of a Member, or the principal shareholder or member or a Member.

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Upon a Member's Involuntary Withdrawal, Member's interest in the Company shall immediately terminate and Member shall receive the payments set forth in Section 7.3 in accordance with the terms, including the timing and manner of such payments, as set forth herein and including Exhibit "B".

7.3 Payments Upon Voluntary or Involuntary Withdrawal.

(a) As soon as practicable following the Voluntary Withdrawal or the Involuntary Withdrawal of a Class A Member, the Company shall pay to such Class A Member subject to 7.3(b): (i) any accrued and unpaid amounts pursuant to the Pool and, (ii) the Class A Member's Capital Account.

(b) If Member's Capital Account is in the negative, any accrued and unpaid amounts pursuant to the Pool will first be credited to restore the negative Capital Account to zero dollars ($0.00), and then if any positive balance results, that unpaid amount will be paid to the Class A Member.

7.4 A Class A Member may not transfer or assign such Member's membership interest in the Company without the prior written approval the Class B Member and Company.

7.5 A Class A Member is expected to satisfy the Performance Obligation, however, upon the prior written agreement between Member, Class B Member, and Company, the participation of Class A Member may be suspended for up to six (6) months from the effective date of such agreement (a "Hiatus") and Class A Member's membership interest shall not be subject to Involuntary Withdrawal solely on such basis provided (i) there is no breach of this Agreement or any other related agreement by such Class A Member, and (ii) Member shall not receive nor be eligible to receive any Distributions to a Class A Member during such period of suspended participation. Hiatus request forms are available from the Class B Member.

ARTICLE VIII
OPPORTUNITY TO RESOLVE ANY ISSUES; ARBITRATION AGREEMENT

8.1 Each ~~Class A~~ Member, whether as Class A Member or Class B ~~acknowledges~~Member, acknowledges and agrees ~~that such Class A Member will~~ to at all times act in good faith. ~~Each Class A Member further acknowledges and agrees that such Class A Member has a duty of loyalty and a fiduciary duty to the Company and the Class B Member.~~ In the event that a Class A Member is not satisfied for any reason with the Company, such Class A Member ~~will give written notice to the Company and~~ will act in

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good faith with the Company to resolve any differences informally such as, participating in an in-person meeting with Class A Member, Class B Member, Company, and each of their representatives, and also the participation of a mutually agreeable mediator which shall be engaged at Company's expense if requested in writing by Class A Member. The in-person meeting is not a mandatory requirement hereunder but ~~and will allow~~will allow the parties ~~Company~~ the opportunity to resolve such matter prior to initiating a request to arbitrate as set forth in Section 8.2 below.

8.2 In order to address and resolve any issues in an efficient, expeditious and cost effective manner, the Class A Members, the Class B Member, Company, and certain other parties, agree to enter into a Mutual Agreement to Arbitrate Claims (Exhibit "C" attached hereto).

ARTICLE IX
DISSOLUTION AND WINDING UP

9.1 The Company shall be dissolved in the event of the following:

(a) A decision of a Majority of the Class A Members to dissolve the Company, coupled with the affirmative decision of the Class B Member.

(b) A decision of the Class B Member to dissolve the Company.

(c) Entry of a decree of judicial dissolution under applicable law.

9.2 Upon dissolution of the Company, the Company shall engage in no further business other than that necessary to wind up the business and affairs of the Company. The Class B Member shall wind up the affairs of the Company and give written notice of the commencement of winding up to all known creditors and claimants against the Company whose addresses appear in the records of the Company. After paying or adequately providing for the payment of all known debts of the Company (including debts owed to a Member), the remaining assets of the Company shall be distributed or applied in the following order of priority:

(a) To pay the expenses of liquidation.

(b) To the Members in proportion to their positive Capital Accounts.

ARTICLE X
RIGHT OF INDEMNIFICATION; DUTY TO DEFEND

10.1 Except as otherwise mandated pursuant to applicable law, nothing contained in this Agreement shall provide any Class A Member with any

right of indemnification from the Company or the Class B Member, for any matter or thing in any way relating to this Agreement or the performance or fulfillment thereof, the Club or the Company.

10.2 Neither the Company nor the Class B Member shall have any duty or obligation to defend any Class A Member for any matter or event in any way relating to this Agreement, the performance or fulfillment thereof, or the Company. To the extent any statutory or other legal duty to defend a Class A Member arises hereunder, Class A Member waives and relinquishes such right to the fullest extent permitted by applicable law.

10.3 Each Class A Member agrees to abide by all laws rules and regulations relating to this Agreement, and hereby agrees to indemnify, defend and hold harmless the Company and the Class B Member from and against any and all claims, actions, causes of action, and liability of any nature and kind relating to any violation of any applicable law, rule or regulation by such Class A Member or violation of Club policy by such Class A Member.

10.4 —Company shall indemnify Manager to the fullest extent permitted under the Act on the date such indemnification is requested for any claims, liabilities, judgments, settlements, penalties, fines, or expenses of any kind incurred as a result of Manager's performance for Company in the capacity of Manager, and as long as Manager did not engage in acts that involve a breach of fiduciary duty that is not authorized or ratified by the Members, fraud, deceit or extreme recklessness.

ARTICLE XI
CONFIDENTIAL INFORMATION

11.1 Protection of Information. Class A Members may be provided with information, including Confidential Information (as defined below), relating to Company and other Members. Class A Members shall at all times while a Member and thereafter, hold in strictest confidence, and not use, except for the benefit of the Company to the extent necessary to carry out Class A Members' individual and collective obligations to the Company given the Class A Members' role, and not disclose to any Person, without written authorization from the Company in each instance, any Confidential Information that a Class A Member obtains, has access to or otherwise creates at any time while a Member, until such Confidential Information becomes publicly and widely known and made generally available through no wrongful act of a Class A Member or of others who were under confidentiality obligations as to the item or items of Confidential Information involved. Class A Members shall not make copies of or duplicate such Confidential Information except as authorized by the Company.

11.2 "Confidential Information" means information and physical material (which includes tangible and intangible forms) not generally known or available outside the Company and/or information and physical material entrusted to the Company in confidence by third parties. Confidential Information includes, without limitation: trade secrets, know-how, research, product or service ideas or plans, agreements with third parties, lists of, or information relating to, Members (including information relating to its shareholder or member in the case of a Member which constitutes a limited liability company or corporation), employees and consultants of the Company (including, but not limited to, the names, contact information, jobs, income, and expertise of such Members (such contact and personal identifying information as disclosed by a Class A Member on a confidential basis to another Class A Member, or with permission from such Class A Member to disclose such information about and belonging to such Member), employees and consultants), marketing plans, business plans, financial data, budgets or other business information disclosed to Member by the Company either directly or indirectly, whether in writing, electronically, orally, or by observation.

11.3 Third Party Information. Members' adherence to this Article XI is intended to be for the benefit of the Company and any third party that has entrusted information or physical material to the Company in confidence.

11.4 Other Rights. This Agreement is intended to supplement, and not to supersede, any rights the Company may have in law or equity with respect to the protection of trade secrets or confidential or proprietary information.

ARTICLE XII
GENERAL PROVISIONS

12.1 This Agreement constitutes the whole and entire agreement.

12.2 This Agreement shall be construed and enforced in accordance with the internal laws of the State of California. If any provision of this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal or unenforceable to any extent, that provision shall, if possible, be construed as though more narrowly drawn, if a narrower construction would avoid such invalidity, illegality, or unenforceability or, if that is not possible, such provision shall, to the extent of such invalidity, illegality, or unenforceability, be severed, and the remaining provisions of this Agreement shall remain in effect.

12.3 The article, section, and paragraph titles and headings in this Agreement are inserted as a matter of convenience and for ease of

reference only and shall be disregarded for all other purposes, including the construction or enforcement of the Agreement or any of its provisions.

12.4 This Agreement is made solely for the benefit of the Members, and no other Person shall have or acquire any right by virtue of this Agreement.

12.5 Class A Member and Class B Member individually and collectively intend that the Company shall at all times be a limited liability company.

12.6 Member is aware of the provisions of California Labor Code Section 3700, et seq., which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions thereof. At all times in fulfilling this Agreement, Member shall not employ any individuals in a manner that will make the Company or any Member subject to the workers' compensation laws of California. However, if Member employs any individual that is or becomes subject to the workers' compensation laws of California, Member shall (i) promptly notify Class B Member in writing, (ii) obtain and submit a Certificate of Workers' Compensation Insurance to Company within Three (3) days of the effective date of such insurance, and (iii) continuously maintain the coverage provided by the certificate in accordance with all applicable laws and regulations regarding workers' compensation, payroll taxes, FICA and tax withholding and all similarly related employment matters. Member agrees to hold Company, Class B Member, and all of the other Members harmless from loss or liability which may arise from the failure and/or alleged failure of the Member to comply with any such laws or regulations.

12.7 No waiver of any kind shall be effective against any party to this Agreement unless specifically contained herein or otherwise agreed to in writing by the Class B Member and the Company.

12.8 This Agreement may be executed electronically or simultaneously in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, constitute one and the same documents. The signature of any party electronically or otherwise to any counterpart may be appended to any other counterpart.

12.9 This Agreement may not be assigned, in whole or in part, to any third party without the prior written approval of Class B Member and Company.

12.10 This Agreement is binding upon the heirs, successors and permitted assigns of the Member.

IN WITNESS WHEREOF, the below duly authorized Members have executed or caused to be executed this Agreement on the day and year corresponding with their signature. For this purpose, each Member's signature shall be subscribed in such manner so as to permit electronic storage thereof and shall be deemed to be an original signature.

"Class A Member"

_____
Signature

Print Name: _____

Title [if applicable]: _____

Date: _____

"Class B Member"

(ENTITY NAME)

By: _____
Kathy Vercher, President

Date: _____

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EXHIBIT "A"

NATURE OF THE BUSINESS AND CLASS A MEMBERS' ROLE

I, the undersigned (or the sole principal of the undersigned) Class A Member, understand that the nature of the Company's business contemplated for purposes of its formation include, without limitation, live adult female entertainment and the offering, service and sale of beverages, goods, merchandise and related hospitality services which includes stage Performances (as defined in the Operating Agreement), and may further include private and semi-private dance performances in varying states of dress such as, topless, semi-nude, bikini, and/or fully nude states.

The undersigned understands that the functions of membership in Company as a Class A Member, include without limitation, the performance of dances on the stage as well as the sale (at the applicable fees posted in the Club) of Performances for Club patrons with the undersigned or the principal of the undersigned either wearing a bikini, thong/g-string, pasties, or in a nude or semi-nude (i.e. topless) state (depending on the applicable rules, laws, regulations applicable to the jurisdiction in which the Club operates, as well as the applicable Company requirements and limitations). The undersigned understands that in conjunction with membership and the business of Company, I, or the principal of the undersigned entity, will personally participate, as requested, in such promotions (which include events at other nightclubs, boxing events, car shows, etc.) and will wear no less than bikini attire in public. Class A Member further understands and agrees that from time to time the Company may engage in co-marketing efforts with other businesses and in connection with the undersigned's membership role, Company may need Member to reasonably coordinate and participate in such other activities similar to the above, in other venues, and Member agrees to do so.

Members will be exposed to nudity, primarily female, and may be subjected to explicit language, exposed to photographs, videos, artwork or other materials that portray nudity and sexually explicit subject matter. Customers may comment, joke, remark, or otherwise use sexually explicit language or gestures. Such activity is continual on the Premises. Member acknowledges, understands and consents to membership with the Company, including Member's role with the Company, with the knowledge that these circumstances exist and such activities may take place on the Premises and around Members.

By my signature below, the undersigned acknowledges having read the foregoing, understands it, and agrees to its requirements.

Class A Member Name (Print): _____

Class A Member Signature: _____

Title (if applicable): _____

Date: _____

EXHIBIT "B"

PROFIT AND LOSSES

Distribution to the Class A Member in profits and losses shall be as follows: (i) in accordance with Member's allocation of the Member Performance Fee applicable to such distribution per set worked as set forth in the attached Schedule B-1 (subject to modification by the Manager of Company from time to time due to fluctuating financial market conditions, the financial performance of the Company, economic predictions, trends, risks, or other events or determinations which affects or may have an effect on the Company business), upon notice to the Class A Members by posting such modification in the Club or pursuant to a special meeting called by the Class B Member for such purpose, and such modification shall be incorporated herein and deemed a part of this Agreement on the effective date of such modification; and (ii) a percentage of MPP as set forth below. Payments pursuant to (i) are payable upon daily set completion. Payments pursuant to (ii) are payable on the fifteenth day of the month after the close of the applicable accounting period which occur on a quarterly basis. Class A Members do not contribute additional capital to cover Company's losses.

With respect to the distribution to a Class A Member pursuant to item (i) in the first paragraph of this Exhibit above, each Class A Member shall be paid in accordance with the allocation of the Member Performance Fee applicable to such distribution as set forth on the attached Schedule B-1, or amendment thereto, which shall be and is deemed to be collected by Company. Receipt of the Member Performance Fee is exclusive of tips paid directly to Class A Members which are in excess of the MPF and are collected by Class A Members.

With respect to distributions to Class A Member pursuant to item (ii) in the first paragraph of this Exhibit, the Member Participation Pool, qualified Class A Members combined are entitled to participate, subject to the terms of the Agreement, including without limitation, Section 3.1 requiring Member's satisfaction of the contribution to Member's Capital Account, at the percentage rate (set forth in the Schedule B-1 posted in the Club) of net income generated from chip commissions or other applicable Club scrip, and sales by Club of merchandise and non-alcoholic beverages, based upon the period of their member status and ownership interest in Company. Chip commissions, sales of merchandise and non-alcoholic beverages will be accounted for over a (thirty (30) day period) and paid quarterly, with the net after all expenses being allocated to the Member Participation Pool. The percentage rate (set forth in the Schedule B-1 posted in the Club) of said net amount is payable to all qualified Class A Members combined, based upon a pro-rata distribution determined by Member's ownership interest and compliant with the Operating Agreement of Company. Except for distributions to Class A Member set forth herein, Class B Member shall receive all other gross revenue attributable to Company's business operations.

All distributions to Class A Member, including Class A Member's participation in the MPP, are subject to modification by Manager of Company as described in the first paragraph above.

Club shall establish a fixed fee for the price of Performances on the Premises as the Member Performance Fee and Class A Member shall not charge a customer more than the established MPF. All payments by customer related to the Member Performance Fee are deemed to be payments collected by Company and specifically excluded from tips. Any money given to a Class A Member at the tip rail shall be the exclusive property of the Class A Member and no portion thereof shall be received by the Company.

For each day that a Class A Member performs a set, or portion thereof, such Class A Member shall pay the Overhead Payment as set forth in the attached Schedule B-1 applicable to such period and as posted in the Club, to help pay for the overhead incurred and payable by the Class B Member to operate the Club.

Class A Member shall pay administrative costs for the redemption of chips or other Club scrip received from patrons relating to such Member's performance services.

Each Class A Member may take a rest, meal or other break when and if desired by said Member who is solely responsible for taking such breaks, including the timing thereof.

By my signature below, I acknowledge having read the foregoing, understand it, agree to the foregoing.

Class A Member Name (Print): _____

Class A Member Signature: _____

Title (if applicable): _____

Date: _____

[Applicable SCHEDULE B-1]

EXHIBIT "C"

MUTUAL AGREEMENT TO ARBITRATE CLAIMS AND CLASS/COLLECTIVE ACTION WAIVER

(ENTITY NAME), LLC (the "Company"), (ENTITY NAME) ("Club" or "Class B Member"), The Spearmint Rhino Companies Worldwide, Inc. ("TSRCW"), and Spearmint Rhino Consulting Worldwide, Inc. ("SRCW") (Company, Club, TSRCW and SRCW collectively, the "Companies"), and _____ ("Class A Member") enter into this Mutual Agreement to Arbitrate Claims and Class/Collective Action Waiver ("Arbitration Agreement"). Company, Club, TSRCW, SRCW and Class A Member may hereinafter individually be referred to as a "Party" or collectively, the "Parties." This Arbitration Agreement supersedes any prior agreement to arbitrate any and all disputes between any of the Parties to this Arbitration Agreement.

Any reference to Companies in this Arbitration Agreement will also be a reference to, and include without limitation, each of its officers, shareholders, members, directors, managers, performers, independent contractors, agents, all benefit plans, the benefit plans' sponsors, fiduciaries, administrators, and agents, and all parents, subsidiaries, predecessors, successors, affiliates and assigns.

The Parties agree to attempt to resolve any and all differences and disputes (whether contractual, statutory or otherwise) informally and to allow the Parties ample time and the opportunity to accomplish a mutually agreeable resolution, including but not limited to participation upon a Party's request in an in-person meeting between Companies, Class A Member, and each of their representatives, and also the participation of a mutually agreeable mediator which shall be engaged at Companies' expense if requested in writing by Class A Member. The in-person meeting between the Parties is not a mandatory requirement hereunder but shall serve as a measure of good faith to attempt to resolve such dispute between the Parties. In the event such informal attempt to resolve any difference or dispute is not successful or a written request for an informal meeting is denied in writing by any Party, the Parties agree to use confidential, final and binding arbitration to resolve any and all disputes (each, an "Arbitrable Dispute") they may have with one another. This Arbitration Agreement applies to all matters arising out of or otherwise relating to Companies and Class A Member, and any claims or controversies arising out of the status of the relationship between the Parties. The arbitrator is empowered to award all relief and provide all remedies, including, without limitation, monetary and/or equitable, which the arbitrator deems to be in accordance with applicable law.

Unless controlling legal authority requires otherwise, arbitration claims must be brought in the Party's individual capacity, regardless of whether the Party is a person or entity, and not as a plaintiff or class member in any purported class, collective and/or representative proceeding. The arbitrator may not consolidate more than one Party's claims, and may not otherwise preside over any form of representative, collective or class proceeding and all such claims will be decided on an individual basis in arbitration pursuant to this Arbitration Agreement. Without limiting the effect of any other term of this Agreement, this provision is acknowledged as being mutual and applies to all Parties, each of whom hereby waive the initiation and pursuit of any form of representative, collective or class proceeding with respect to any claim. If a court orders that a class action or collective action should proceed, in no event will such action proceed in the arbitration forum. Any issue concerning the validity of this

Class A Member Initials _____

Company Initials _____ Club Initials _____ TSRCW Initials _____ SRCW Initials _____

class action or collective action waiver must be decided by a Court and an arbitrator shall not have authority to consider the issue of the validity of this waiver. If for any reason this class action or collective action waiver is found to be unenforceable, the class action or collective action claim may only be heard in court and may not be arbitrated. The arbitrator shall not have authority to hear or decide class or collective actions. Because it is the intent of the Parties to resolve any such dispute, controversy and/or claim by way of binding arbitration, if any portion of this Arbitration Agreement is declared by a court of competent jurisdiction to be held invalid or unenforceable, a valid, lawful and/or enforceable provision which will carry out the intent of the particular provision hereof which was declared to be invalid, unlawful and/or unenforceable shall be substituted in its place, and the remainder of this Arbitration Agreement shall remain valid and enforceable. The arbitrator and/or supervising court, as applicable, shall each have the power to amend the arbitration procedures set forth herein so that this Arbitration Agreement shall remain enforceable and binding.

The arbitrator shall have jurisdiction to hear and rule on pre-hearing disputes and is authorized to hold pre-hearing conferences by telephone or in person, as the arbitrator deems necessary. Each Party shall have the right to discovery pursuant to the jurisdiction's civil discovery laws. The arbitrator shall have the authority to entertain a motion to dismiss and/or a motion for summary judgment by any Party. Any Party may obtain a court reporter to provide a stenographic record of proceedings. Any Party, upon request at the close of hearing, shall be given leave to file a post-hearing brief. The time for filing such a brief shall be set by the arbitrator. Either Party shall have the right, within 20 days of issuance of the arbitrator's opinion, to file with the arbitrator a motion to reconsider (accompanied by a supporting brief), and the other Party shall have 20 days from the date of the motion to respond. The arbitrator thereupon shall reconsider the issues raised by the motion and, promptly, either confirm or change the decision, which (except as provided by this Agreement) shall then be final and conclusive upon the Parties.

THE ARBITRATION WILL TAKE PLACE IN THE COUNTY IN WHICH THE CLUB OPERATES (UNLESS THE PARTIES MUTUALLY AGREE TO AN ALTERNATIVE VENUE) BEFORE A SINGLE EXPERIENCED NEUTRAL ARBITRATOR LICENSED TO PRACTICE LAW IN SUCH JURISDICTION AND SELECTED IN ACCORDANCE WITH THE THEN CURRENT RULES OF THE AMERICAN ARBITRATION ASSOCIATION (THE "RULES"). THE RULES CAN BE FOUND AT WWW.ADR.ORG. THE ARBITRATION WILL BE CONDUCTED IN ACCORDANCE WITH SUCH RULES (BUT NEED NOT BE ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION), AND THE COMPANY AND/OR CLUB SHALL PAY THE COSTS FOR THE ARBITRATION PROCEEDING, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE COMPANY AND/OR CLUB, AS APPLICABLE, WILL NOT SEEK RECOVERY OF THE COSTS FOR THE ARBITRATION PROCEEDING FROM CLASS A MEMBER. IT IS UNDERSTOOD, HOWEVER, THAT EACH PARTY SHALL BEAR HIS/HER/ITS OWN ATTORNEYS' FEES, EXPERT FEES, WITNESS FEES AND OTHER FEES ASSOCIATED WITH THE ARBITRATION; PROVIDED, THAT THE PREVAILING OR SUCCESSFUL PARTY SHALL BE ENTITLED TO RECOVER ALL SUCH COSTS INCURRED OR SUSTAINED BY SUCH PARTY IN CONNECTION WITH SUCH ACTION IF SUCH RECOVERY IS IN ACCORDANCE WITH APPLICABLE LAW, PROVIDED THAT THE FOREGOING SHALL NOT BE INTERPRETED TO PERMIT THE COMPANY OR CLUB, IF EITHER OR BOTH OF THEM IS A PREVAILING PARTY, FROM RECOVERING THE COSTS FOR THE ARBITRATION PROCEEDING. THE PARTIES AGREE THAT COMPANIES ARE ENGAGED IN TRANSACTIONS INVOLVING INTERSTATE COMMERCE. THE PARTIES AGREE THAT THIS IS AN AGREEMENT TO ARBITRATE ANY AND ALL DISPUTES UNDER THE FEDERAL ARBITRATION ACT, INCLUDING WITHOUT LIMITATION DISPUTES RELATING TO FEDERAL, STATE AND MUNICIPAL LAWS CONCERNING WAGES OR COMPENSATION

Class A Member Initials _____

Company Initials _____ Club Initials _____ TSRCW Initials _____ SRCW Initials _____

AND FAIR LABOR STANDARDS ACT ISSUES. ANY DISPUTES AND/OR CLAIMS CONCERNING THE VALIDITY AND/OR ENFORCEMENT OF THIS AGREEMENT SHALL BE RESOLVED PURSUANT TO THE FEDERAL ARBITRATION ACT. TO THE EXTENT NOT INCONSISTENT WITH THE FEDERAL ARBITRATION ACT, THE LAW OF THE STATE IN WHICH CLUB OPERATES SHALL GOVERN PROCEDURALLY WITH RESPECT TO THE COMMENCEMENT, PROSECUTION AND ENFORCEMENT OF THE ARBITRATION AND ANY ARBITRATION AWARDS AND/OR DECISIONS. THE ARBITRATOR MAY NOT MODIFY OR CHANGE THIS ARBITRATION AGREEMENT IN ANY WAY, UNLESS ANY PROVISION IS FOUND TO BE UNENFORCEABLE.

The Parties understand and agree that the arbitrator's decision shall be final and binding and it shall be in writing with sufficient explanation to allow for such meaningful judicial review as may be permitted by law. The arbitrator shall be required to follow applicable law. Class A Member and Companies understand that, by entering into this Arbitration Agreement, they each are waiving their respective rights to have an Arbitrable Dispute adjudicated by a court or by a jury.

Notwithstanding the foregoing, a Party may apply to a court of competent jurisdiction for temporary or preliminary injunctive relief in connection with an arbitrable controversy, but only upon the ground that the award to which that Party may be entitled may be rendered ineffectual without such provisional relief. The appropriate venue for the determination of such claim(s) for injunctive relief shall take place in the county in which the Club operates, unless the Parties mutually agree in writing to an alternative venue.

Class A Member Has A Right To Opt Out Of Arbitration: Class A Member accepts and agrees to, and will be bound by the terms of this Arbitration Agreement unless Class A Member elects to opt out of the Arbitration Agreement by providing secure written notice of the decision to opt out within the time period specified below. In order to effectively opt out, a Class A Member must either (i) fill out an Opt-Out Election Notice, which is a form and may be obtained in-person from a nightclub General Manager or (ii) create a writing which contains the Class A Member's name, address, phone number, email address, date and signature and a clear statement that the Class A Member intends to exercise the right to opt out of this Arbitration Agreement (the form or other writing prepared by the Class A Member referred to as the "Opt-Out Instruction"). The Class A Member must sign and date the Opt-Out Instruction. The Opt-Out Instruction must be delivered to Companies via one of the following certifiable and verifiable methods: (1) by certified or registered USPS Mail with a return receipt or a nationally recognized commercial delivery service (e.g., UPS or Federal Express), in either instance postage prepaid, to Companies' President/Manager, Kathy Vercher (located at 1875 Tandem Way, Norco, California 92860); (2) by fax to the Companies' President/Manager Kathy Vercher (Fax No.(951) 280-4378), with written delivery confirmation as evidence of successful facsimile transmission; (3) by in person delivery to the Companies' President/Manager Kathy Vercher (located at 1875 Tandem Way, Norco, California 92860), or (4) in-person delivery to the nightclub General Manager, (provided that in order for such delivery to be valid, you must have received and maintained a copy of the Opt-Out Instruction containing both your signature and the dated signature confirming receipt by the General Manager), no later than thirty (30) days after the date that Class A Member executes (i.e., signs) this Arbitration Agreement. If the written Opt-Out Instruction is not sent or personally

delivered to Companies by one of the certifiable and verifiable means set forth above within 30 days of the Class A Member executing (i.e., signing) this Arbitration Agreement, then this Arbitration Agreement shall continue to be valid and enforceable from the date of execution and Class A Member will be deemed not to have opted out of the Arbitration Agreement. Class A Member will not be subject to any adverse action if Class A Member chooses to opt out of this Arbitration Agreement.

[Remainder of Page Intentionally Blank]

I ACKNOWLEDGE THAT I HAVE HAD ADEQUATE TIME AND HAVE CAREFULLY READ THIS ARBITRATION AGREEMENT, THAT I UNDERSTAND ITS TERMS, THAT ALL UNDERSTANDINGS AND AGREEMENTS BETWEEN COMPANIES AND ME RELATING TO THE SUBJECTS COVERED IN THE ARBITRATION AGREEMENT ARE CONTAINED IN IT, AND THAT I HAVE ENTERED INTO THE ARBITRATION AGREEMENT VOLUNTARILY AND NOT IN RELIANCE ON ANY PROMISES OR REPRESENTATIONS BY COMPANIES OTHER THAN THOSE CONTAINED IN THIS ARBITRATION AGREEMENT ITSELF. I UNDERSTAND THAT BY SIGNING THIS ARBITRATION AGREEMENT I AM GIVING UP MY RIGHT TO A JURY TRIAL OR A HEARING BEFORE AN ACTIVE JUDGE, OF ANY AND ALL DISPUTES AND CLAIMS SUBJECT TO ARBITRATION UNDER THIS ARBITRATION AGREEMENT. BY SIGNING BELOW, I ACKNOWLEDGE READING, UNDERSTANDING AND AGREEING TO THE CONTENTS OF THIS ARBITRATION AGREEMENT AND THAT I HAVE RECEIVED A COPY OF THIS ARBITRATION AGREEMENT.

(ENTITY NAME), LLC By: _____ Kathy Vercher, Manager Date: _____ **(ENTITY NAME), INC.** By: _____ Kathy Vercher, President Date: _____ **THE SPEARMINT RHINO COMPANIES WORLDWIDE, INC.** By: _____ Kathy Vercher, President Date: _____ **SPEARMINT RHINO CONSULTING WORLDWIDE, INC.** By: _____ Kathy Vercher, President Date: _____	**CLASS A MEMBER** Signature: _____ Print Name: _____ Title [if applicable]: _____ Date: _____

EXHIBIT "D"

MEMBER RELEASE, AUTHORIZATION AND ASSIGNMENT RE: MEDIA

For and in consideration of each Class A Member's membership in (ENTITY NAME), LLC, and should the Class A Member participate in any special events, promotions or social media and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Class A Member, hereby irrevocably grants to (ENTITY NAME), LLC, The Spearmint Rhino Companies Worldwide, Inc., Spearmint Rhino Consulting Worldwide, Inc., and the Club, and each of their parent companies, subsidiaries, affiliates, licensors, licensees, partners, joint venturers, agents, successors or assigns (collectively "Companies"), permission to use, exploit, adapt, modify, alter, render, distort, reproduce, distribute, transmit, broadcast and display ("Publish"), the Class A Member's image or visual likeness, name, fictitious name, statements, biographical information, performance, and/or voice as audio, in whole or in part (collectively, "Image") for public or private distribution in any format and for any purpose whatsoever including, but not limited to, advertising, publicity, promotions, entertainment (including, graphic, erotic and adult content of a sexual nature), or any other lawful purposes (each, a "Publication") as determined by any of the Companies in their sole discretion including, but not limited to, tangible and intangible forms, such as the Internet, websites, brochures, video presentations, digital images, newspapers, magazines, catalogs, books, broadcasts, television, radio, broadcast, script, bulletins, telecommunications or electronic messaging, marketing, film, flyers, billboards, signs, logos, merchandise, and similarly related forms) ("Media") without payment, royalties, or any other compensation of any kind due at any time to the Class A Member.

Each Class A Member understands and agrees that the Companies, individually and/or collectively, as applicable, shall be the exclusive owner of all rights, title and interest, including, but not limited to, copyrights, trademarks, and all other applicable intellectual property rights, in and to such Media and any Publication of the Images, except as the Companies may otherwise agree to with any other party in writing.

Each Class A Member hereby irrevocably waives any right to inspect or approve the Published Images, any Media, or the Publication thereof relating to this Consent.

Each Class A Member hereby irrevocably releases, discharges and agrees to save harmless Companies from and against any and all liability, claims, actions and causes of action including, without limitation, defamation, invasion of privacy or right of publicity, intellectual property right infringement, and defamation relating to any Published Image, including any Media or Publication.

Each Class A Member agrees that all or any of the Companies may assign this Consent, in whole or in part, including any of its rights hereunder, in Companies' sole discretion and without Member's consent. Each Class A Member acknowledges that Member is binding herself, her executors, administrators, heirs, successors, and permitted assigns to the terms of this Consent. Member may not assign this Consent without the prior written approval of the Companies.

Each Class A Member hereby represents and warrants that the Images do not contain "actual sexually explicit conduct" as defined in 18 U.S.C. § 2257 (h).

I have read and understood this Member release, authorization and assignment and voluntarily agree to the terms thereof.

Class A Member Name (Print): _____

Class A Member Signature: _____

Title (if applicable): _____

Date: _____

EXHIBIT "E"

Anti Prostitution Statement

Attention Class A Member (and including the shareholder or member of a Class A Member):

You will be arrested and prosecuted for prostitution if you say the wrong thing!!

Many adult entertainers have been arrested, convicted and then registered as a "**sex offender**" for using phrases and making statements like these:

- I will meet you outside of the club
- If you tip me I will give you a better dance
- Yes, "I do extra"
- Yes, "I do extra" if you tip me
- Yes, you can touch me
- Yes, you can touch me there if you tip me
- Take my number and call me; we can hook up after my shift
- Give me your number so we can meet later
- Yeah sure, it depends what you want ... Yes, we can do that ...

You do not need to engage in a sexual act to be accused of and arrested for prostitution. If you are arrested while you are on club premises, you may be handcuffed, escorted by the arresting officers through the facility in what you are wearing, taken to jail, and arraigned. You may have to post bond, appear for trial, and pay for an attorney. If you are convicted of the crime of prostitution, you may be required to serve jail time, perform community service, pay fines and penalties, and register as a sex offender.

Do not make the wrong comment, hint, insinuate, or offer any illegal sexual activity while on club premises. A violation of this requirement is grounds for immediate expulsion/involuntary withdrawal as a Class A Member of the Company.

By my signature below, I acknowledge receiving the Anti-Prostitution Statement and I have read and understand its requirements.

Class A Member Name (Print): _____

Class A Member Signature: _____

Title (if applicable): _____

Date: _____

EXHIBIT "F"

Prohibited Activities Statement

The Company is in the adult entertainment business. While customer service is paramount to business success, Class Members must adhere to strict conduct standards when interacting with customers and others. The following list of prohibited activities is not meant to be comprehensive, and such requirements may be amended from time to time as necessary. Any Class A Member (including the shareholder or member of a Class A Member) who engages in these activities is subject to disciplinary action, up to and including expulsion/involuntary withdrawal as a Member.

Should you have any questions regarding this policy, please talk to the Club Manager.

The following are prohibited in, on, or around any Company facility, location, or club:

- Insertion of any object of any kind into any Member's vaginal or anal opening. This includes any inanimate object such as a vibrator, or any part of a Member's or any other person's anatomy, such as a hand, finger, tongue, or penis.
- Allowing any customer to touch, kiss, fondle, lick, or any other physical contact with a Member's breasts, vaginal or anal areas, or buttocks.
- Touching any portion of a male customer's genital area.
- Allowing any male customer to expose any portion of his genital area.
- Performing or participating in any act that may be or is lewd or obscene.
- Engage in any act of prostitution or solicitation for any sexual act, including arranging with a customer to meet at another location for any act of prostitution.
- The use of any undue or improper force when dealing with customers. This includes punching, slapping, kicking, poking, or other force directed at a customer.

Members may not allow, solicit, permit or otherwise indicate to a customer, that any activity such as that described in this policy may be conducted at any time in a Company facility, location or club. In the event that you are asked by a customer to engage in any prohibited activity, you must, politely, but firmly, advise the customer that such activity is not permitted by the Company. This information must be conveyed to the customer prior to any dance or before the customer is escorted to a private dance area.

Members may not agree to, promise, or perform any sexual act on or with a customer to induce the customer to purchase a dance, Company merchandise, food, or drink. Such activity is prohibited even if the Member does not intend to engage in such activity, and such agreement is part of the fantasy experience for the customer.

By my signature below, I acknowledge receiving the Prohibited Activities Statement and I have read and understand its requirements.

Class A Member Name (Print): _____

Class A Member Signature: _____

Title (if applicable): _____

Date: _____

EXHIBIT "G"

STATEMENT AGAINST HARASSMENT

The Company maintains strict requirements prohibiting harassment, including sexual harassment. This Statement applies to all Company members, agents and employees, and prohibits harassment in any form, including verbal, physical, and visual harassment. This Statement also prohibits harassment by the Company's contractors, clients, vendors, and customers against the Company's members, agents and employees.

Harassment is:

- unwelcome conduct on the Premises, or elsewhere as a consequence of having an association with the Company, that has the purpose or effect of unreasonably interfering with an individual's performance relating to the Company or creating an intimidating, hostile or offensive environment at the Club; and
- the conduct is based on or the subject of an individual(s): race, color, religious creed, sex, age, national origin, ancestry, citizenship, pregnancy, childbirth or related medical condition, physical or mental disability, medical condition, marital or registered domestic/civil union partner status, veteran status, gender identity, sexual orientation or other characteristic covered by a applicable law.

Sexual harassment is defined as unwanted sexual advances, or visual, verbal, or physical conduct of a sexual nature.

The following is a partial list of examples of harassment, including sexual harassment:

- Verbal conduct such as epithets, derogatory comments, slurs or unwanted comments and jokes (including those of a sexual nature);
- Visual conduct such as derogatory posters, cartoons, drawings, gestures, letters or notes (including those of a sexual nature);
- Physical conduct such as touching or physical interference directed at an individual;
- Threats and demands to submit to or perform certain conduct or actions not related to the business of the Company in order to keep or obtain membership in Company, to avoid some other loss, or as a condition of association with Company;
- Offering benefits relating to the Company in exchange for sexual favors;
- Unwanted sexual advances or verbal sexual advances or propositions;
- Making or threatening reprisals after a negative response to sexual advances;
- Sending and/or receiving E-mails with inappropriate content (including content of a sexual nature); or

- Inappropriate use of the Internet, E-mail or other electronic media in connection with your membership in Company and/or the performance of duties in consequence thereof.

All Members (including the shareholder or member, as applicable, of a Class a Member) are responsible for conducting themselves in ways that ensure others are able to fulfill their role in an atmosphere free from unlawful harassment. In order to ensure prompt elimination of such conduct, it is essential that you report such unlawful harassment immediately to the Club Manager, or to the Manager of the Company.

If you believe that you have witnessed harassment or been harassed in connection with or relating to your membership in Company tell the offending person to cease the inappropriate conduct. In addition, you should notify the Club Manager immediately. If you are uncomfortable speaking directly to the offending individual or talking to the Club Manager, you should notify the Manager of the Company of your concerns.

Club Managers are also expected to immediately report any incidents of harassment to the Manager of the Company, or his/her assigned delagatee for such matters. All complaints will be promptly and discreetly investigated. At the end of the investigation, a determination will be made and, if necessary, appropriate corrective action will be taken.

The Company encourages you to report any incidents of unlawful harassment so that complaints can be quickly and fairly resolved. You will not be retaliated against for making a truthful complaint and your membership interest will not be affected. However, the Company recognizes the importance of protecting the organization from false or malicious complaints. Accordingly, if the Company determines that a complaint is false or was submitted maliciously, the Member who filed such a complaint will be subject to potential expulsion/involuntary withdrawal as a Member of the Company.

The Company will take prompt and necessary steps to investigate, and where appropriate, correct any form of harassment.

ACKNOWLEDGMENT

I acknowledge that I have read and understand the Statement Against Harassment. I understand and agree that if I have any questions regarding this Statement I will ask the Club Manager for clarification.

_____ Date: _____
Class A Member Signature

_____
(Print) Class A Member Name

Title (if applicable): _____

EXHIBIT "H"

CONSENT TO TEXT MESSAGE COMMUNICATIONS

Members may be communicated with *via* text message to advise of matters relating to the Company, including the Club, including promotions, meeting notices, or other matters that may be of interest to Member. By initialing "I Agree" below, submitting your mobile phone number and signing this form you, on behalf of yourself or the entity your represent, are consenting to join the Club's texting program and receive texts from the Club on your mobile phone. Message and data rates may apply. You may receive up to approximately 10 messages a month. You may unsubscribe from the program at any time by texting STOP in reply to a text message. Participation in the program is voluntary and is not a condition of membership in the Company or of performing at the Club.

CHECK AND INITIAL PREFERENCE BELOW:

_____☐ **I Agree** to join the Club's Text Messaging program and consent to receive text messages on my mobile phone.

_____☐ **I Do Not Agree** to join the Club's Text Messaging program and **Do Not consent** to receive text messages on my mobile phone.

Mobile Phone Number: _____

Class A Member Name: _____ (Print)

Date: _____

Signature: _____

Title (if applicable): _____

Club Location: (ADDRESS OF LOCATION)

EXHIBIT "I"

ASSUMPTION OF RISK AND RELEASE TO (ENTITY NAME) PARTICIPATE IN POTENTIALLY DANGEROUS ACTIVITIES

PLEASE READ CAREFULLY

Pursuant to the terms of the (ENTITY NAME)Operating Agreement, and related agreements, I, the undersigned Class A Member, wish to perform nude, semi-nude and/or bikini entertainment, as applicable, which may also include sports or other physical activities including without limitation stage and pole dancing, cage fights, lube wrestling or other forms of wrestling, bull riding, and other potentially dangerous activities now or hereafter engaged in (collectively, the "Activities") at Spearmint Rhino Gentlemen's Club located at (ADDRESS OF LOCATION) (the "Club").

As lawful consideration for participating in the Activities at the Club and entering into this Assumption of Risk and Release to participate in Potentially Dangerous Activities ("Agreement"), I understand and agree that:

- The Activities involve hazards and risks that can lead to severe injury, disfigurement or death.
- Due to the hours of the day that I may be engaged in the Activities, competent medical assistance may not be readily available at the Club and as a result of delays in getting medical care, minor accidents or injuries can become more serious or life threatening.
- I acknowledge that neither the Club nor any of its employees, members, shareholders or representatives have or will render any medical diagnosis of my physical condition, nor my fitness for performing the Activities.
- I acknowledge that the Club and its employees, members, shareholders, or representatives may not have any medical training and shall be under no obligation to render any emergency medical care to me in the event of injury occurring during my performance of the Activities at the Club.
- Prior to entering into this Agreement I have been provided with the opportunity to review this Agreement and to have it reviewed by legal counsel of my own choosing.

With knowledge of the foregoing:

(i) I intend to participate in and/or observe the Activities at the Club.

(ii) I freely accept and expressly assume all risks, dangers and hazards that may arise from the Activities, including personal injury, loss of life and property damage and release (ENTITY NAME), LLC, a California limited liability company, Club, and each of its affiliates, parent companies, subsidiaries, assigns and each of their officers, directors, employees, representatives, members, shareholders, agents, insurers, attorneys, customers, volunteers, licensors and consultants (the "Releasees") from any claims or causes of action that I, my estate, heirs, or executors may at any time have, including for personal injury, property damage or wrongful death, in any way arising from the Activities at the Club, whether caused by active or passive negligence of the Releasees or anyone else.

(iii) This Agreement shall not be limited in time but shall be binding and in full force and effect in perpetuity.

(iv) I will indemnify the Releasees from any loss, liability, damage or cost they may incur because of my participation in the Activities at the Club, including without limitation, an injury to another person caused by my actions, inaction or negligence.

(v) I expressly agree and understand that this Agreement is intended to be as broad and inclusive as is permitted by the laws of the State of California and that if a portion hereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full force and effect.

I have read this Agreement and fully understand its terms. I am signing it freely and voluntarily without any inducement, assurance or guarantee being made to me. I intend my signature to be a complete and unconditional assumption of risk, a release of all liability to the greatest extent allowed by law, and an indemnity. I further acknowledge that I have received or been offered a copy of this Agreement bearing my signature.

Class A Member Name (Print): _____

Class A Member Signature: _____

Title (if applicable): _____

Date:_____

Stage Name: _____