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THE HONORABLE BENJAMIN H. SETTLE
(On Reference to The Honorable J. Richard Creatura)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION

EVAN BROWN, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

v.

PAPA MURPHY'S HOLDINGS, INC. and
WELDON SPANGLER,

Defendants.

Case No. 19-cv-05514-BHS-JRC

STIPULATION OF SETTLEMENT

1 This Stipulation of Settlement, dated November 29, 2021 (the “Stipulation”), is made and
2 entered into by and among the following Settling Parties to the above-captioned litigation (the
3 “Action” or “Litigation”), through their respective counsel of record: (i) Evan Brown (“Brown”)
4 as the Court-appointed Lead Plaintiff in this Action (“Lead Plaintiff”); and (ii) Papa Murphy’s
5 Holdings, Inc. (“Papa Murphy’s” or the “Company”) and Weldon Spangler (“Spangler,” and,
6 together with Papa Murphy’s, “Defendants,” and together with Lead Plaintiff, the “Settling
7 Parties”). This Stipulation is intended by the Settling Parties to fully, finally, and forever resolve,
8 discharge, relinquish, release, waive, dismiss with prejudice, and settle the Released Claims (as
9 defined below), upon and subject to the terms and conditions hereof and subject to the approval
10 of the United States District Court for the Western District of Washington, Tacoma Division (the
11 “Court”).

12 I. THE LITIGATION

13 On April 10, 2019, Papa Murphy’s executed an Agreement and Plan of Merger (the
14 “Merger Agreement”) with two wholly owned subsidiaries of MTY Food Group Inc. (“MTY”),
15 whereby MTY acquired all issued and outstanding shares of Papa Murphy’s (the “Tender Offer”)
16 for \$6.45 in cash per share (the “Offer Price”). On April 11, 2019, MTY and the Company issued
17 a joint press release announcing the Merger Agreement.

18 On April 25, 2019, Papa Murphy’s filed a Schedule 14D-9 Solicitation / Recommendation
19 Statement (“Schedule 14D-9”) with the U.S. Securities and Exchange Commission (the “SEC”),
20 with four subsequent amendments to the Schedule 14D-9 filed on the following dates: May 6,
21 2019, May 10, 2019, May 15, 2019, and May 23, 2019 (collectively, the “Recommendation
22 Statement”).

23 On May 3, 2019, Brown filed a complaint in the United States District Court for the
24 Southern District of New York (“SDNY”) seeking additional disclosures from Papa Murphy’s
25 regarding the Tender Offer (the “SDNY Lawsuit”). On May 10 and May 15, 2019, Papa
26 Murphy’s issued supplemental disclosures in amendments to the Schedule 14D-9.

1 On May 22, 2019, at 12:00 midnight, Eastern Time, the Tender Offer expired (“Expiration
2 Time”), with 15,201,906 shares of the Company’s common stock having been validly tendered,
3 representing 89.2% of Papa Murphy’s outstanding shares as of the Expiration Time. On May 23,
4 2019, the Company and MTY consummated the Tender Offer, all Papa Murphy’s shareholders
5 were cashed out of their shares in exchange for \$6.45 per share, and the Company became a
6 wholly owned subsidiary of MTY.

7 On June 3, 2019, Brown dismissed the SDNY Lawsuit.

8 On June 7, 2019, Brown filed this Action as a putative class action, alleging violations of
9 Sections 14(e) and 20(a) of the Securities Exchange Act of 1934 (“Exchange Act”) naming as
10 defendants Papa Murphy’s, Spangler, North Point Advisors LLC (“North Point”), and the
11 following directors of Papa Murphy’s: Jean M. Birch, Noah A. Elbogen, Benjamin Hochberg,
12 Yoo Jin Kim, Alexander C. Matina, David Mounts, John Shafer, Katherine L. Scherping, and
13 Rob Weisberg (collectively, the “Directors”).

14 On August 12, 2019, Brown filed a motion seeking appointment as Lead Plaintiff pursuant
15 to the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. § 78u-4, and
16 sought approval of his selection of Monteverde & Associates PC (“Monteverde”) as Lead
17 Counsel and Breskin, Johnson & Townsend PLLC (“Breskin”) as Liaison Counsel. On
18 September 9, 2019, the Court granted Brown’s appointment as Lead Plaintiff, and approved his
19 selection of Monteverde as Lead Counsel and Breskin as Liaison Counsel.

20 On November 8, 2019, Lead Plaintiff filed an Amended Class Action Complaint (the
21 “Amended Complaint”) against Papa Murphy’s, Spangler, North Point, and the Directors. In
22 response, on January 7, 2020, Papa Murphy’s, Spangler, and the Directors filed a Motion to
23 Dismiss, and North Point filed a separate Motion to Dismiss. On March 9, 2020, Lead Plaintiff
24 filed his Opposition to the Motion to Dismiss filed by Papa Murphy’s, Spangler, and the
25 Directors, and filed a notice of dismissal pursuant to Fed. R. Civ. P. 41 voluntarily dismissing
26 North Point from the Action without prejudice. Papa Murphy’s, Spangler, and the Directors filed

1 their Reply to Lead Plaintiff’s Opposition on April 8, 2020, and North Point did not object to the
2 notice of dismissal without prejudice.

3 On May 20, 2020, Magistrate Judge J. Richard Creatura issued a Report and
4 Recommendation recommending: (i) that the Motion to Dismiss filed by Papa Murphy’s,
5 Spangler, and the Directors be granted without prejudice and with leave to amend within 30 days
6 from the date of the District Court’s Order; and (ii) that North Point be dismissed without
7 prejudice. On June 10, 2020, Judge Benjamin H. Settle adopted Magistrate Judge Creatura’s
8 Report and Recommendation.

9 On July 10, 2020, Lead Plaintiff filed his Second Amended Class Action Complaint (the
10 “Second Amended Complaint”) against Defendants Papa Murphy’s and Weldon Spangler.

11 On August 24, 2020, Defendants filed a Motion to Dismiss Lead Plaintiff’s Second
12 Amended Complaint (“Second Motion to Dismiss”). Lead Plaintiff responded with his
13 Opposition to the Second Motion to Dismiss on October 8, 2020, and then the following day,
14 Lead Plaintiff filed a Notice of Supplemental Authority in connection with his Opposition. On
15 November 2, 2020, Defendants filed their Reply to Lead Plaintiff’s Opposition and a Declaration
16 attaching a new exhibit. On November 4, 2020, Lead Plaintiff filed a Surreply requesting that the
17 Court strike or exclude the Declaration and exhibit attached thereto.

18 On January 12, 2021, Magistrate Judge Creatura issued his Report and Recommendation
19 that Defendants’ Second Motion to Dismiss be denied. On January 26, 2021, Defendants filed
20 their Objections to Magistrate Judge Creatura’s January 12th Report and Recommendation.
21 Thereafter, on February 11, 2021, Lead Plaintiff filed his Response to Defendants’ Objections.

22 On April 9, 2021, Defendants filed a Notice of Supplemental Authority regarding the (at
23 that time) ongoing appeal in *Mutza v. Emulex Corp.*, 9th Cir. Case No. 20-55339 (“*Emulex*”).
24 Defendants stated that if the Ninth Circuit ruled that a private right of action does not exist for a
25 claim premised on negligence, that ruling will be dispositive of the Defendants’ Second Motion
26 to Dismiss. On April 12, 2021, Lead Plaintiff filed his Response to Defendants’ Notice of

1 Supplemental Authority. The next day, Defendants submitted a Reply in connection with their
2 Notice of Supplemental Authority. On April 16, 2021, after the Ninth Circuit ruled on *Emulex*,
3 Lead Plaintiff filed a Notice of Supplemental Authority explaining that the Ninth Circuit did not
4 address the private enforceability of Section 14(e), leaving existing Ninth Circuit precedent on
5 the issue undisturbed.

6 On April 22, 2021, Judge Settle issued an Order adopting Magistrate Judge Creatura's
7 January 12th Report and Recommendation, denied Defendants' Second Motion to Dismiss, and
8 re-referred the Action to Judge Creatura for further consideration.

9 On May 6, 2021, Defendants filed their Answer to Lead Plaintiff's Second Amended
10 Complaint. That same day, Defendants also filed a motion to certify Judge Settle's April 22nd
11 Order for an interlocutory appeal and to stay proceedings during pendency of the appeal. On May
12 17, 2021, Lead Plaintiff filed his Response to Defendants' motion to certify Judge Settle's April
13 22nd Order. On May 21, 2021, Defendants filed their Reply.

14 On June 9, 2021, Magistrate Judge Creatura issued a Report and Recommendation
15 recommending: (i) that Defendants' motion to certify the District Court's April 22nd Order for
16 an interlocutory appeal and to stay proceedings during pendency of the appeal be granted; and
17 (ii) that further proceedings in the Action should be stayed pending the filing of a petition for
18 permission to appeal in the U.S. Court of Appeals for the Ninth Circuit, the disposition of that
19 petition, and the disposition of any appeal permitted by the Ninth Circuit.

20 On June 23, 2021, Lead Plaintiff filed his Objections to Magistrate Judge Creatura's June
21 9th Report and Recommendation. On July 8, 2021, Defendants filed their Response to Lead
22 Plaintiff's Objections. On August 6, 2021, Judge Settle issued an Order adopting Magistrate
23 Judge Creatura's June 9th Report and Recommendation and granted Defendants' motion to
24 certify the April 22nd Order for an interlocutory appeal and stay proceedings in the District Court
25 during the pendency of Defendants' filing of a petition for permission to appeal in the U.S. Court
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1 of Appeals for the Ninth Circuit, the disposition of that petition, and the disposition of any appeal
2 permitted by the Ninth Circuit.

3 On August 16, 2021, Defendants filed in the Ninth Circuit their Petition for Permission to
4 Appeal. On September 9, 2021, Lead Plaintiff answered Defendants' Petition.

5 During the pendency of Defendants' Petition for Permission to Appeal, the Settling Parties
6 began to discuss the potential settlement of the Action. After weeks of arms-length negotiations,
7 on October 12, 2021, the Settling Parties reached an agreement in principle for the terms
8 underlying the Settlement described herein.

9 On October 12, 2021, after the parties reached an agreement in principle to settle the
10 Action, the Ninth Circuit issued an Order granting Defendants' Petition for Permission to Appeal.
11 The Settling Parties thereafter agreed to request that the Ninth Circuit stay Defendants' appeal
12 and to seek remand of the Action without prejudice to reinstatement of the appeal if the Settlement
13 is not approved.

14 On October 15, 2021, the Settling Parties filed a joint notice informing the Court that: (i)
15 the Settling Parties reached an agreement in principle to settle all claims asserted in this Action
16 and on appeal; (ii) the Ninth Circuit granted Defendants' Petition for Permission to Appeal; and
17 (iii) the Settling Parties intended to ask the Ninth Circuit to stay Defendants' appeal, so that the
18 Settling Parties may complete the Settlement, and to remand the case to this Court for the limited
19 purpose of considering and approving the Settlement.

20 On October 18, 2021, the Settling Parties filed in the Ninth Circuit a joint motion to stay
21 the appellate proceedings under the initial appellate case number used prior to the Ninth Circuit's
22 order granting permission to appeal. The motion was denied on October 25, 2021, without
23 prejudice to refiling the motion under the newly assigned appellate case number.

24 On October 25, 2021, the Settling Parties re-filed in the Ninth Circuit, under the newly
25 assigned appellate case number, a joint motion to stay the appellate proceedings. The motion was
26 referred to Chris Goelz, Ninth Circuit Mediator.

1 On November 2, 2021, Mr. Goelz, acting under authority of the Ninth Circuit, issued an
2 order staying Defendants' appeal and vacating the briefing schedule established for the appeal.
3 Mr. Goelz's order additionally denied the Settling Parties' request for an immediate partial
4 remand to this Court, without prejudice to the Settling Parties filing a subsequent motion to
5 remand to this Court when the final Settlement documents are ready to be filed so that this Court
6 may consider them.

7 On November 29, 2021, the Settling Parties memorialized the terms of the Settlement,
8 which is embodied in this Stipulation, and will be subject to this Court's approval.

9 Thereafter, the Settling Parties informed the Ninth Circuit of the execution of the
10 Stipulation. On November 29, 2021, the Ninth Circuit issued an order remanding the case so that
11 this Court may consider the Settlement documents.

12 **II. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

13 This Stipulation constitutes a compromise of matters that are in dispute between the
14 Settling Parties. The Defendants have denied and continue to deny any wrongdoing by or liability
15 against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could
16 have been alleged, in the Litigation. Defendants expressly deny that Lead Plaintiff has asserted
17 any valid claims as to any of them, and expressly deny any and all allegations of fault, liability,
18 wrongdoing, or damages whatsoever and maintain that their conduct was at all times proper and
19 in compliance with all applicable provisions of law. In addition, Defendants maintain that they
20 have meritorious defenses to all claims alleged in the Litigation.

21 This Stipulation shall in no event be construed or deemed to be evidence of an admission
22 or concession on the part of any Defendant, or any of Defendants' Released Parties (as defined
23 below), with respect to any claim or of any fault, liability, wrongdoing, negligence, omission, or
24 damage whatsoever, or any infirmity in the defenses that Defendants have asserted. Defendants'
25 decision to settle the Litigation is based on the conclusion that further conduct of the Litigation
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1 could be protracted and expensive, that it is desirable that the Litigation be fully and finally
2 settled, and that it would be beneficial to avoid the uncertainty and risks inherent in any litigation.

3 **III. CLAIMS OF LEAD PLAINTIFF AND BENEFITS OF SETTLEMENT**

4 Lead Plaintiff and his counsel, Monteverde (“Lead Counsel,” as defined below in ¶ 1.13),
5 believe that the claims asserted in the Litigation have merit and that the facts garnered to date
6 supports those claims. Lead Plaintiff and Lead Counsel, however, recognize and acknowledge
7 the risk and expense of continued proceedings necessary to prosecute the Litigation against
8 Defendants through trial, appeals, including the ongoing interlocutory appeal, and any potential
9 post-trial proceedings sought by Defendants. Lead Plaintiff and Lead Counsel also have taken
10 into account the uncertain outcome and the risk of any litigation, as well as the difficulties and
11 delays inherent in any litigation. Lead Plaintiff and Lead Counsel also are mindful of the inherent
12 problems of proof and possible defenses to the claims asserted in the Litigation. Lead Plaintiff
13 and Lead Counsel believe that the Settlement set forth in this Stipulation confers substantial
14 benefits upon the Settlement Class (as defined below). Based on their evaluation, Lead Plaintiff
15 and Lead Counsel have determined that the Settlement set forth in this Stipulation is in the best
16 interests of the Settlement Class, and that the Settlement provided for herein is fair, reasonable,
17 and adequate.

18 **IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

19 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among
20 Lead Plaintiff (for himself and on behalf of the Settlement Class Members (as defined below))
21 and the Defendants, by and through their respective counsel of record, that, subject to the approval
22 of the Court and the other conditions set forth below, pursuant to Rule 23(e) of the Federal Rules
23 of Civil Procedure and the PSLRA, the Litigation and the Released Claims shall be finally, fully,
24 and forever resolved, discharged, relinquished, released, waived, settled, and dismissed with
25 prejudice, upon and subject to the terms and conditions of the Stipulation, as follows:
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1 **1. Definitions**

2 As used in the Stipulation the following terms have the meanings specified below:

3 1.1. “Authorized Claimant” means any Settlement Class Member whose claim for
4 recovery has been allowed pursuant to the terms of the Plan of Allocation ultimately approved by
5 the Court.

6 1.2. “Claimant” means a person or entity who or which submits a Proof of Claim and
7 Release to the Claims Administrator.

8 1.3. “Claims Administrator” means the firm of RG/2 Claims Administration LLC.

9 1.4. “Company” or “Papa Murphy’s” means Papa Murphy’s Holdings, Inc.

10 1.5. “Court” means the United States District Court for the Western District of
11 Washington, Tacoma Division.

12 1.6. “Defendants” means Papa Murphy’s and Weldon Spangler.

13 1.7. “Defendants’ Counsel” means the undersigned counsel for Defendants.

14 1.8. “Effective Date” means the first date by which all of the events and conditions
15 specified in ¶ 7.1 of the Stipulation have been met and have occurred.

16 1.9. “Escrow Account” means the account described in ¶ 2.1 through ¶ 2.6 hereof.

17 1.10. “Escrow Agent” means Monteverde & Associates PC or its successor(s) or
18 authorized agents.

19 1.11. “Final” means when the last of the following with respect to the Order and Final
20 Judgment, substantially in the form attached hereto as Exhibit B, shall occur: (i) the expiration of
21 three (3) business days after the time for the filing of any motion to alter or amend the Order and
22 Final Judgment under Federal Rule of Civil Procedure 59(e) without any such motion having
23 been filed; (ii) the expiration of the time for the filing or noticing of any appeal from the Order
24 and Final Judgment without any appeal having been filed; and (iii) if such motion to alter or
25 amend is filed or if an appeal is filed or noticed, then immediately after the determination of that
26 motion or appeal so that the Order and Final Judgment is no longer subject to any further judicial

1 review or appeal whatsoever, whether by reason of affirmance by court of last resort, lapse of
2 time, voluntary dismissal of the appeal, or otherwise. For purposes of this paragraph, an appeal
3 shall include any petition for panel rehearing, petition for rehearing *en banc*, petition for a writ
4 of certiorari or other writ that may be filed in connection with the approval or disapproval of this
5 Settlement, but shall not include any appeal that concerns only the issue of attorneys' fees and
6 expenses, payment for Lead Plaintiff's time and expenses, or the Settlement Fund. Any
7 proceeding or order, or any appeal or petition for panel rehearing, petition for rehearing *en banc*,
8 or petition for a writ of certiorari pertaining solely to any plan of distribution and/or application
9 for attorneys' fees, costs, or expenses and/or Lead Plaintiff's request for payment for time and
10 expenses, shall not in any way delay or preclude the Order and Final Judgment from becoming
11 Final.

12 1.12. "Final Approval Hearing" means the hearing to determine whether the proposed
13 Settlement embodied by this Stipulation is fair, reasonable, and adequate to the Settlement Class,
14 and whether the Court should: (1) enter the Order and Final Judgment approving the proposed
15 Settlement; (2) approve the Plan of Allocation of settlement proceeds; and (3) assess Lead
16 Counsel's petition for attorneys' fees and expenses and Lead Plaintiff's request for payment for
17 time and expenses.

18 1.13. "Lead Counsel" means Monteverde & Associates PC.

19 1.14. "Liaison Counsel" means Breskin, Johnson & Townsend PLLC.

20 1.15. "Lead Plaintiff" means Evan Brown.

21 1.16. "Litigation" or "Action" means the above-captioned action, *Brown v. Papa*
22 *Murphy's Holdings, Inc.*, Case No. 3:19-cv-05514-BHS-JRC, in the United States District Court
23 for the Western District of Washington, Tacoma Division.

24 1.17. "Notice" means the Notice of Pendency and Proposed Settlement of Class Action
25 defined in ¶ 3.1 hereof.

26 1.18. "Notice and Administration Costs" means the costs defined in ¶ 2.6 hereof.

1 1.19. "Order and Final Judgment" means the judgment to be rendered by the Court,
2 substantially in the form attached hereto as Exhibit B.

3 1.20. "Person" means a natural person, individual, corporation, limited liability
4 corporation, professional corporation, limited liability partnership, partnership, limited
5 partnership, limited liability company, association, joint stock company, estate, legal
6 representative, trust, unincorporated association, government or any political subdivision or
7 agency thereof, and any business or legal entity and all of their respective spouses, heirs,
8 beneficiaries, executors, administrators, predecessors, successors, representatives, or assignees.

9 1.21. "Plaintiff's Counsel" means any counsel who have appeared for Lead Plaintiff in
10 the Litigation, specifically: Lead Counsel, Liaison Counsel, or their successors. No other law
11 firm is included within the definition of Plaintiff's Counsel.

12 1.22. "Plaintiff's Released Claims" means any and all claims, rights and causes of action,
13 duties, obligations, demands, actions, debts, sums of money, suits, contracts, agreements,
14 promises, damages and liabilities, whether known or unknown, contingent or non-contingent, or
15 suspected or unsuspected, including all claims arising under federal or state statutory or common
16 law or any other law, rule or regulation, whether foreign or domestic, that arise out of or relate in
17 any way to the institution, prosecution, or settlement of the claims by Lead Plaintiff and Plaintiff's
18 Counsel against the Defendants, except for claims relating to the enforcement of this Settlement.

19 1.23. "Plan of Allocation" means a plan or formula of allocation of the Settlement Fund
20 whereby the Settlement Fund shall be distributed to Authorized Claimants after payment of
21 expenses of notice and administration of the Settlement, Taxes, and Tax Expenses, and such
22 attorneys' fees, costs, expenses (including costs and expenses awarded by the Court to Lead
23 Plaintiff), and interest as may be awarded by the Court. Any Plan of Allocation, including any
24 plan of allocation defined in any exhibit attached hereto, is not part of the Stipulation, and
25 Defendants and Defendants' Released Parties shall have no responsibility or liability with respect
26 thereto.

1 1.24. “Preliminary Approval Order” means the order described in ¶ 3.1 hereof,
2 substantially in the form attached hereto as Exhibit A.

3 1.25. “Proof of Claim and Release” means the document, substantially in the form
4 attached hereto as Exhibit A-2.

5 1.26. “Released Claims” means any and all claims, rights and causes of action, duties,
6 obligations, demands, actions, debts, sums of money, suits, contracts, agreements, promises,
7 damages and liabilities, whether known or unknown, contingent or non-contingent, derivative or
8 direct, or suspected or unsuspected, including any claims arising under federal or state statutory
9 or common law or any other law, rule or regulation, whether foreign or domestic, that have been
10 asserted, could have been asserted, or could be asserted in the future against Defendants Papa
11 Murphy’s and Weldon Spangler, MTY Food Group Inc. (“MTY”), and any and all of their related
12 parties, including, without limitation, any and all of their current or former parents, subsidiaries,
13 predecessors, successors, divisions, affiliates, investment funds, joint ventures and general or
14 limited partnerships, and each of their respective current or former officers, directors, trustees,
15 partners, members, contractors, auditors, principals, agents, managing agents, employees,
16 attorneys, accountants, investment bankers, financial advisors, including without limitation North
17 Point Advisors LLC, underwriters, insurers in their capacities as such, as well as each of the
18 Defendants’ immediate family members, heirs, executors, personal or legal representatives,
19 estates, beneficiaries, predecessors, successors and assigns (collectively, “Defendants’ Released
20 Parties”), that arise out of or relate in any way to: (i) the Action and the allegations in the Action,
21 (ii) the Tender Offer; or (iii) the Recommendation Statement. Notwithstanding the
22 aforementioned, the following claims are explicitly excluded: all claims (1) related to the
23 enforcement of this Settlement, and (2) between Defendants and Defendants’ Released Parties,
24 on the one hand, and their respective insurers, on the other.

25 1.27. “Settlement” means the settlement of the Litigation as set forth in this Stipulation.
26

1 1.28. “Settlement Amount” means the principal amount of Two Million Four Hundred
2 Thousand Dollars (\$2,400,000.00), that the Company shall cause its Directors and Officers
3 liability (“D&O”) insurance carrier to pay pursuant to ¶ 2.1 of this Stipulation. Spangler is not
4 responsible for paying or causing to be paid any portion of the Settlement Amount. Neither
5 Defendants nor Defendants’ Released Parties shall have any obligation whatsoever to pay the
6 Settlement Amount other than the Company’s obligation to cause the Company’s D&O insurance
7 carrier to pay the principal amount of Two Million Four Hundred Thousand Dollars
8 (\$2,400,000.00). Such amount is to be paid as consideration for full and complete settlement of
9 all the Released Claims.

10 1.29. “Settlement Class” means: all record holders and all beneficial holders of Papa
11 Murphy’s common stock who purchased, sold, or held such stock during the period from and
12 including April 25, 2019, the date of the Tender Offer and the date of filing of the Schedule 14D-
13 9, through and including May 22, 2019, the date the Tender Offer expired, including any and all
14 of their respective predecessors, successors, trustees, executors, administrators, estates, legal
15 representatives, heirs, assigns and transferees. Excluded from the Settlement Class are: (i)
16 Defendants; (ii) the Directors; (iii) each Supporting Stockholder, as that term is defined in the
17 Schedule 14D-9, who entered into a Tender and Support Agreement in connection with the
18 Tender Offer (the “Supporting Stockholders”); (iv) members of the immediate families of each
19 of the Defendants, Directors, and Supporting Stockholders; (v) any entity in which any of the
20 Defendants, Directors, or Supporting Stockholders has a controlling interest; (vi) the legal
21 representatives, heirs, successors, administrators, executors, and assigns of each Defendant,
22 Director, and Supporting Stockholder; and (vii) any Persons or entities who properly exclude
23 themselves by filing a valid and timely request for exclusion.

24 1.30. “Settlement Class Member” means any Person who falls within the definition of
25 the Settlement Class as set forth in ¶ 1.29 of the Stipulation.
26

1 1.31. "Settlement Class Period" means the period commencing on April 25, 2019, and
2 ending on May 22, 2019, inclusive.

3 1.32. "Settlement Fund" means the Settlement Amount plus all interest and accretions
4 thereto after being transferred to an account controlled by the Escrow Agent, and which may be
5 reduced by payments or deductions as provided for herein or by court order.

6 1.33. "Settling Parties" means, collectively, each of the Defendants and Lead Plaintiff on
7 behalf of himself and the Settlement Class Members.

8 1.34. "Stipulation" means this Stipulation of Settlement, including the recitals and
9 Exhibits hereto.

10 1.35. "Taxes" means all taxes (including any estimated taxes, interest or penalties)
11 arising with respect to the income earned by the Settlement Fund as described in ¶ 2.7.

12 1.36. "Tax Expenses" means expenses and costs incurred in connection with the
13 calculation and payment of taxes or the preparation of tax returns and related documents,
14 including, without limitation, expenses of tax attorneys and/or accountants and mailing and
15 distribution costs relating to filing (or failing to file) the returns described in ¶ 2.7.

16 1.37. "Unknown Claims" means (i) any of the Plaintiff's Released Claims which
17 Defendants or any Settlement Class Member, or any of their agents or attorneys, does not know
18 or suspect to exist in such Person's favor at the time of the release of the Plaintiff's Released
19 Claims, and (ii) any of the Released Claims that Lead Plaintiff of any Settlement Class Member
20 does not know or suspect to exist in his, her, or its favor at the time of the release of the Released
21 Claims, which, in the case of both (i) and (ii), if known by such Person, might have affected such
22 Person's decision with respect to this Settlement, including, without limitation, such Person's
23 decision not to object to this Settlement or not to exclude himself, herself, or itself from the
24 Settlement Class. Unknown Claims include Plaintiff's Released Claims and Released Claims for
25 which some or all of the facts comprising the claim may be suspected, or even undisclosed or
26 hidden. With respect to any and all Plaintiff's Released Claims and Released Claims, upon the

1 Effective Date, Lead Plaintiff and Defendants shall expressly, and each of the Settlement Class
2 Members shall be deemed to have, and by operation of the Order and Final Judgment shall have,
3 expressly waived to the fullest extent permitted by law, the provisions, rights, and benefits of
4 California Civil Code § 1542, which provides:

5 A general release does not extend to claims that the creditor or releasing party does
6 not know or suspect to exist in his or her favor at the time of executing the release
7 and that, if known by him or her, would have materially affected his or her
8 settlement with the debtor or released party.

8 Lead Plaintiff and Defendants shall expressly, and each of the Settlement Class Members shall
9 be deemed to have, and by operation of the Order and Final Judgment shall have, expressly
10 waived any and all provisions, rights, and benefits conferred by any law of any state or territory
11 of the United States, or principle of common law, which is similar, comparable or equivalent to
12 California Civil Code § 1542. Lead Plaintiff, Settlement Class Members, and Defendants, may
13 hereafter discover facts in addition to or different from those which such party now knows or
14 believes to be true with respect to the subject matter of Plaintiff's Released Claims and the
15 Released Claims, but Lead Plaintiff and Defendants shall expressly, and each Settlement Class
16 Member, upon the Effective Date, shall be deemed to have, and by operation of the Order and
17 Final Judgment shall have, fully, finally, and forever settled and released any and all Plaintiff's
18 Released Claims or the Released Claims, as the case may be, known or unknown, suspected or
19 unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist,
20 or heretofore have existed, upon any theory of law or equity now existing or coming into existence
21 in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or
22 without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery
23 or existence of such different or additional facts, whether or not previously or currently asserted
24 in any action. Lead Plaintiff and Defendants acknowledge, and the Settlement Class Members
25 shall be deemed by operation of the Order and Final Judgment to have acknowledged, that the
26

1 foregoing waiver was separately bargained for and a key element of the Settlement of which this
2 release is a part.

3 **2. The Settlement**

4 **a. The Settlement Fund**

5 2.1 In consideration of the terms of this Stipulation, Papa Murphy's shall cause its
6 D&O insurance carrier to pay, on behalf of all Defendants, the Settlement Amount into an
7 interest-bearing settlement Escrow Account. There will be no responsibility on the part of
8 Spangler or the Company to pay or cause to be paid any portion of the Settlement Amount, other
9 than the Company's obligation to cause the Company's D&O insurance carrier to pay. Payment
10 of the Settlement Amount shall be made into the Escrow Account within 30 calendar days of the
11 later of (1) preliminary judicial approval of the settlement, and (2) receipt by Defendants' Counsel
12 of each of (a) a copy of the preliminary approval order as entered by the Court, (b) a W-9 for the
13 Escrow Account, and (c) wire or mailing instructions for delivery to the Escrow Account. The
14 Settlement Amount shall include all attorneys' fees, administration costs, expenses, class member
15 benefits, as well as any other costs, expenses, or fees of any kind whatsoever associated with the
16 resolution of this matter. Defendants and their Insurers shall have no obligation to pay or cause
17 to be paid any additional amounts beyond the Settlement Amount.

18 **b. The Escrow Agent**

19 2.2 The Escrow Agent will invest the Settlement Fund created pursuant to ¶ 2.1 hereof
20 only in instruments backed by the full faith and credit of the United States Government or fully
21 insured by the United States Government or an agency thereof, and will reinvest the proceeds of
22 these instruments as they mature in similar instruments at their then-current market rates. All
23 costs and risks related to the investment of the Settlement Fund in accordance with the guidelines
24 set forth in this paragraph shall be borne by the Settlement Fund, and neither Defendants nor
25 Defendants' Released Parties shall have any responsibility for, interest in, or liability whatsoever
26 with respect to the funds held in the Escrow Account, including with respect to investment

1 decisions, distribution of the Settlement Fund, or the actions of the Escrow Agent, or any
2 transactions executed by the Escrow Agent.

3 2.3 The Escrow Agent shall not disburse the Settlement Fund except as provided by:
4 (i) the Stipulation; (ii) an order of the Court; or (iii) prior written agreement of Defendants’
5 Counsel.

6 2.4 Subject to further order(s) and/or directions as may be made by the Court, or as
7 provided in the Stipulation, the Escrow Agent is authorized to execute such transactions on behalf
8 of the Settlement Class Members consistent with the terms of the Stipulation. Neither Defendants
9 nor Defendants’ Released Parties shall have any responsibility for, interest in, or liability
10 whatsoever with respect to, the actions of the Escrow Agent, or any transaction executed by the
11 Escrow Agent.

12 2.5 All funds held by the Escrow Agent shall be deemed and considered to be in
13 *custodia legis* of the Court and shall remain subject to the jurisdiction of the Court, until such
14 time as such funds shall be distributed or returned pursuant to the Stipulation and/or further
15 order(s) of the Court.

16 2.6 The Escrow Agent may pay from the Settlement Fund the costs and expenses
17 reasonably and actually incurred, but not exceeding \$75,000.00, in connection with providing
18 notice to Settlement Class Members, mailing and publishing the Notice and Proof of Claim and
19 Release (including the actual costs of publishing, printing, and mailing the Notice and
20 reimbursement to nominee owners for forwarding notice to their beneficial owners), assisting
21 with the filing of claims, administering and distributing the Net Settlement Fund to Authorized
22 Claimants, processing Proofs of Claim and Releases, paying escrow fees and costs, if any, and
23 the administrative expenses incurred and fees charged by the Claims Administrator in connection
24 with the Notice and processing the submitted claims (“Notice and Administration Costs”). In the
25 event that the Settlement does not become final, any money actually paid or incurred for the
26 purposes set forth in this ¶ 2.6 shall not be returned or repaid to Papa Murphy’s insurance carriers.

1 **c. Taxes**

2 2.7 (a) The Settling Parties and the Escrow Agent agree that the Settlement Fund
3 is intended to be and should be treated as being at all times a “qualified settlement fund” within
4 the meaning of Treas. Reg. § 1.468B-1. In addition, the Escrow Agent shall timely make such
5 elections as necessary or advisable to carry out the provisions of this ¶ 2.7, including the “relation-
6 back election” (as defined in Treas. Reg. § 1.468B-1(j)(2)) back to the earliest permitted date.
7 Such elections shall be made in compliance with the procedures and requirements contained in
8 such Treasury regulations promulgated under § 468B of the Internal Revenue Code of 1986, as
9 amended (the “Code”). It shall be the responsibility of the Escrow Agent to timely and properly
10 prepare and deliver the necessary documentation for signature by all necessary parties, and
11 thereafter to cause the appropriate filing to occur.

12 (b) For the purpose of § 468B of the Code and the Treasury regulations promulgated
13 thereunder, the Escrow Agent shall be designated as the “administrator” of the Settlement Fund.
14 The Escrow Agent shall timely and properly file all informational and other tax returns necessary
15 or advisable with respect to the Settlement Fund (including, without limitation, the returns
16 described in Treas. Reg. § 1.468B-2(k)). Such returns (as well as the election described in
17 ¶ 2.7(a) hereof) shall be consistent with this ¶ 2.7 and in all events shall reflect that all Taxes as
18 defined in ¶ 1.35 hereof (including any estimated Taxes, interest, or penalties) on the income
19 earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in ¶ 2.7(c)
20 hereof.

21 (c) All: (i) Taxes (including any estimated Taxes, interest, or penalties) arising with
22 respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that
23 may be imposed upon Defendants or Defendants’ Released Parties with respect to any income
24 earned by the Settlement Fund for any period during which the Settlement Fund does not qualify
25 as a “qualified settlement fund” for federal or state income tax purposes; and (ii) Tax Expenses,
26 and costs incurred in connection with the operation and implementation of this ¶ 2.7 (including,

1 without limitation, expenses of tax attorneys and/or accountants and mailing and distribution
2 costs and expenses relating to filing (or failing to file) the returns described in this ¶ 2.7), shall be
3 paid out of the Settlement Fund. In no event shall Defendants or Defendants' Released Parties
4 have any responsibility for or liability with respect to the Taxes or the Tax Expenses. Further,
5 Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the
6 Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without
7 prior order from the Court, and the Escrow Agent shall be obligated (notwithstanding anything
8 herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary
9 to pay such amount, including the establishment of adequate reserves for any Taxes and Tax
10 Expenses (as well as any amounts that may be required to be withheld under Treas. Reg.
11 § 1.468B-2(b)(1)-(2)); neither Defendants nor Defendants' Released Parties are responsible
12 therefor, nor shall they have any liability with respect thereto, and shall have no responsibility or
13 liability for the acts or omissions of Lead Counsel, the Escrow Agent, or their agents with respect
14 to the payment of Taxes, as described herein. The Settling Parties hereto agree to cooperate with
15 the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably
16 necessary to carry out the provisions of this ¶ 2.7.

17 (d) Neither Defendants nor Defendants' Released Parties are responsible for Taxes,
18 Tax Expenses, or Notice and Administration Costs, nor shall they be liable for any claims with
19 respect thereto.

20 **d. Termination**

21 2.8 The Settlement is subject to final approval by the Court. If the Court does not grant
22 final approval of the releases set forth herein, or the Settlement otherwise does not become final
23 or effective: (i) the Settling Parties shall revert to their pre-settlement litigation positions, which
24 includes Defendants' appeal to the Ninth Circuit of the denial of their Second Motion to Dismiss,
25 and (ii) any amount funded or caused to be funded by Papa Murphy's D&O insurance carrier
26

1 under ¶ 2.1 shall be returned in full (except as set forth in ¶ 7.6) plus interest actually earned by
2 the Settlement Fund.

3 **3. Preliminary Approval Order and Final Approval Hearing**

4 3.1 Upon the execution of the Settlement, the Settling Parties will submit the
5 Stipulation along with its Exhibits, together with Lead Plaintiff’s motion for preliminary approval
6 to the Court, and Lead Counsel shall apply for entry of an order, substantially in the form and
7 content of Exhibit A attached hereto (the “Preliminary Approval Order”), requesting, *inter alia*,
8 the certification of the Settlement Class, the preliminary approval of the Settlement set forth in
9 the Stipulation, approval for the mailing of the Notice of Pendency and Proposed Settlement of
10 Class Action (the “Notice”) and the Proof of Claim and Release, substantially in the forms of
11 Exhibits A-1 and A-2 attached hereto, and approval of the publication of a Summary Notice via
12 PRNewswire, substantially in the form of Exhibit A-3 attached hereto, or such other substantially
13 similar form agreed to by the Settling Parties.

14 3.2 Lead Plaintiff will request that the Court schedule the Final Approval Hearing and
15 at that hearing finally approve the Settlement of the Litigation as set forth herein. At or after the
16 Final Approval Hearing, Lead Counsel also will request that the Court approve the proposed Plan
17 of Allocation and the Fee and Expense Application (defined in ¶ 6.1).

18 3.3 No later than ten (10) calendar days following the filing of this Stipulation with the
19 Court, Papa Murphy’s shall serve on behalf of all Defendants the notice required under the Class
20 Action Fairness Act, 28 U.S.C. § 1715 (“CAFA”). At least seven (7) calendar days before the
21 Final Approval Hearing, Papa Murphy’s shall cause to be served on Lead Counsel and filed with
22 the Court an affidavit or declaration regarding compliance with the CAFA notice requirements.

23 **4. Releases**

24 4.1 Upon the Effective Date, as defined in ¶ 1.8 hereof, without further action by
25 anyone, Lead Plaintiff, on behalf of himself and all Settlement Class Members, in his, her, or its
26 capacity as a purchaser, seller or holder of Papa Murphy’s stock, and anyone claiming through or

1 on behalf of any of them, shall be deemed to have, and by operation of the Order and Final
2 Judgment, shall have, fully, finally, and forever resolved, discharged, relinquished, released,
3 waived, settled, and dismissed with prejudice any and all of the Released Claims (including,
4 without limitation, Unknown Claims) against Defendants and each and all of Defendants’
5 Released Parties, regardless of whether a Settlement Class Member executes and delivers a Proof
6 of Claim and Release.

7 4.2 Upon the Effective Date, without further action by anyone, Lead Plaintiff, on behalf
8 of himself and all Settlement Class Members, in his, her, or its capacity as a purchaser, seller or
9 holder of Papa Murphy’s stock, and anyone claiming through or on behalf of any of them, shall
10 be forever barred and enjoined from commencing, instituting, asserting, maintaining, enforcing,
11 aiding, prosecuting, or continuing to prosecute any action or proceeding in any forum (including,
12 but not limited to, any state or federal court of law or equity, any arbitral forum, any tribunal,
13 administrative forum, or the court of any foreign jurisdiction, or any other forum of any kind),
14 any and all of the Released Claims (including, without limitation, Unknown Claims), against
15 Defendants and each and all of Defendants’ Released Parties, regardless of whether such
16 Settlement Class Member executes and delivers a Proof of Claim and Release.

17 4.3 Upon the Effective Date, without further action by anyone, Lead Plaintiff, on behalf
18 of himself and each and every Settlement Class Member, in his, her, or its capacity as a purchaser,
19 seller, or holder of Papa Murphy’s stock, and anyone claiming through or on behalf of any of
20 them, shall covenant or be deemed to have covenanted not to sue any of Defendants and
21 Defendants’ Released Parties with respect to any and all Released Claims (including, without
22 limitation, Unknown Claims).

23 4.4 In addition to, and not in limitation of, the matters set forth in ¶¶ 4.1, 4.2, and 4.3,
24 the Proof of Claim and Release to be executed by Settlement Class Members shall release any
25 and all Released Claims against Defendants and each and all of Defendants’ Released Parties,
26 and shall be substantially in the form contained in Exhibit A-2 attached hereto.

1 4.5 Upon the Effective Date, without further action by anyone, Defendants shall be
2 deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally, and
3 forever released, relinquished, and discharged Lead Plaintiff, each and all of the Settlement Class
4 Members, and Plaintiff’s Counsel from all Plaintiff’s Released Claims (including, without
5 limitation, Unknown Claims), and shall forever be enjoined from prosecuting such claims.

6 4.6 In accordance with the PSLRA as codified at 15 U.S.C. § 78u-4(f)(7)(A), (a) all
7 obligations to any Settlement Class Member of any Defendant or Defendants’ Released Party
8 arising out of the Litigation are discharged, and (b) any and all claims for contribution arising out
9 of the Litigation or any of the Released Claims (i) by any person or entity against any of the
10 Defendants’ Released Parties, and (ii) by any of Defendants’ Released Parties against any person
11 or entity, other than as set out in 15 U.S.C. § 78u-4(f)(7)(A)(ii), are hereby permanently barred,
12 extinguished, discharged, satisfied, and unenforceable.

13 4.7 For the avoidance of doubt, nothing in this Stipulation is intended to, nor shall it be
14 deemed to, release any claim that Defendants have against any of Defendants’ insurers.

15 **5. Administration and Calculation of Claims, Final Awards, and Supervision**
16 **and Distribution of Settlement Fund**

17 5.1 The Claims Administrator, subject to such supervision and direction of the Court
18 and/or Lead Counsel as may be necessary or as circumstances may require, shall administer and
19 calculate the claims submitted by Settlement Class Members and shall oversee distribution of the
20 Net Settlement Fund (defined below) to Authorized Claimants. Except for the Company’s
21 obligation to cause its D&O insurance carrier to pay the Settlement Amount as set forth herein,
22 Defendants and Defendants’ Released Parties shall have no responsibility for, interest in, or
23 liability whatsoever with respect to the investment or distribution of the Settlement Fund, the Plan
24 of Allocation, the determination, administration, or calculation of claims, the payment or
25 withholding of Taxes or Tax Expenses, or any losses incurred in connection therewith.
26

1 5.2 The Settlement Fund shall be applied as follows: (a) to pay all Notice and
2 Administration Costs; (b) to pay the Taxes and Tax Expenses; (c) to pay Plaintiff’s Counsel’s
3 attorneys’ fees and expenses with interest thereon (the “Fee and Expense Award”), if and to the
4 extent awarded by the Court, and Lead Plaintiff’s costs and expenses pursuant to 15 U.S.C. § 78u-
5 4(a)(4), if and to the extent awarded by the Court; and (d) after the Effective Date, to distribute
6 the balance of the Settlement Fund (the “Net Settlement Fund”) to Authorized Claimants as
7 allowed by the Stipulation, the Plan of Allocation, and/or the Court.

8 5.3 Upon the Effective Date and thereafter, and in accordance with the terms of the
9 Stipulation, the Plan of Allocation, or such further approval and further order(s) of the Court as
10 may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed
11 to Authorized Claimants, subject to and in accordance with the following:

12 (a) Each Settlement Class Member shall be required to submit a Proof of Claim
13 and Release, substantially in a form approved by the Court, supported by
14 such documents as are designated therein, including proof of the
15 transactions claimed or such other documents or proof as the Claims
16 Administrator, in its discretion, may deem acceptable;

17 (b) All Proofs of Claim and Releases must be submitted by the date specified
18 in the Notice unless such period is extended by Court order. Any Settlement
19 Class Member who fails to submit a Proof of Claim and Release by such
20 date, or timely submits a Proof of Claim and Release that is ultimately and
21 finally disallowed or rejected by the Claims Administrator, shall be forever
22 barred from receiving any payment pursuant to this Stipulation, but shall in
23 all other respects be bound by all of the terms of this Stipulation and the
24 Settlement, including the terms of the Order and Final Judgment to be
25 entered in the Litigation and the releases provided for herein, and will be
26 barred from bringing any action against Defendants and Defendants’

1 Released Parties concerning the Released Claims. A Proof of Claim and
2 Release shall be deemed to have been submitted when posted, if received
3 with a postmark indicated on the envelope and if mailed by first-class mail
4 and addressed in accordance with the instructions thereon. In all other
5 cases, the Proof of Claim and Release shall be deemed to have been
6 submitted when actually received by the Claims Administrator.
7 Notwithstanding the foregoing, Lead Counsel shall have the discretion (but
8 not the obligation) to accept for processing late submitted claims so long as
9 the distribution of the Net Settlement Fund to Authorized Claimants is not
10 materially delayed thereby. No Person shall have any claim against Lead
11 Plaintiff, Lead Counsel, or the Claims Administrator by reason of the
12 decision to exercise or not exercise such discretion;

13 (c) Each Proof of Claim and Release shall be submitted to and reviewed by the
14 Claims Administrator, who shall determine in accordance with this
15 Stipulation and the approved Plan of Allocation the extent, if any, to which
16 each claim shall be allowed, subject to review by the Court pursuant to
17 subparagraph (e) below;

18 (d) Proofs of Claim and Releases that do not meet the submission requirements
19 may be rejected;

20 (e) Prior to rejection of a Proof of Claim and Release, the Claims Administrator
21 shall communicate with the Claimant in order to attempt to remedy the
22 curable deficiencies. The Claims Administrator shall notify, in a timely
23 fashion and in writing, all Claimants whose Proofs of Claim and Releases
24 it proposes to reject in whole or in part, setting forth the reasons therefor,
25 and shall indicate in such notice that the Claimant whose claim is to be
26

1 rejected has the right to a review by the Court if the Claimant so desires and
2 complies with the requirements of subparagraph (f) below;

3 (f) If any Claimant whose claim has been rejected, in whole or in part, desires
4 to contest such rejection, the Claimant must, within twenty (20) days after
5 the date of mailing of the notice required in subparagraph (e) above, serve
6 upon the Claims Administrator a notice and statement of reasons indicating
7 the Claimant's grounds for contesting the rejection, along with any
8 supporting documentation, and requesting a review thereof by the Court. If
9 a dispute concerning a claim cannot be otherwise resolved, Lead Counsel
10 shall thereafter present the request for review to the Court;

11 (g) Each Claimant who submits a Proof of Claim and Release shall be deemed
12 to have submitted to the jurisdiction of the Court with respect to the
13 Claimant's claim, including, but not limited to, all releases provided for
14 herein and in the Order and Final Judgment, and the claim will be subject
15 to investigation and discovery under the Federal Rules of Civil Procedure,
16 provided that such investigation and discovery shall be limited to the
17 Claimant's status as a Settlement Class Member and the validity and
18 amount of the Claimant's claim. In connection with processing the Proofs
19 of Claim and Releases, no discovery shall be allowed on the merits of the
20 Litigation or the Settlement; and

21 (h) The Claims Administrator shall calculate the claims of Authorized
22 Claimants in accordance with the Plan of Allocation. Following the
23 Effective Date, the Claims Administrator shall send to each Authorized
24 Claimant his, her, or its pro rata share of the Net Settlement Fund. No
25 distributions will be made to Authorized Claimants who would otherwise
26 receive a distribution of less than \$5.00.

1 5.4 Defendants and Defendants' Released Parties shall have no responsibility for,
2 interest in, or liability whatsoever with respect to the investment or distribution of the Settlement
3 Fund, the Plan of Allocation, the determination, administration, or calculation of claims, the
4 payment or withholding of Taxes or Tax Expenses, or any losses incurred in connection
5 therewith.

6 5.5 No Person shall have any claim of any kind against the Defendants, Defendants'
7 Released Parties, or Defendants' Counsel with respect to the matters set forth in this Section 5.

8 5.6 No Person shall have any claim against Lead Plaintiff, the Escrow Agent, Plaintiff's
9 Counsel, Defendants, or any of Defendants' Released Parties or their counsel, or any claims
10 administrator based on distributions made substantially in accordance with this Stipulation and
11 the Settlement contained herein, the Plan of Allocation, or further order(s) of the Court.

12 5.7 Defendants shall not have a reversionary interest in the Net Settlement Fund. The
13 Net Settlement Fund shall be distributed to the Authorized Claimants in accordance with the Plan
14 of Allocation set forth in the Notice and approved by the Court. The Claims Administrator will
15 make reasonable and diligent efforts to have Settlement Class Members who are entitled to
16 participate in the distribution of the Net Settlement Fund cash their distributions. If there is any
17 balance remaining in the Net Settlement Fund after a reasonable period of time after the initial
18 distribution of the Net Settlement Fund (whether by reason of tax refunds, uncashed checks, or
19 otherwise), Lead Counsel, shall, if feasible, reallocate on a pro rata basis among Authorized
20 Claimants who negotiated the checks sent to them in the initial distribution and who would
21 receive a minimum of \$5.00. These reallocations shall be repeated until the balance remaining
22 in the Net Settlement Fund is de minimis and any remainder shall thereafter be donated to the
23 Investor Protection Trust.

24 5.8 It is understood and agreed by the Settling Parties that any proposed Plan of
25 Allocation of the Net Settlement Fund, including, but not limited to, any adjustments to an
26 Authorized Claimant's claim set forth therein, is not a part of this Stipulation and is to be

1 considered by the Court separately from the Court’s consideration of the fairness, reasonableness,
2 and adequacy of the Settlement set forth in the Stipulation, and any order or proceeding relating
3 to the Plan of Allocation shall not operate to terminate or cancel the Stipulation or affect the
4 finality of the Court’s Order and Final Judgment approving the Stipulation and the Settlement set
5 forth therein, or any other orders entered pursuant to the Stipulation.

6 5.9 Lead Plaintiff, Settlement Class Members, and Defendants shall be bound by the
7 terms of this Stipulation, irrespective of whether the Court disapproves or modifies the Plan of
8 Allocation. The time to appeal from approval of the Settlement shall commence upon the Court’s
9 entry of the Order and Final Judgment regardless of whether a Plan of Allocation has been
10 approved.

11 **6. Lead Counsel’s Attorneys’ Fees and Expenses**

12 6.1 Lead Counsel may submit an application (the “Fee and Expense Application”) for:
13 (a) an award of attorneys’ fees; (b) payment of expenses incurred in connection with prosecuting
14 the Litigation; and (c) any interest on such attorneys’ fees and expenses at the same rate and for
15 the same periods as earned by the Settlement Fund (until paid). Any and all such fees, expenses,
16 charges, and costs awarded by the Court shall be payable solely out of the Settlement Fund. In
17 addition, Lead Plaintiff may seek payment from the Settlement Fund pursuant to 15 U.S.C. § 78u-
18 4(a)(4) for time and expenses incurred in representing the Settlement Class. Defendants shall
19 take no position with respect to the Fee and Expense Application or any application for payment
20 from the Settlement Fund to Lead Plaintiff pursuant to 15 U.S.C. § 78u-4(a)(4).

21 6.2 The Fee and Expense Award, as awarded by the Court, shall be paid to Lead
22 Counsel from the Settlement Fund, as ordered, immediately upon final approval of the Settlement
23 by the Court and the Court’s execution of an order awarding such fees and expenses,
24 notwithstanding the existence of any timely filed objection thereto, any appeal or potential for
25 appeal therefrom, or collateral attack on the Settlement, any part thereof, or the Fee and Expense
26 Award. Lead Counsel may thereafter allocate the attorneys’ fees among other Plaintiff’s Counsel,

1 if any, in a manner which they, in good faith, believe reflects the contributions of Plaintiff's
2 Counsel to the initiation, prosecution, and resolution of the Litigation. Defendants and
3 Defendants' Released Parties shall have no responsibility for, or liability whatsoever with respect
4 to, the Fee and Expense Award or its allocation.

5 6.3 In the event that the Effective Date does not occur, or the Order and Final Judgment
6 or Fee and Expense Award is reversed or modified, or the Stipulation is canceled or terminated
7 for any other reason, and such reversal, modification, cancellation, or termination becomes final
8 and not subject to review, and in the event that the Fee and Expense Award has been paid to any
9 extent, then such of Plaintiff's Counsel who have received any portion of the Fee and Expense
10 Award shall within ten (10) business days from receiving notice from the Defendants' Counsel
11 or from a court of appropriate jurisdiction, refund to the Settlement Fund such fees and expenses
12 previously paid to them from the Settlement Fund plus the interest earned thereon at the same
13 rate as earned on the Settlement Fund consistent with such reversal or modification. Any refunds
14 required pursuant to this ¶ 6.3 shall be the several obligations of Plaintiff's Counsel receiving
15 fees or expenses to make appropriate refunds or repayments to the Settlement Fund. Each such
16 Plaintiff's Counsel's law firm receiving fees and expenses, as a condition of receiving such fees
17 and expenses, on behalf of itself and each partner and/or shareholder of it, agrees that the law
18 firm and its partners and/or shareholders are subject to the jurisdiction of the Court for the purpose
19 of enforcing the provisions of this paragraph.

20 6.4 The procedure for and the allowance or disallowance by the Court of the Fee and
21 Expense Application, or Lead Plaintiff's award for time and expenses to be paid out of the
22 Settlement Fund, are not part of the Settlement, and are to be considered by the Court separately
23 from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement or
24 the Plan of Allocation. Any determination by the Court regarding the Fee and Expense
25 Application or Lead Plaintiff's payment for time and expenses shall not impact the finality,
26 validity, and enforceability of the Settlement, the Plan of Allocation, this Stipulation, or the

1 releases contained herein. Any order or proceeding relating to the Fee and Expense Application
2 or Lead Plaintiff's application for an award for time and expenses or any appeal from any order
3 relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the
4 Settlement, or affect or delay the finality of the Order and Final Judgment approving this
5 Stipulation and the Settlement of the Litigation.

6 6.5 Any fees and expenses awarded by the Court shall be paid solely from the
7 Settlement Fund. Defendants and Defendants' Released Parties shall have no responsibility for
8 any payment of any kind apart from the Company causing its D&O insurance carrier to pay, on
9 behalf of all Defendants, the Settlement Amount pursuant to ¶ 2.1.

10 **7. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination**

11 7.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all
12 of the following events:

- 13 (a) Execution of this Stipulation and such other documents as may be required
14 to obtain final Court approval of the Stipulation in a form satisfactory to the
15 Settling Parties;
- 16 (b) the Court has entered the Preliminary Approval Order, as required by ¶ 3.1
17 hereof;
- 18 (c) the Settlement Amount has been deposited in the Escrow Account, as
19 required by ¶ 2.1 hereof;
- 20 (d) the Defendants have not exercised their option to terminate the Stipulation
21 pursuant to ¶ 7.4 hereof;
- 22 (e) the Court has approved this Stipulation and the Settlement described herein,
23 following notice to the Settlement Class Members and the Final Approval
24 Hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure;
- 25 (f) the Court has entered the Order and Final Judgment in the form of Exhibit
26 B attached hereto, or a substantially identical document; and

1 (g) the Order and Final Judgment has become Final, as defined in ¶ 1.11 hereof.

2 7.2 This is not a claims-made settlement. As of the Effective Date, no Defendant or
3 other Person shall have any right to the return of the Settlement Fund or any portion thereof for
4 any reason. Upon the occurrence of all of the events referenced in ¶ 7.1 above, any and all
5 remaining interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely
6 and forever extinguished. If all of the conditions specified in ¶ 7.1 hereof are not met, then this
7 Stipulation shall be cancelled and terminated subject to ¶ 7.5 below unless Lead Counsel and
8 Defendants' Counsel mutually agree in writing to proceed with the Settlement.

9 7.3 The Settling Parties shall have the right to terminate the Settlement and this
10 Stipulation by providing written notice of their election to do so ("Termination Notice") to all
11 other parties hereto within thirty (30) days of: (a) the Court's declining to enter a Preliminary
12 Approval Order substantially identical to the Preliminary Approval Order submitted by the
13 Settling Parties; (b) the Court's refusal to approve this Stipulation or a substantially identical
14 Stipulation; (c) the Court's declining to enter the Order and Final Judgment, or a substantially
15 identical document; (d) the Order and Final Judgment being modified or reversed by the United
16 States Court of Appeals for the Ninth Circuit or the Supreme Court of the United States in any
17 manner that results in a document that is not substantially identical to the document submitted by
18 the Settling Parties; (e) the occurrence of any condition set forth in the Settling Parties'
19 Supplemental Agreement, as provided in ¶ 7.4 below; or (f) the Effective Date not otherwise
20 occurring. No order of the Court or modification or reversal on appeal of any order of the Court
21 concerning the Plan of Allocation, or the Proof of Claim and Release form, or the amount of any
22 attorneys' fees, costs, expenses, and interest awarded by the Court to Plaintiffs' Counsel or Lead
23 Plaintiff shall constitute grounds for cancellation or termination of the Settlement.

24 7.4 Notwithstanding any other provision or paragraph of this Stipulation, Defendants
25 shall have the right to terminate the Settlement in the event that a portion of the Settlement Class,
26 equal or greater than the portion specified in the separate supplemental agreement between Lead

1 Counsel and Defendants’ Counsel (the “Supplemental Agreement”), delivers timely and valid
2 requests for exclusion from the Settlement Class. The Supplemental Agreement, which is being
3 executed concurrently herewith, will not be filed with the Court unless requested by the Court or
4 unless a dispute among the Settling Parties concerning its interpretation or application arises, and
5 in that event, the Settling Parties will use their reasonable best efforts to file the Supplemental
6 Agreement for the Court’s *in camera* review and/or under seal. However, the existence of the
7 Supplemental Agreement will be disclosed to the Court in compliance with Federal Rule of Civil
8 Procedure 23(e).

9 7.5 In the event that the Stipulation is not approved by the Court or the Settlement set
10 forth in the Stipulation is terminated or fails to become effective in accordance with its terms: (i)
11 the Settling Parties shall revert to their pre-settlement litigation positions, which includes
12 Defendants’ appeal to the Ninth Circuit of the denial of their Second Motion to Dismiss; and (ii)
13 any amount funded or caused to be funded by Papa Murphy’s insurance carrier under ¶ 2.1 shall
14 be returned in full, plus interest actually earned by the settlement fund, subject to the exception
15 stated in ¶ 7.6. In such event, the terms and provisions of the Stipulation, with the exception of
16 ¶¶ 2.5, 2.8, 6.3, 7.5-7.6, 8.1-8.3, and 10.4-10.5 hereof, shall have no further force and effect with
17 respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding
18 for any purpose, and any judgment or order entered by the Court in accordance with the terms of
19 the Stipulation shall be treated as vacated, *nunc pro tunc*. No order of the Court or modification
20 or reversal on appeal of any order of the Court concerning the Plan of Allocation, or the Proof of
21 Claim and Release Form, or the amount of any attorneys’ fees, costs, expenses, and interest
22 awarded by the Court shall constitute grounds for cancellation or termination of the Stipulation.

23 7.6 If the Effective Date does not occur, or if the Stipulation is terminated pursuant to
24 its terms, any amounts up to \$75,000.00, actually and properly disbursed from the Settlement
25 Fund for the Notice and Administration Costs of the Settlement pursuant to ¶ 2.6 hereof shall not
26 be returned to Papa Murphy's D&O insurance carrier. In addition, any expenses already incurred

1 and properly chargeable to the Settlement Fund for the Notice and Administration Costs of the
2 Settlement pursuant to ¶ 2.6 hereof at the time of such termination or cancellation, but which have
3 not been paid, shall be paid by the Escrow Agent in accordance with the terms of the Stipulation
4 prior to the balance being refunded in accordance with ¶ 2.8 hereof.

5 **8. No Admission of Wrongdoing**

6 8.1 Lead Plaintiff's execution of this Stipulation does not constitute an admission by
7 Lead Plaintiff: (i) that any of Lead Plaintiff's claims in the Litigation lacked merit; or (ii) that
8 recovery could not be had should the Action not be settled.

9 8.2 Defendants' execution of this Stipulation does not constitute an admission by any
10 Defendant or any of Defendants' Released Parties: (i) of any wrongdoing, violation of law, or
11 liability whatsoever; or (ii) that recovery could be had in any amount should the Action not be
12 settled. Defendants expressly deny that Lead Plaintiff has asserted any valid claims as to any of
13 them, and expressly deny any and all allegations of fault, damages, wrongdoing and liability, and
14 maintain that their conduct at all times was legal and proper.

15 8.3 Neither the Stipulation nor the Settlement, whether or not they are consummated,
16 nor any act performed or document executed pursuant to or in furtherance of the Stipulation or
17 the Settlement, shall be offered against any of the Defendants or Defendants' Released Parties as
18 evidence of, or construed as, or deemed to be evidence of any presumption, concession, or
19 admission with respect to the truth of any fact alleged by Lead Plaintiff, the validity of any claim
20 that was or could have been asserted, or the deficiency of any defense that has been or could have
21 been asserted in this Litigation or in any other litigation, or of any liability, negligence, fault, or
22 other wrongdoing of any kind or in any way referred to for any other reason as against any of
23 Defendants or Defendants' Released Parties, in any civil, criminal or administrative action or
24 proceeding, other than such proceedings as may be necessary to effectuate the provisions of this
25 Stipulation.

1 **9. Stipulation to Certification of the Settlement Class for Settlement Purposes**
2 **Only**

3 9.1 For purposes of this Settlement only, the Settlement Class comprises all Settlement
4 Class Members, as defined in ¶ 1.29 above. Nothing in this Stipulation shall serve in any fashion,
5 either directly or indirectly, as evidence or support for certification of a class other than for
6 settlement purposes, and the Settling Parties intend that the provisions herein concerning
7 certification of the Settlement Class shall have no effect whatsoever in the event the Settlement
8 does not become Final.

9 9.2 The Settling Parties therefore stipulate to: (i) certification, for settlement purposes
10 only, of the Settlement Class (as defined above), pursuant to Rules 23(a) and (b)(3) of the Federal
11 Rules of Civil Procedure; (ii) appointment of Lead Plaintiff as the class representative; and (iii)
12 appointment of Lead Counsel as class counsel. Certification of the Settlement Class shall be
13 binding only with respect to the Settlement and only if the Order and Final Judgment
14 contemplated by this Stipulation becomes Final and the Effective Date occurs.

15 **10. Miscellaneous Provisions**

16 10.1 The Settling Parties (a) acknowledge that it is their intent to consummate this
17 Settlement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and
18 implement all terms and conditions of the Stipulation, including in seeking Court approval of the
19 Preliminary Approval Order, and to exercise their best efforts to accomplish the foregoing terms
20 and conditions of the Stipulation expeditiously and to obtain final approval of the Settlement by
21 the Court. Papa Murphy's has provided Lead Plaintiff with a shareholder list and securities
22 position report for Papa Murphy's necessary for Lead Plaintiff to provide reasonable and adequate
23 notice to the Settlement Class

24 10.2 This Stipulation, the Exhibits attached hereto, and the Supplemental Agreement
25 constitute the entire agreement between the Settling Parties as to the subject matter hereof and
26 supersede any prior or contemporaneous written or oral agreements or understandings between
the Settling Parties. No representations, warranties, or inducements have been made to any party

1 concerning the Stipulation, its Exhibits, or the Supplemental Agreement other than the
2 representations, warranties, and covenants contained and memorialized in such documents.

3 10.3 Except as otherwise provided for herein, each party shall bear his, her, or its own
4 costs.

5 10.4 The Settling Parties intend this Settlement to be a final and complete resolution of
6 all disputes between them with respect to the Litigation. The Settlement compromises all claims
7 that were contested in the Litigation and that could have been asserted in the Litigation and shall
8 not be deemed an admission by any Settling Party as to the merits of any claim or defense.
9 Pursuant to 15 U.S.C. § 78u-4(c)(1), the Settling Parties agree, and the Order and Final Judgment
10 will contain a statement, that during the course of the Litigation, the Settling Parties and their
11 respective counsel at all times complied with the requirements of Federal Rule of Civil
12 Procedure 11. The Settling Parties agree that the amount paid to the Settlement Fund and the
13 other terms of the Settlement were negotiated in good faith by the Settling Parties and reflect a
14 settlement that was reached voluntarily after consultation with competent legal counsel. Whether
15 or not the Stipulation is approved by the Court and whether or not the Stipulation is consummated,
16 or the Effective Date occurs, the Settling Parties and their counsel shall use their best efforts to
17 keep all settlement negotiations, settlement discussions, and draft documents confidential;
18 provided, however, that this paragraph ¶ 10.4: (i) shall not prevent the Settling Parties from
19 making disclosures to their insurers, auditors, attorneys, officers, directors or associates, or
20 disclosures to others as may be required by law or regulation, and (ii) shall not limit the materials
21 or evidence that may be offered or referred to by the Settling Parties in disputes, actions, or
22 proceedings arising with any insurer.

23 10.5 Except as otherwise provided for herein, all agreements made and orders entered
24 during the course of the Litigation relating to the confidentiality of information shall survive this
25 Stipulation.
26

1 10.6 The Settling Parties agree to take no action in connection with the Settlement that
2 is intended to, or that would reasonably be expected to, harm the reputation of any of the Settling
3 Parties (including a party's officers, directors, employees, agents, or attorneys), or that would
4 reasonably be expected to lead to unfavorable publicity for any of the Settling Parties.

5 10.7 This Stipulation shall be construed and interpreted to effectuate the intent of the
6 Settling Parties, which is to resolve completely those claims and disputes, including in this
7 Litigation, and as more fully described herein.

8 10.8 All of the Exhibits to the Stipulation are material and integral parts hereof and are
9 fully incorporated herein by this reference.

10 10.9 The Stipulation may be amended or modified only by a written instrument signed
11 by or on behalf of all Settling Parties or their respective successors-in-interest.

12 10.11 Lead Plaintiff and Plaintiff's Counsel represent and warrant that none of the Lead
13 Plaintiff's claims or causes of action referred to in this Litigation or this Stipulation has been
14 assigned, encumbered, or in any manner transferred in whole or in part.

15 10.12 Each counsel or other Person executing the Stipulation or any of its Exhibits on
16 behalf of any party hereto hereby warrants that such Person has the full authority to do so.

17 10.13 All notices, requests, demands, claims, and other communications hereunder shall
18 be in writing and shall be deemed duly given: (i) when delivered to the recipient by email at the
19 addresses set forth below; (ii) five (5) business days after being sent to the recipient by reputable
20 overnight courier service (charges prepaid); or (iii) eight (8) business days after being mailed to
21 the recipient by certified or registered mail, return receipt requested, and postage prepaid, and
22 addressed to the intended recipient as set forth below:

23 ***If to Lead Plaintiff or to Plaintiff's Counsel:***

24 Juan E. Monteverde
25 **Monteverde & Associates PC**
26 The Empire State Building
 350 Fifth Avenue, Suite 4405
 New York, NY 10118

1 Tel: (212) 971-1341
jmonteverde@monteverdelaw.com

2 ***If to Defendants or to Defendants' Counsel:***

3 Ronald L. Berenstein
4 Sean C. Knowles
5 **Perkins Coie LLP**
6 1201 3rd Ave., Suite 4900
7 Seattle, WA 98101-3099
8 Tel: (206) 359-8000
9 RBerenstain@perkinscoie.com
10 SKnowles@perkinscoie.com

11 10.14 The Stipulation may be executed in one or more counterparts, and may be executed
12 using an electronic signature, including the form "s/ [name]." All executed counterparts and each
13 of them shall be deemed to be one and the same instrument. A complete set of executed
14 counterparts shall be filed with the Court. Signatures sent by facsimile or PDF via email shall be
15 deemed originals.

16 10.15 The Stipulation shall be binding upon, and inure to the benefit of, the heirs,
17 administrators, successors, and assigns of the Settling Parties.

18 10.16 The Court shall retain jurisdiction with respect to implementation and enforcement
19 of the terms of the Stipulation, and the Settling Parties submit to the jurisdiction of the Court for
20 purposes of implementing and enforcing the Settlement embodied in the Stipulation.

21 10.17 The waiver by any Settling Party of any breach of this Stipulation by any other
22 Settling Party shall not be deemed a waiver by any other Settling Party or a waiver of any other
23 prior or subsequent breach of this Stipulation.

24 10.18 Pending approval by the Court of the Stipulation and its Exhibits, all proceedings
25 in this Litigation shall be stayed and all Settlement Class Members shall be barred and enjoined
26 from prosecuting any of the Released Claims against Defendants and Defendants' Released
Parties.

10.19 The Stipulation and the Exhibits attached hereto and the Supplemental Agreement
shall be considered to have been negotiated, executed, and delivered, and to be wholly performed,

1 in the State of Washington, and the rights and obligations of the Settling Parties to the Stipulation
2 shall be construed and enforced in accordance with, and governed by, the internal, substantive
3 laws of the State of Washington without giving effect to that State's choice-of-law principles.

4 10.20 The headings herein are used for the purpose of convenience only and are not meant
5 to have legal effect.

6 10.21 This Stipulation shall not be construed more strictly against one Party than another
7 merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one
8 of the Settling Parties, it being recognized that the Stipulation is the result of arm's-length
9 negotiations between the Settling Parties and each of the Settling Parties has contributed
10 substantially and materially to the preparation of this Stipulation.

11 IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be executed,
12 by their duly authorized attorneys, dated November 29, 2021.

13
14 **BRESKIN JOHNSON TOWNSEND, PLLC**

15
16 s/ Roger M. Townsend
17 Roger M. Townsend, WSBA No. 25525
18 1000 Second Avenue, Suite 3670
19 Seattle, Washington 98104
20 Tel: (206) 652-8660
21 Fax: (206) 652-8290
22 Email: rtownsend@bjtlegal.com

23 *Liaison Counsel for Lead Plaintiff*

24 **OF COUNSEL**
25 **MONTEVERDE & ASSOCIATES PC**

26 Juan E. Monteverde
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350 Fifth Avenue, Suite 4405
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Lead Counsel for Lead Plaintiff

PERKINS COIE LLP

s/ Ronald L. Berenstein (signature authorized by email).

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Counsel for Defendants

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