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Attorneys for Defendant Chipotle Mexican Grill, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MAURIZIO ANTONINETTI, JEAN
RIKER, JAMES PERKINS, KAREN
FRIEDMAN JAY RIFKIN, SUSAN
CHANDLER, LAURA WILLIAMS, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

vs.

CHIPOTLE MEXICAN GRILL, INC., a
Delaware Corporation, and DOES 1 – 10,
Inclusive,

Defendants.

Case No. 06-CV-02671-BTM (WMc)

CLASS ACTION – Related to
USDC No. 13-CV-1831 BTM
WMC

**JOINT MOTION FOR
CONSOLIDATION OF RELATED
CASES, RETENTION OF
JURISDICTION BY COURT, AND
DISMISSAL OF CONSOLIDATED
ACTION**

Complaint Filed: December 6, 2006
Trial Date: November 18, 2013

**CALL &
JENSEN**
EST. 1981

1 Plaintiffs Jean Riker, Livia Antoninetti (as representative for Maurizio
 2 Antoninetti), James Perkins, Karen Friedman, Leslie Robinson, Jay Rifkin (as
 3 representative for Michael Rifkin), Susan Chandler, Ruthee Goldkorn, Robert
 4 Vahoviak, Jack Robertson, Rufus Martin, Kory Barnett, Raymond Berry, Michael Neth,
 5 Albert Sayles, Tamela Ridley, Michael Hanby, Pedro Garcia, Mimi Greenberg, Jeremy
 6 McGhee, Kyle Minnis (“the collective Plaintiffs”), and Chipotle Mexican Grill, Inc.
 7 (hereafter “Chipotle”) are hereafter collectively referred to as “the Parties.”

8 **I. Consolidation of Related Cases.**

9 The Parties hereby file this Joint Motion requesting that the Court consolidate
 10 *Perkins, et al. v. Chipotle Mexican Grill, Inc.*, USDC Case No. 13cv01831 BTM
 11 (WMc) (“the *Perkins* action”), with the instant case, *Antoninetti, et al. v. Chipotle*
 12 *Mexican Grill, Inc.*, USDC Case No. 06cv2671 BTM (WMc) (hereafter “the
 13 *Antoninetti* action”). The *Perkins* action and the *Antoninetti* action are hereinafter
 14 collectively and jointly referred to as “the consolidated cases.”

15 Consolidation is proper pursuant to Rule 42(a) when actions involve common
 16 questions of law and fact:

17 (a) Consolidation. If actions before the court involve a
 18 common question of law or fact, the court may:

- 19 (1) join for hearing or trial any or all matters at issue in
- 20 the actions;
- 21 (2) consolidate the actions; or
- 22 (3) issue any other orders to avoid unnecessary cost or
- 23 delay.

24 F.R.C.P., Rule 42(a). This Court has broad discretion under Rule 42 to consolidate
 25 cases pending within this District. *Investors Research Co. v. United States Dist. Court*
 26 *for Cent. Dist.*, 877 F.2d 777 (9th Cir. 1989); *Perez-Funez v. District Director,*
 27 *Immigration & Naturalization Service*, 611 F. Supp. 990, 994 (C.D. Cal. 1984) (“A
 28

1 court has broad discretion in deciding whether or not to grant a motion for
2 consolidation, although, typically, consolidation is favored").

3 Here, the facts and claims asserted in the *Antoninetti* action and in the *Perkins*
4 action are related. Both actions involve only one defendant, Chipotle Mexican Grill,
5 Inc. Both actions allege that persons in wheelchairs were denied equal access to
6 Defendant's restaurants due to high walls in front of the food preparation counters,
7 although the *Perkins* case also asserted that Chipotle's later-adopted written policy of
8 accommodation (adopted after the filing of the *Antoninetti* action) was also
9 discriminatory and failed to provide equivalent facilitation.

10 **II. Retention of Jurisdiction Over Consolidated Actions.**

11 The Parties also hereby file this Joint Motion requesting that the Court retain
12 jurisdiction over the consolidated cases, even after dismissal of the consolidated cases,
13 for the purposes of interpreting and enforcing the settlement agreement that was
14 reached by the Parties, including, but not limited to, determining the collective
15 Plaintiffs' attorneys' fees, costs and litigation expenses against Chipotle. The Parties'
16 global settlement agreement is attached hereto as Exhibit A and the terms of the Parties'
17 settlement agreement are incorporated herein by reference as though fully set forth
18 herein.

19 This Court is authorized to retain jurisdiction over the consolidated cases and the
20 settlement agreement, including the agreement to have attorneys' fees, expenses and
21 costs determined by the Court, if the parties specifically agree and the Court so orders.
22 *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 381–82, 114 S.Ct. 1673, 128
23 L.Ed.2d 391 (1994); *Chevron U.S.A. Inc. v. Sheikhpour*, 469 Fed. Appx. 593, 595 (9th
24 Cir. 2012).

25 Accordingly, the Parties jointly request that the Court expressly confirm that it
26 will retain jurisdiction over the consolidated cases, after dismissal, to determine a
27 reasonable fees, expenses and cost award pursuant to the Parties' settlement agreement,
28 and to otherwise interpret and enforce the Parties' settlement agreement.

III. Dismissal of Consolidated Actions.

Expressly contingent upon the Court first granting consolidation of the *Perkins* action and the *Antoninetti* action, and retaining jurisdiction of the consolidated cases, the Parties also jointly request that the Court then dismiss the claims in the consolidated action as set forth below.

The Parties have already reached and executed a global settlement of the disabled access claims by the *Antoninetti* Plaintiffs and the *Perkins* Plaintiffs and, while no class was ever certified in either action, this Court approved language to be posted on Chipotle's website, and to be disseminated to disability rights organizations, to give notice to putative class members of the settlement and imminent dismissal of the putative class members' claims ("Notice of Settlement"). (USDC Case No. 06cv2671, Documents 174, 181.) The Notice of Settlement was posted on Chipotle's website for six weeks and was disseminated to disability rights organizations. The Court also recently held that the Notice of Settlement approved by the Court in the *Antoninetti* action also adequately protected the claims of the putative class members in the *Perkins* action such that dismissal of the *Perkins* putative claims without prejudice will not infringe upon the rights of the putative class members. (USDC Case No. 13cv01831, Document 42.)

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1 The Parties therefore request that the claims of the collective Plaintiffs be
2 dismissed with prejudice, and that the claims of all putative class members in the
3 consolidated cases be dismissed without prejudice.

4
5 Respectfully submitted,
6 Dated: November 19, 2013 CALL & JENSEN

7 A Professional Corporation
8 David R. Sugden
9 Melinda Evans
10 Kent R. Christensen

11 By: /s/ David R. Sugden
David R. Sugden

12 Attorneys for Defendant Chipotle Mexican
13 Grill, Inc.

14 Dated: November 19, 2013 LAW OFFICES OF AMY B. VANDEVELD

15
16 By: /s/ Amy B. Vandeveld
Amy B. Vandeveld

17 Attorneys for Plaintiffs
18
19

20 **SIGNATURE CERTIFICATION**

21 Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies
22 and Procedures Manual, I hereby certify that the content of this document is acceptable
23 to Amy B. Vandeveld, counsel for Plaintiffs, and that I have obtained Ms. Vandeveld's
24 authorization to affix her electronic signature to this document.

25
26 By: /s/ David R. Sugden
David R. Sugden
27
28

EXHIBIT A

RELEASE AND SETTLEMENT AGREEMENT

SECTION 1.1 THE PARTIES TO BE BOUND

This Settlement Agreement is made effective March 25, 2013, ("the Effective Date") by and between Jean Riker, Livia Antoninetti, as representative for Maurizio Antoninetti ("Antoninetti"), James Perkins, Karen Friedman, Leslie Robinson, Jay Rifkin, as representative for Michael Rifkin ("Rifkin"), Susan Chandler, Ruthee Goldkorn, Robert Vahoviak, Jack Robertson, Rufus Martin, Kory Barnett, Raymond Berry, Michael Neth, Albert Sayles, Tamela Ridley, Michael Hanby, Pedro Garcia, Mimi Greenberg, Jeremy McGhee and Kyle Minnis (hereinafter collectively referred to as "the Plaintiffs"), on the one hand and Chipotle Mexican Grill, Inc. ("Chipotle" or "Defendant") on the other. The Defendant and the Plaintiffs are hereinafter collectively referred to as "the Parties" unless otherwise specifically identified or defined hereinbelow.

SECTION 1.2 RECITALS

A. WHEREAS, on December 6, 2006, Plaintiffs Antoninetti, Riker, Perkins, Friedman and Rifkin caused to be filed a Civil Complaint in the United States District Court for the Southern District of California ("the Southern District Court"), which was entitled *Antoninetti, et al. v. Chipotle Mexican Grill, Inc.*, USDC Case No. 06cv2671 BTM (WMc). A First Amended Complaint was filed on January 10, 2011 adding Susan Chandler as a Plaintiff (hereinafter referred to as "the Southern District Action"); and

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Chipotle Mexican Grill, Inc.
July 2, 2013 Version*

B. WHEREAS the Southern District Action was filed as a putative class action on behalf of members of a particular class of people with disabilities (hereafter collectively referred to as “the Southern District Putative Class Members”); and

C. WHEREAS, on May 7, 2008, Plaintiffs Perkins, Robinson and Goldkorn caused to be filed a Civil Complaint in the United States District Court for the Central District of California ("the Central District Court"), which was entitled *Perkins, et al. v. Chipotle Mexican Grill, Inc.*, USDC Case No. CV 08-03002-MMM-OP. A First Amended Complaint was filed on July 23, 2008 adding Robert Vahoviak as a Plaintiff (hereinafter referred to as "the Central District Action"); and

D. WHEREAS the Central District Action was filed as a putative class action on behalf of members of a particular class of people with disabilities (hereafter collectively referred to as “the Central District Putative Class Members”); and

E. WHEREAS, on December 24, 2012, Kory Barnett caused to be filed a Civil Complaint in the Superior Court of the State of California for the County of San Diego, which was entitled *Barnett v. Chipotle Mexican Grill, Inc.*, Case No. 37-2012-00059313-CU-CR-NC; and

F. WHEREAS, on December 27, 2012, Raymond Berry caused to be filed a Civil Complaint in the Superior Court of the State of California for the County of San Diego, which was entitled *Berry v. Chipotle Mexican Grill, Inc.*, Case No. 37-2012-00088595-CU-CR-CTL. A First Amended Complaint was filed on December 31, 2012; and

G. WHEREAS, on December 27, 2012, Pedro Garcia caused to be filed a Civil Complaint in the Superior Court of the State of California for the County of San Diego, which was entitled *Garcia v. Chipotle Mexican Grill, Inc.*, Case No. 37-2012-00088596-CU-CR-CTL. A First Amended Complaint was filed on December 31, 2012; and

H. WHEREAS, on December 17, 2012, Mimi Greenberg caused to be filed a Civil Complaint in the Superior Court of the State of California for the County of Los Angeles, which was entitled *Greenberg v. Chipotle Mexican Grill, Inc.*, Case No. SC119475; and

I. WHEREAS, on December 27, 2012, Michael Hanby caused to be filed a Civil Complaint in the Superior Court of the State of California for the County of San Diego, which was entitled *Hanby v. Chipotle Mexican Grill, Inc.*, Case No. 37-2012-00088597-CU-CR-CTL. A First Amended Complaint was filed on December 31, 2012; and

J. WHEREAS, on December 24, 2012, Rufus Martin caused to be filed a Civil Complaint in the Superior Court of the State of California for the County of San Diego, which was entitled *Martin v. Chipotle Mexican Grill, Inc.*, Case No. 37-2012-00059311-CU-CR-NC; and

K. WHEREAS, on December 27, 2012, Jeremy McGhee caused to be filed a Civil Complaint in the Superior Court of the State of California for the County of San Diego, which was entitled *McGhee v. Chipotle Mexican Grill, Inc.*, Case No. 37-2012-00088592-CU-CR-CTL. A First Amended Complaint was filed on December 31, 2012; and

L. WHEREAS, on December 27, 2012, Kyle Minnis caused to be filed a Civil Complaint in the Superior Court of the State of California for the County of San Diego, which was entitled *Minnis v. Chipotle Mexican Grill, Inc.*, Case No. 37-2012-00088593-CU-CR-CTL. A First Amended Complaint was filed on December 31, 2012; and

M. WHEREAS, on December 21, 2012, Kyle Minnis caused to be filed a Civil Complaint in the Superior Court of the State of California for the County of Orange, which was entitled *Minnis v. Chipotle Mexican Grill, Inc.*, Case No. 30-2012-00620718; and

N. WHEREAS, on December 27, 2012, Michael Neth caused to be filed a Civil Complaint in the Superior Court of the State of California for the County of San Diego, which was entitled *Neth v. Chipotle Mexican Grill, Inc.*, Case No. 37-2012-00088598-CU-CR-CTL. A First Amended Complaint was filed on December 31, 2012; and

O. WHEREAS, on December 27, 2012, Tamela Ridley caused to be filed a Civil Complaint in the Superior Court of the State of California for the County of San Diego ("the Court"), which was entitled *Ridley v. Chipotle Mexican Grill, Inc.*, Case No. 37-2012-00088594-CU-CR-CTL. A First Amended Complaint was filed on December 31, 2012; and

P. WHEREAS, on December 27, 2012, Jack Robertson caused to be filed a Civil Complaint in the Superior Court of the State of California for the County of San Diego, which was entitled *Robertson v. Chipotle Mexican Grill, Inc.*, Case No. 37-2012-00088591-CU-CR-CTL. A First Amended Complaint was filed on December 31, 2012; and

Q. WHEREAS, on December 24, 2012, Albert G. Sayles caused to be filed a

Civil Complaint in the Superior Court of the State of California for the County of San Diego, which was entitled *Sayles v. Chipotle Mexican Grill, Inc.*, Case No. 37-2012-00088546-CU-CR-CTL. A First Amended Complaint was filed on December 31, 2012; and

R. WHEREAS the lawsuits described in Section 1.2 E through Section 1.2 Q, above, shall collectively be referred to herein as “the Thirteen Individual Actions”; and

S. WHEREAS the Southern District Action, the Central District Action, and the Thirteen Individual Actions shall collectively be referred to herein as “the Fifteen Actions”; and

T. WHEREAS the Plaintiffs in each of the Fifteen Actions and Chipotle wish to resolve their claims and causes of action set forth in each of the Fifteen Actions; and

U. NOW THEREFORE, based on the covenants and promises contained hereinabove and below, the Parties have agreed to enter into this Settlement Agreement on the terms set forth hereinabove and below.

SECTION 2.1 SPECIFIC TERMS

A. Recitals:

The Recitals set forth in Section 1.2 hereinabove are an integral part of this Settlement Agreement and shall be used in any interpretation of this Settlement Agreement.

B. Performance by Chipotle:

1. Damages:

Within fifteen days of receipt of the Plaintiffs’ signatures to this Settlement

Agreement, Chipotle shall pay to the Plaintiffs the sum of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00). This shall resolve all of the Plaintiffs' claims for damages, including damages relating to emotional and/or physical injuries, if any, that were asserted in the Fifteen Actions. Said monies shall be paid by check made payable to "the Amy B. Vandeveld Client Trust Account." This money shall be held in trust and shall not be distributed to the Plaintiffs until the Fifteen Actions are dismissed.

2. Notice:

Chipotle shall conspicuously post notice on its website, in the form attached hereto as Attachment "A" ("the Notice"), saying that class certification was denied in the Southern District Action, and that Plaintiffs intend to settle the case rather than appeal the denial of certification. The Notice shall be posted on consecutive days for a period of not less than six (6) weeks and shall provide that other persons who want to proceed against Chipotle on these claims have to proceed on their own, and that they can make a motion to intervene and become part of this case. The Notice shall mention the applicable statutes of limitations and the tolling of the limitations period during the pendency of the class action. The Parties shall submit a stipulation as to the form of the Notice once settlement is finalized. Plaintiffs' counsel shall provide the Notice to the same disability rights organizations that they contacted when seeking declarations in support of their motion for class certification.

C. Attorneys' Fees, Litigation Expenses and Costs:

1. Chipotle shall bear its own attorneys' fees, litigation expenses and costs

incurred in relation to the Fifteen Actions. Chipotle shall pay reasonable attorneys' fees, litigation expenses and costs ("Fees and Costs") to the Plaintiffs in the Fifteen Actions. The Parties will meet and confer in good faith in an effort to agree upon an amount to be paid by Chipotle for Plaintiffs' Fees and Costs.

2. In the event that the Parties are unable to agree upon an amount to be paid to Plaintiffs for Fees and Costs, the Parties agree that Judge Barry Ted Moskowitz in the Southern District Action (hereafter "Judge Moskowitz"), or any Magistrate Judge or other District Court Judge as may be appointed and/or assigned the Fees and Costs Motion by Judge Moskowitz, shall determine the amount of reasonable Fees and Costs that shall be paid by Chipotle to the Plaintiffs in the Fifteen Actions. Plaintiffs' counsel shall file a noticed motion in the Southern District Court for the Fees and Costs sought to be recovered by the Plaintiffs in all of the Fifteen Actions ("the Fees and Costs Motion"), and shall file the Fees and Costs Motion within 60 (sixty) days of either (1) the execution of the Settlement Agreement by all Parties or (2) the Southern District Court's retention of jurisdiction over the Settlement Agreement and the Fees and Costs Motion, whichever date is later.

3. In the event Judge Moskowitz, or any Magistrate Judge or other Southern District Court Judge as may be appointed and/or assigned the Fees and Costs Motion by Judge Moskowitz, declines to exercise jurisdiction over any portion of the Fees and Costs Motion, or it is later determined the Southern District Court lacked jurisdiction to award any of the Fees and Costs claimed by Plaintiffs, any issue relating to Plaintiffs' recovery of Fees

and Costs that is not resolved by Judge Moskowitz, or any Magistrate Judge or other District Court Judge as may be appointed and/or assigned the Fees and Costs Motion by Judge Moskowitz, shall be resolved through binding arbitration before a neutral arbitrator mutually selected by the Parties. The Plaintiffs shall be entitled to seek recovery of the Fees and Costs related to the fee determination. If the Parties cannot agree on a neutral arbitrator within 30 days after demand for arbitration is made an arbitrator shall be randomly selected pursuant to American Arbitration Association Commercial Arbitration Rules and Mediation Procedures (“AAA Rules”) relating to expedited arbitration. Arbitration shall proceed within the County of San Diego pursuant to the AAA Rules. The Parties agree that they have read or have had the opportunity to read and familiarize themselves with the AAA Rules and agree that these rules are incorporated herein by reference. The Parties further agree that the Expedited Procedures of the AAA Rules shall apply notwithstanding the size of the claim.

4. There shall be no discovery. The matter shall be submitted on documents unless any Party requests a hearing. The Parties agree that their respective counsel approving this Agreement as to Form shall accept any and all notices under the AAA Rules. The Parties agree that the arbitrator’s determination of the amount of Fees and Costs to be paid to the Plaintiffs will be based on submission of documents in a manner as similar as possible to a motion for attorney’s fees and costs in federal court.

5. The Parties further agree to a “high-low agreement” regarding the amount of Fees and Costs to be recovered by the Plaintiffs. The specific terms of the “high-low

agreement” are set forth in Attachment “B” hereto. The fact that the Parties have entered into a “high-low agreement” shall be disclosed to the Court or arbitrator, although the range of this “high-low agreement” shall be confidential and shall not be disclosed to any Court or arbitrator unless it becomes necessary to enforce the “high-low agreement” or unless the Southern District Court or the Central District Court determines that the specific terms must be disclosed to Putative Class Members to comply with any statutory or legal requirements and/or ethical obligations of Plaintiffs’ counsel. In the event any of the provisions of this section relating to the method of determining the reasonable amounts of Fees and Costs are unenforceable, Plaintiffs shall be entitled to seek recovery of the amounts of Fees and Costs incurred in the Fifteen Actions in any court having jurisdiction. The Parties further agree that an arbitration award may be entered as a judgment in any court having jurisdiction.

6. For purposes of the Fees and Costs Motion, Chipotle waives any requirement, if any, regarding a finding of Chipotle’s liability under the Unruh Act (California Civil Code Sections 51 and/or 52 (“Cal. Civ. Code”)) before the Plaintiffs are entitled to Fees and Costs from Chipotle (as set forth in *Doran v. North State Grocery, Inc.*, 137 Cal. App. 4th 484 (2006)), and Chipotle waives any requirement, if any, of a finding of Chipotle’s liability under the Americans with Disabilities Act (42 U.S.C. Sections 12101, et seq.) (the “ADA”) before the Plaintiffs are entitled to recover Fees and Costs from Chipotle, and Chipotle agrees that the Southern District Court and/or a neutral arbitrator shall award Fees and Costs to the Plaintiffs in each of the Fifteen Actions as though there were a judicial finding that

Chipotle violated, and is liable under, the Unruh Act (Cal. Civ. Code Secs. 51 and/or 52) and the ADA with respect to each of the Plaintiffs in each of the Fifteen Actions.

D. Consolidation of Actions, Retention of Jurisdiction and Dismissals Of the Fifteen Actions:

1. After this Settlement Agreement has been fully executed by all Parties, the Parties shall forthwith file Joint Motions in the Southern District of California and/or the Central District of California, as may be necessary, requesting that the Central District Action be transferred to the Southern District of California and consolidated with the Southern District Action. The Parties shall also concurrently file a Joint Motion and Order in the Southern District Action requesting that the Court grant leave to allow the Plaintiffs in the Thirteen Individual Actions to intervene in the Southern District Action. The Parties shall also concurrently file a Joint Motion and Order requesting that the Southern District Court retain jurisdiction over: (1) any and all issues relating to this Settlement Agreement including, but not limited to, the interpretation and enforcement of this Settlement Agreement, and (2) the Plaintiffs' Motion for Fees and Costs.

2. The Parties shall forthwith file a joint stipulation for voluntary dismissal of the Southern District Action ("the Stipulation") after the Parties have complied with the Notice requirements set forth in the Court's Minute Order, Document No. 170 but said Stipulation shall not be filed earlier than six (6) weeks from the date that the Notice is first published. The Stipulation will request dismissal of the named Plaintiffs' claims with prejudice and will request dismissal of the Putative Class Members' claims without prejudice.

3. The Parties agree that the Plaintiffs in the Central District Action shall file a Motion for Dismissal under Fed. R. Civ. Proc. 41 (a)(2) requesting dismissal of the Central District named Plaintiffs' claims with prejudice and dismissal of the Central District Putative Class Members' claims without prejudice, subject to any notice to Putative Class Members as may be required under Fed. R. Civ. P. 23(e), if any, and/or pursuant to any other terms, and subject to any other conditions, that the Court having jurisdiction over the Central District Putative Class Members' claims determines are fair and just to the Central District Putative Class Members.

E. Mutual Releases:

1. For valuable consideration, the receipt and adequacy of which are hereby acknowledged by (a) the Plaintiffs in the Fifteen Actions and (b) the Defendant on the other hand, on behalf of themselves and their respective heirs, executors, administrators, assigns, successors, predecessors, employees, agents, attorneys, past, present and future officers, directors, partners and shareholders (collectively the "Representative Parties"), hereby release and forever discharge each other, and their respective Representative Parties (collectively the "Releasees") from the suits, claims, or demands of any nature whatsoever, including claims for physical and/or emotional injuries, only with respect to which each has with respect to the Fifteen Actions ("the released claims").

2. The Parties hereto acknowledge that they are aware they may hereafter discover claims or facts in addition to or different from those which they now know or believe to exist

with respect to the released claims and the underlying facts, and that it is their intent to fully, finally, and forever settle and release all their known disputes and differences which now exist or have ever existed with one another, arising out of or in connection only with respect to the released claims. Also, the Parties hereto agree that this Settlement Agreement shall remain in effect as a full and complete settlement agreement and mutual release of the released claims included in this Settlement Agreement.

3. The Parties warrant that they have not assigned or transferred any interest in any claim they may have against the other parties, or any of them.

F. No Admission of Liability:

Each Party acknowledges and agrees that this Settlement Agreement is a compromise of disputed claims and neither this Settlement Agreement, nor any consideration provided pursuant to this Settlement Agreement, shall be taken or construed to be an admission or concession by either Party of any kind with respect to any fact, liability, or fault *except as set forth in Section 2.1.C.6 above with respect to the Fees and Costs Motion and/or arbitration of the Plaintiffs' Fees and Costs.*

G. Release of Unknown Claims:

The Parties acknowledge that they have been advised by legal counsel with respect to, and are familiar with, the provisions of California Civil Code Section 1542 which provides as follows:

**A GENERAL RELEASE DOES NOT EXTEND TO
CLAIMS WHICH CREDITOR DOES NOT KNOW OR**

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Chipotle Mexican Grill, Inc.
July 2, 2013 Version*

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.

All Parties to this Settlement Agreement being aware of said Code Section, hereby expressly waive any rights they may have thereunder, as well as under any other Statute or common law principal of similar effect only with respect to any of the released claims. Nothing in this paragraph shall reduce or waive the executory portions of this Settlement Agreement.

SECTION 2.2 GENERAL TERMS

A. Continuing Jurisdiction of Court

The Parties agree that Judge Moskowitz or any other Magistrate Judge or District Court Judge as may be appointed by the Southern District Court, shall retain jurisdiction over the Plaintiffs' Fees and Costs Motion and over all disputes between the Parties including, but not limited to, interpretation and enforcement of the terms of the Settlement Agreement and the Plaintiffs' Fees and Costs Motion. To the extent the Southern District Court declines or is not able to retain jurisdiction over this Settlement Agreement it may be enforced in the Superior Court for the County of San Diego or any court of competent jurisdiction.

B. Interpretation:

Whenever the context requires, any gender includes all others, and the singular number includes the plural number and vice-versa. In addition, the singular reference to

Putative Class Member includes all Putative Class Members and vice-versa. Captions in this Settlement Agreement are inserted for convenience of reference and do not define, describe, or limit the scope or intent of this Settlement Agreement or any of its terms. The terms "Person" shall include a corporation, partnership, trust, or any other legal entity. "Including" shall mean inclusive without limitation to the included item specified.

C. Entire Agreement:

This Settlement Agreement contains the entire agreement between the Parties regarding the subject matter hereof. Any prior oral or written representations, agreements, understandings, and/or statements shall be of no force and effect. No modification, waiver, amendment or discharge of this Settlement Agreement shall be valid unless it is in writing and signed by the party against which its enforcement is or may be sought.

D. Time is of the Essence:

Time is of the essence for each obligation hereunder.

E. Applicable Laws:

This Settlement Agreement shall be construed and enforced in accordance with the laws of the State of California. This Settlement Agreement is made and is to be enforced within the jurisdiction of the Southern District Court and/or in any other court of competent jurisdiction.

F. Successors:

Subject to any provision of this Settlement Agreement that may prohibit or curtail

assignment of any rights hereunder, this Settlement Agreement shall bind and inure to the benefit of the respective heirs, assigns, personal representatives, and successors of the parties hereto; and the Parties intend that only they or their heirs, assigns, personal representatives, and successors are entitled to enforce this Settlement Agreement.

G. Cooperation:

Each Party agrees that it, he or she shall, upon the other's request, take any and all steps, and execute, acknowledge, and deliver to the other any and all further instruments necessary or expedient to effectuate the purposes of this Settlement Agreement.

H. Counterparts:

This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original. Photocopies of signatures, signatures by facsimile and/or by electronic transmission shall be effective and binding as originals.

I. Equal Participation in Drafting:

No inference, assumption, or presumption shall be drawn from the fact that a Party or his, her or its attorney prepared and/or drafted this Settlement Agreement. It shall be conclusively presumed that all Parties participated equally in the preparation and/or drafting of this Settlement Agreement.

J. Voluntary Execution:

The Parties acknowledge that their execution hereof is voluntary, that they have been advised by their respective counsel of all of the provisions hereof, and that, in executing this

Settlement Agreement, each is not relying on any inducements, promises and representations made by the other Party or his representatives except as may be expressly set forth herein.

All Parties hereto were represented by counsel.

K. Enforcement:

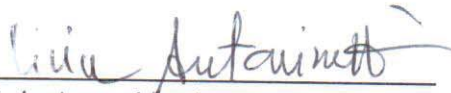
In the event it becomes necessary for a Party to incur costs and/or attorney's fees to enforce the provisions of this Settlement Agreement, the prevailing party in any enforcement litigation or action shall be entitled to that party's reasonable attorney's fees and costs as awarded by a court of law, subject to the standards set forth in *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412 (1978) regarding expenses assessed against a plaintiff. Liability for payment of attorneys fees and costs is several and not joint and attaches only to the party against whom the prevailing party prevailed.

SECTION 3.1 EXECUTION

WHEREFORE THIS SETTLEMENT AGREEMENT IS ENTERED INTO AS OF THE DATE SET FORTH ABOVE, AND IS TO BE PERFORMED IN THE STATE OF CALIFORNIA.

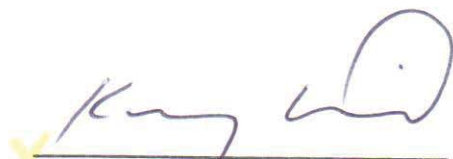
By:

The Plaintiffs



Livia Antoninetti, as representative
for Maurizio Antoninetti

Date: 07.15.2013


Kory Barnett

Date: 7/12/13

Raymond Berry

Date: _____

Susan Chandler

Date: _____

Karen Friedman

Date: _____

Pedro Garcia

Date: _____

Ruthee Goldkorn

Date: _____

Mimi Greenberg

Date: _____

Michael Hanby

Date: _____

Rufus Martin

Date: _____

Jeremy McGhee

Date: _____

Kory Barnett

Date: _____



Raymond Berry

Date: 07/09/13

Susan Chandler

Date: _____

Karen Friedman

Date: _____

Pedro Garcia

Date: _____

Ruthee Goldkorn

Date: _____

Mimi Greenberg

Date: _____

Michael Hanby

Date: _____

Rufus Martin

Date: _____

Jeremy McGhee

Date: _____

Kory Barnett

Date: _____

Raymond Berry

Date: _____

 Susan Chandler
Susan Chandler

Date: 7-10-13

Karen Friedman

Date: _____

Pedro Garcia

Date: _____

Ruthee Goldkorn

Date: _____

Mimi Greenberg

Date: _____

Michael Hanby

Date: _____

Rufus Martin

Date: _____

Jeremy McGhee

Date: _____

Kory Barnett

Date: _____

Raymond Berry

Date: _____

Susan Chandler

Date: _____

Karen Friedman

Karen Friedman

Date: 7-11-13

Pedro Garcia

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Ruthee Goldkorn

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Mimi Greenberg

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Michael Hanby

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Jeremy McGhee

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Kory Barnett

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Raymond Berry

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Susan Chandler

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Karen Friedman

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Pedro Garcia

Date: 7/9/13

Ruthee Goldkorn

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Mimi Greenberg

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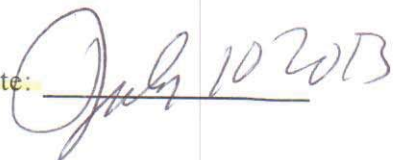
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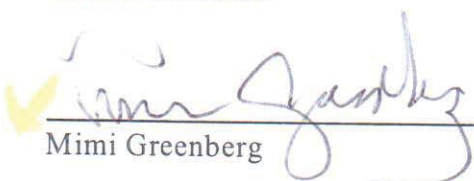
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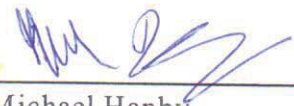
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Michael Hanby

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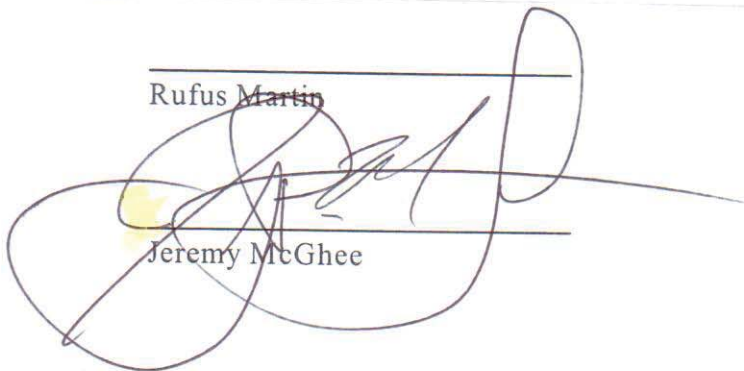
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Michael Hanby

Date: _____

Rufus Martin

Date: _____



Jeremy McGhee

Date: 07.15.2013

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Chipotle Mexican Grill, Inc.
July 2, 2013 Version*



Kyle Minnis

Date: 7/11/13

Michael Neth

Date: _____

James Perkins

Date: _____

Tamela Ridley

Date: _____

Jay Rifkin, as representative
for Michael Rifkin

Date: _____

Jean Riker

Date: _____

Jack Robertson

Date: _____

Leslie Robinson

Date: _____

Albert Sayles

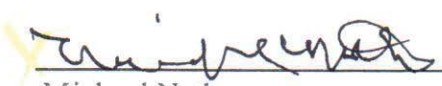
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Robert Vahoviak

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Kyle Minnis

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Michael Neth

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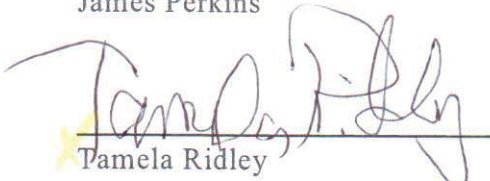
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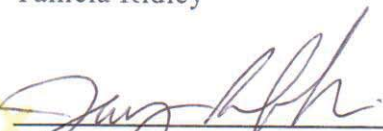
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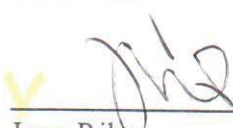
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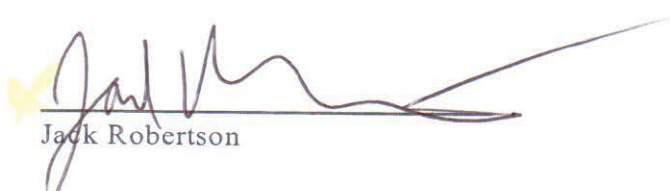
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Jay Rifkin, as representative
for Michael Rifkin

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Jean Riker

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Jack Robertson

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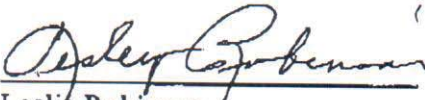
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*Settlement Agreement with
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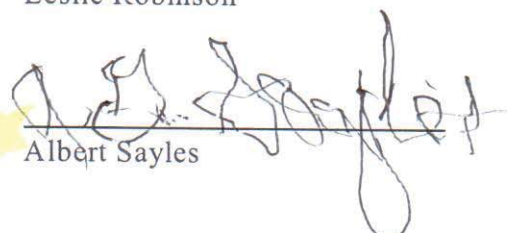
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Leslie Robinson

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Albert Sayles

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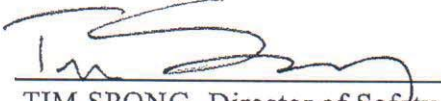


Robert Vahoviak

Date: 7/8/13

The Defendant

CHIPOTLE MEXICAN GRILL, INC.

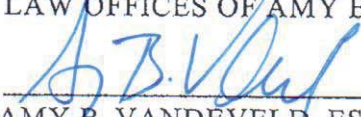

By: TIM SPONG, Director of Safety, Security
& Risk for Chipotle Mexican Grill, Inc.

Date: 7-3-2013

APPROVED AS TO FORM:

Dated: 7/16/13

LAW OFFICES OF AMY B. VANDEVELD


AMY B. VANDEVELD, ESQ.,
Attorney for Plaintiffs

CALL & JENSEN

Dated: _____

By: _____
DAVID SUGDEN, ESQ.,
Attorneys for CHIPOTLE MEXICAN GRILL, INC.

MESSNER & REEVES LLP

Dated: _____

By: _____
BRUCE MONTOYA, ESQ.,
Attorneys for CHIPOTLE MEXICAN GRILL, INC.

The Defendant

CHIPOTLE MEXICAN GRILL, INC.

Date: _____

By: _____
TIM SPONG, Director of Safety, Security
& Risk for Chipotle Mexican Grill, Inc.

APPROVED AS TO FORM:

LAW OFFICES OF AMY B. VANDEVELD

Dated: _____

AMY B. VANDEVELD, ESQ.,
Attorney for Plaintiffs

CALL & JENSEN

Dated: 7/2/2013

By: _____
DAVID SUGDEN, ESQ.,
Attorneys for CHIPOTLE MEXICAN GRILL, INC.

MESSNER & REEVES LLP

Dated: 7/2/2013

By: _____
BRUCE MONTOKA, ESQ.,
Attorneys for CHIPOTLE MEXICAN GRILL, INC.

ATTACHMENT A: Form of Notice

“On December 6, 2006, a class action lawsuit entitled *Antoninetti v. Chipotle*, was filed in the Southern District of California, alleging that people who use wheelchairs, scooters or other mobility devices were unable to see their food options or watch their food prepared at Chipotle restaurants in California because of the height of the walls in front of the food preparation counters. On May 7, 2008, identical, similar and/or related claims were made in another class action lawsuit entitled *Perkins v. Chipotle*, which was filed in the Central District of California. The *Perkins* case was stayed while the *Antoninetti* case was litigated. Both cases sought damages for people with disabilities under the Unruh Act and/or the California Disabled Persons Act. On August 28, 2012, the *Antoninetti* court determined that the *Antoninetti* case should not proceed as a class action, and denied class certification. The individual plaintiffs in the *Antoninetti* case have decided to settle their individual claims rather than appeal the denial of class certification. In addition, the individual plaintiffs in the *Perkins* case have decided to settle their individual claims rather than seek class certification. The *Antoninetti* class action claims and the *Perkins* class action claims will, therefore, not continue to be litigated once the cases are dismissed unless someone else intervenes in the cases and wishes to pursue the class action claims.

Any persons wanting to pursue their own claims or the class action claims against Chipotle must file a new lawsuit or they may seek to intervene in the *Antoninetti* case or the *Perkins* case. If you want to intervene in the *Antoninetti* case, you must do so before (insert date

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Chipotle Mexican Grill, Inc.
July 2, 2013 Version*

which is 6 weeks from the date of first publication of the Notice) when the *Antoninetti* case will be dismissed. If you wish to intervene in the *Perkins* case, you should act promptly to ensure that you intervene before the *Perkins* case is dismissed. The date for dismissal of the *Perkins* case has not yet been determined and may be later than the date for dismissal of the *Antoninetti* case, but you should nevertheless act promptly to protect your rights. Rather than intervening in the *Antoninetti* case or the *Perkins* case, you may also file your own separate lawsuit against Chipotle before, and even after, the *Antoninetti* case and the *Perkins* case are dismissed.

If you want to pursue your own claims against Chipotle in a separate lawsuit you should be mindful that, in the *Antoninetti* case, the statute of limitations (the time limit for filing a lawsuit) was tolled from December 6, 2006, until August 28, 2012, at which time the statute of limitations began to run again. The statute of limitations in the *Perkins* case is tolled from May 7, 2008 until the date that the Court dismisses the *Perkins* case, which date has not yet been determined.

Courts are divided as to whether the one-year statute of limitations period for statutory penalties (Code Civ. Proc. § 340), the two-year statute of limitations period for personal injuries (Code Civ. Proc., § 335.1) or the three-year statute of limitations period for a liability created by statute (Code Civ. Proc., § 338, subd. (a)) governs a claim under the Unruh Act and/or the Disabled Persons Act. Therefore, if you choose to intervene in the *Antoninetti* case or the *Perkins* case or you choose to file your own lawsuit, you should act promptly so that you do not permanently lose any rights you may have.

ATTACHMENT B: “High/Low” Agreement

Because of the uncertainty of the Fees and Costs that may be awarded to Plaintiffs by the Southern District Court and/or an arbitrator, the Parties agree that, regardless of the amount of Fees and Costs actually awarded by the Southern District Court and/or by an arbitrator, the amount of the Fees and Costs paid by Chipotle Mexican Grill, Inc. to Plaintiffs shall be the amount of Fees and Costs actually awarded, but not more than [REDACTED]

[REDACTED] nor less than [REDACTED]

[REDACTED]. Said award shall be paid by Chipotle Mexican Grill, Inc. by check made payable to the Amy B. Vandeveld Client Trust Account within thirty (30) days of the Court’s award and/or the arbitrator’s decision.

CERTIFICATE OF SERVICE
(United States District Court)

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 610 Newport Center Drive, Suite 700, Newport Beach, CA 92660.

On November 19, 2013, I have served the foregoing document described as **JOINT MOTION FOR CONSOLIDATION OF RELATED CASES, RETENTION OF JURISDICTION BY COURT, AND DISMISSAL OF CONSOLIDATED ACTION** on the following person(s) in the manner(s) indicated below:

SEE ATTACHED SERVICE LIST

☒ (BY ELECTRONIC SERVICE) I am causing the document(s) to be served on the Filing User(s) through the Court's Electronic Filing System.

☐ (BY MAIL) I am familiar with the practice of Call & Jensen for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope, with postage fully prepaid, addressed as set forth herein, and such envelope was placed for collection and mailing at Call & Jensen, Newport Beach, California, following ordinary business practices.

☐ (BY OVERNIGHT SERVICE) I am familiar with the practice of Call & Jensen for collection and processing of correspondence for delivery by overnight courier. Correspondence so collected and processed is deposited in a box or other facility regularly maintained by the overnight service provider the same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope designated by the overnight service provider with delivery fees paid or provided for, addressed as set forth herein, and such envelope was placed for delivery by the overnight service provider at Call & Jensen, Newport Beach, California, following ordinary business practices.

☐ (BY FACSIMILE TRANSMISSION) On this date, at the time indicated on the transmittal sheet, I transmitted from a facsimile transmission machine, which telephone number is (949) 717-3100, the document described above and a copy of this declaration to the person, and at the facsimile transmission telephone numbers, set forth herein. The above-described transmission was reported as complete and without error by a properly issued transmission report issued by the facsimile transmission machine upon which the said transmission was made immediately following the transmission.

1 ☒ (BY E-MAIL) I transmitted the foregoing document(s) by e-mail to the
2 addressee(s) at the e-mail address(s) indicated.

3 ☐ (FEDERAL) I declare that I am a member of the Bar and a registered Filing User
4 for this District of the United States District Court.

5 ☒ (FEDERAL) I declare that I am employed in the offices of a member of this
6 Court at whose direction the service was made.

7 I declare under penalty of perjury under the laws of the United States of America
8 that the foregoing is true and correct, and that this Certificate is executed on November
9 19, 2013, at Newport Beach, California.

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11 Shelly Bravo
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SERVICE LIST

Attorneys for Plaintiffs

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San Diego, CA 92101
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Fax: (619) 231-8329
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abvandeveldesq@hotmail.com

Thomas J. Vandeveld III, Esq.
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Bonita, CA 91908
Tel: 619-232-5299
Fax: 619-475-6908
tomvlawyer@cox.net

**Attorneys for Defendant Chipotle
Mexican Grill, Inc.**

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