

1 Dennis F. Moss (State Bar No. 77512)
 dennisfmoss@yahoo.com
 2 H. Scott Leviant (State Bar No. 200834)
 scott@spiromoss.com
 3 Linh Hua (State Bar No. 247419)
 linh@spiromoss.com
 4 **SPIRO MOSS LLP**
 11377 W. Olympic Blvd., 5th Floor
 5 Los Angeles, California 90064-1683
 Telephone: (310) 235-2468
 6 Facsimile: (310) 235-2456

7 Joseph Lavi (SBN 209776)
 jlavi@lelawfirm.com
 8 N. Nick Ebrahimian (SBN 219270)
 nebrahimian@lelawfirm.com
 9 LAVI & EBRAHIMIAN, LLP
 8383 Wilshire Blvd., Suite 840
 10 Beverly Hills, California 90211
 Tel. (323) 653-0086
 11 Fax:(323) 653-0081

12 Attorneys for Plaintiff Ramiro Barajas

13
 14 UNITED STATES DISTRICT COURT
 15 CENTRAL DISTRICT OF CALIFORNIA

16 RAMIRO BARAJAS, individually and
 on behalf of other persons similarly
 17 situated,

18 Plaintiff,

19 vs.

20 MENZIES AVIATION, INC.;;
 MENZIES AVIATION (USA), INC.;;
 21 and DOES 1 through 100, inclusive,

22 Defendants.

Case No.: 2:10-cv-02315-JEM

CLASS ACTION

**DECLARATION OF H. SCOTT
 LEVIANT IN SUPPORT OF
 PLAINTIFF'S MOTION FOR
 FINAL APPROVAL OF CLASS
 ACTION SETTLEMENT AND
 CERTIFICAITON OF
 SETTLEEMENT CLASS AND
 AWARD OF CLASS
 REPRESENTATIVE
 ENHANCEMENT, ATTORNEY'S
 FEES, AND COSTS**

Date: July 26, 2011
 Location: Courtroom 833-C
 Time: 10:00 a.m.

Date Action Filed: February 22, 2010
 Date Removed: March 30, 2010
 Trial Date: None

DECLARATION OF H. SCOTT LEVIANT

I, H. Scott Leviant, declare as follows:

1. I am admitted, in good standing, to practice as an attorney in the State of California, the United States Supreme Court, the Eighth Circuit Court of Appeals, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Northern and Southern Districts of California. I have never been subject to discipline by the State Bar of California. I am a fully qualified, adult resident of the State of California, and, if called as a witness herein, I would testify truthfully to the matters set forth herein. All of the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true.

2. I am employed as a Senior Associate at the law firm of Spiro Moss LLP. My business address is 11377 Olympic Boulevard, 5th Floor, Los Angeles, California 90064 and my business telephone number is (310) 235-2468. I am counsel of record for Plaintiff in this matter.

3. This Declaration is submitted in support of Plaintiff's Motion for Final Approval of Class Action Settlement and Certification of Settlement Class and Plaintiff's Motion for an award of Class Representative Enhancement, Attorney's Fees, and Costs.

BACKGROUND

4. Plaintiff filed the putative class action on February 22, 2010 in Los Angeles County Superior Court against Defendants. The Complaint alleges, on behalf of Plaintiff and all individuals employed in non-exempt hourly-paid positions for Defendants in California, that Defendants (1) failed to pay overtime wages under the FLSA, (2) failed to pay overtime wages in violation of Labor Code §§ 510 and 1194, (3) failed to provide accurate itemized wage statements in alleged

1 violation of Labor Code § 226; (4) failed to pay all wages due and owing at the
2 time of termination in alleged violation of Labor Code § 203; and (5) violated the
3 Unfair Competition Law (“UCL”) set forth at California Business and Professions
4 Code §§ 17200 *et seq.*

5 5. On March 30, 2010, Defendants removed the action to United States
6 District Court for the Central District of California. Pursuant to Rule 26(f), on
7 April 23, 2010, the Parties conducted their conference of counsel and determined
8 that there was a mutual desire for an early mediation. In their Joint Rule 26(f)
9 Report, the Parties informed the Court that they had already identified several
10 mediators experienced in the mediation of wage and hour class/representative
11 actions.

12 6. Despite their mutual desire for early mediation, the Parties proceeded
13 with formal discovery to progress with fact finding. In May 2010, both Parties
14 served Initial Disclosures. In July 2010, Plaintiff served notices of depositions of
15 certain key witnesses, and Plaintiff also served two sets of interrogatories and one
16 set of requests for production of documents.

17 7. Prior to the mediation, Defendants provided data pertaining to the
18 putative class to allow for Plaintiff’s counsel to assess class-wide liability and
19 damages. The mediation data, combined with discussions between the Parties’
20 counsel, yielded valuable information to the Parties in terms of class certification
21 issues, ultimate liability and the amount of damages in controversy. Accordingly,
22 the Parties are sufficiently familiar with the facts of this case to evaluate the
23 adequacy of settlement now and have agreed to this arms-length Settlement
24 pursuant to the terms summarized herein and set forth in the Settlement Agreement.

25 8. On July 13, 2010, the Parties participated in a full-day private
26 mediation. The Parties selected Michael Loeb, a mediator experienced with wage
27 and hour class/representative mediations. At the end of that day the Parties did not
28 reach a settlement; however, a proposal for settlement was taken under

1 consideration. On July 20, 2010, the Parties reached an agreement as to all material
2 terms of the Settlement and, over the following weeks, continued to negotiate a
3 narrowed release and fair allocation of funds to Class Members. Significantly,
4 during the month leading up to mediation, Dennis F. Moss, H. Scott Leviant and
5 Linh Hua, worked on this matter heavily, precluding their ability to work on other
6 cases.

7 9. On August 13, 2010, by stipulation of the Parties, the Court ordered
8 the filing of a First Amended Complaint. The complaint was amended to narrow
9 the class definition to only those employees at the Los Angeles International
10 Airport and assert claims under the Private Attorneys General Act on behalf of
11 those employees. On March 1, 2011, this Court issued an Order conditionally
12 certifying a settlement class, preliminarily approving the proposed settlement,
13 approving notice to the class, and setting the hearing for final approval of the
14 proposed class action settlement. In compliance with that Order, the key terms of
15 the settlement, including the aggregate settlement amount, the requested
16 enhancement, the likely costs and the proposed attorneys' fees were disclosed to
17 the Class Members in the Notice issued to Class Members.

18 10. The Parties recognize that the issues presented in the Action are likely
19 only to be resolved with extensive and costly pretrial proceedings and that further
20 litigation will cause inconvenience, distraction, disruption, delay and expense
21 disproportionate to the potential benefits of litigation and have taken into account
22 the risk and uncertainty of the outcome inherent in any litigation.

23 11. Based on their own independent investigation and evaluation,
24 Plaintiff's counsel is of the opinion that the Settlement documented by this
25 Stipulation is fair, reasonable, and adequate, and in the best interest of the
26 Settlement Class in light of all known facts and circumstances, including the risk of
27 significant delay, the risk that the Settlement Class will not be certified by the
28 Court or that it will later be decertified, the defenses asserted by Defendants to the

1 merits and the class action status of this action, the numerous potential appellate
2 issues, and the risk posed by current economic conditions. Based upon their
3 investigations, Class Counsel determined that the scope of the class originally
4 proposed was overly broad and required revision to conform with discovered facts.
5 The revised class, which focuses on policies and procedures at the Los Angeles
6 International Airport, impacts a class of approximately 875 individuals.

7 12. While Defendants specifically deny any liability in the Action,
8 Defendants agreed to enter into this settlement to avoid the uncertainty, cost and
9 business disruption associated with defending the Action.

10 13. To the best knowledge of the Parties and their respective counsel,
11 other than this Action, there are no other like claims asserted or filed by Class
12 Members. To the best knowledge of the Parties and their respective counsel, no
13 Class Member has refrained from bringing an action with claims similar to those
14 raised in the Action, whether in reliance on the Action or otherwise, and who thus
15 might be prejudiced by dismissal of the Action.

16 14. Defendants deny that it engaged in any violations of the law in
17 connection with its wage-and-hour practices, and further denies that it has any
18 liability or engaged in wrongdoing of any kind associated with the claims alleged in
19 the Action by Plaintiff or any Class Member. Defendants contend that it at all
20 times complied with all California wage-and-hour laws in connection with the
21 employment of Plaintiff and the Class Members.

22 SUMMARY OF THE SETTLEMENT TERMS

23 15. The full terms of the settlement are set forth in the Settlement
24 Agreement. For the convenience of the Court, the primary material terms are
25 summarized as follows:
26

27 (a) The Settlement Classes are:

28 1) California Hourly Settlement Class - All individuals

1 employed by Defendants in any non-exempt hourly paid
2 position at Los Angeles International Airport, at any time
3 during the period from February 22, 2006 through
4 November 13, 2010 whose time records and pay records
5 as employees of Defendants reflect payment of both
6 overtime and incentive pay and/or performance bonuses
7 during the same pay period.

- 8 2) California Former Hourly Settlement Class - All
9 individuals in the California Hourly Class whose
10 employment in California ended at any time during the
11 period from February 22, 2006 through November 13,
12 2010.
- 13 3) FLSA Settlement Class – All individuals employed by
14 Defendants any non-exempt hourly paid position at Los
15 Angeles International Airport at any time during the
16 period from February 22, 2006 through November 13,
17 2010 who received separate incentive and/or performance-
18 based payments in the same pay period they were paid for
19 work for over 40 hours in a week.

20 (b) Defendants will pay \$475,000 (“Settlement Fund”), and no
21 portion of the Settlement Fund will revert back to Defendants.
22 (Stipulation, ¶ A.EE.)

23 (c) The Settlement Fund will be allocated and disbursed to the
24 claims administrator, to the California Labor and Workforce
25 Development Agency (“LWDA”), to Plaintiff as a service
26 award, to Class Counsel’s for fees and costs, and to class
27 member payments as individual payments. (Stipulation, ¶
28 A.EE.)

- 1 (d) The Settlement Fund will be allocated as follows:
- 2 1) \$180,000 will be apportioned for the resolution of claims
- 3 arising under Labor Code §§ 226, 510, and 1194. This
- 4 amount shall be distributed to Class Members on a pro-
- 5 rata basis determined by calculating their Included
- 6 Overtime Hours.
- 7 2) \$20,000 will be apportioned for the resolution of penalty
- 8 claims arising under the Private Attorney General Act,
- 9 Labor Code § 2699. \$15,000 of this amount shall be paid
- 10 the LWDA. The remaining \$5,000 shall be distributed to
- 11 Class Members on pro-rata basis.
- 12 3) \$275,000 will be apportioned for the payment of the Class
- 13 Representative's Service Payment, Class Counsel's
- 14 Attorney's Fees and Costs (up to \$118,750 for fees and
- 15 \$5,500 for costs), Administrative Costs (estimated at
- 16 \$14,500), *and* for the resolution of claims arising under
- 17 Labor Code § 203. Once the Service Payment, Class
- 18 Counsel's Attorney's Fees and Costs, and Administrative
- 19 Costs are first deducted from the \$275,000 apportionment,
- 20 the remaining balance shall be distributed to members of
- 21 the California Former Hourly Settlement Class on an
- 22 equal share basis.
- 23 (e) Class Members who submit valid Claim Forms can have their
- 24 Settlement Payments increase up to three times, and any
- 25 remaining funds will be donated to a *cy pres*, the Airline
- 26 Ambassadors International. No money will revert to
- 27 Defendants.
- 28

- 1 (f) Subject to Court approval, Defendants will pay Plaintiff a
2 service payment of \$7,500. (Stipulation, ¶ III.A.)
- 3 (g) Subject to the Court's approval, the Claims Administrator will
4 be paid expenses currently estimated at \$14,500. (Stipulation, ¶
5 V.A.)
- 6 (h) Subject to the Court's approval, Defendants will pay Class
7 Counsel's Attorneys' Fees equal to 25% of the Settlement Fund
8 (\$118,750) and costs of up to \$5,500 in litigating this action.
9 (Stipulation, ¶ IV.A.)
10

11 BY GRANTING PRELIMINARY APPROVAL, THE COURT HAS
12 PRELIMINARILY DETERMINED THAT THE SETTLEMENT IS FAIR, JUST
13 AND REASONABLE

14 16. Plaintiff and his counsel have diligently investigated the claims of the
15 Class Members. Plaintiff and Class Counsel concluded, after taking into account
16 the disputed factual and legal issues involved in this Action, the substantial risks
17 attending further prosecution, including risks related to the outcome of a contested
18 motion for class certification, and the substantial benefits to be received pursuant to
19 the compromise and settlement of the Action as set forth in the Agreement, that
20 settlement on the terms agreed to are in the best interest of Plaintiff and the Class
21 and are fair and reasonable. Plaintiff's counsel brought to bear a great deal of
22 experience in negotiating the settlement of this case.

23 17. Plaintiff's counsel conducted extensive investigations regarding this
24 Action in preparation for the mediation and anticipated objections and responses to
25 formal discovery and prosecution and defenses of the case. This included
26 reviewing Defendants' Employee Handbook in multiple iterations, documents
27 relating to Defendants' compensation policies and procedures, and other corporate
28 policies and procedures relevant to the issues herein. Prior to the mediation,

1 Plaintiff's counsel requested class-wide data in order to analyze the class
2 allegations. As part of the exchange of informal mediation data, Defendants
3 provided class sizes for current and former employees at the Los Angeles
4 International Airport over different time periods to address Plaintiff's wage and
5 penalty claims. Defendants provided work week data, the number of full-time
6 equivalent employees, and the average hourly rates for individuals employed in
7 non-exempt hourly-paid job positions. Defendants also provided various job titles
8 and the average bonus amounts that were paid to each respective job title.
9 Additionally, Plaintiff was also able to analyze his own time records and pay
10 records to verify Defendants' data and derive extrapolations for a class-wide
11 settlement. The mediation data, combined with discussions between the Parties'
12 counsel, yielded valuable information to the Parties in terms of class certification
13 issues, ultimate liability and the amount of damages in controversy.

14 18. One fundamental purpose of the class action device is to promote
15 efficiency. Resolution at this time will forestall the need for additional expensive
16 and time-consuming litigation that could very well result in an outcome comparable
17 to that proposed under this settlement. This settlement is therefore objectively
18 reasonable. The potential for prompt resolution benefits the class members, since
19 they do not have to wait additional years for a similar recovery. The efficiency of
20 this litigation benefits the Court, the parties and their counsel. But this result would
21 not have been possible were it not for the reputation that Plaintiff's counsel has
22 developed over decades of employment law litigation. Because that experience
23 was undeniably a factor that contributed to a prompt but efficient resolution of this
24 action, Plaintiff's counsel should be rewarded for the combination of skill and
25 discretion that led to this beneficial settlement.

26 19. We have engaged in the necessary investigation in this case that made
27 it possible for us to exercise informed judgment in those aspects of the settlement
28 process in which we were involved. Additionally, Dennis F. Moss, a founding

1 partner of the firm, brought to bear, in the mediation and throughout the litigation
2 of this Action, decades of experience dealing with state and federal wage and hour
3 laws and regulations and legal developments regarding class certification.

4 20. In addition to disputing the merits of Plaintiff's claims, Defendants
5 would strongly challenge any request for class certification. Defendants believe
6 that Plaintiff could not certify a class. Plaintiff believes that his case is suitable for
7 class certification in that there were facility-wide policies and practices that
8 affected all of Defendants' non-exempt employees, at least at the Los Angeles
9 International Airport location. Plaintiff further believes that those policies and
10 practices could be established using representative testimony and declarations from
11 class members, as well as the policies and procedures reflected in the documents.
12 However, while Plaintiff asserts his belief that this is a legitimate case for
13 certification, Plaintiff realizes that there is always a significant risk associated with
14 class certification proceedings, and those risks appear to be significant in this case.

15 21. The Settlement Agreement is the product of arm's-length negotiations
16 between the Parties occurring throughout the litigation. In light of the uncertainties
17 of protracted litigation and the state of the law regarding the legal positions of the
18 Parties, the settlement amount reflects the best feasible recovery for the Class
19 Members. The settlement amount is, of course, a compromise figure, affected by
20 many uncertainties. By necessity it took into account risks related to liability,
21 damages, and all the defenses asserted by Defendants. Moreover, each Class
22 Member will be given the opportunity to opt out of the Settlement, allowing those
23 who feel they have claims that are greater than the benefits they can receive under
24 this Settlement, to pursue their own claims. For the approximate 875 members of
25 the class, the average gross recovery for claiming class members, assuming a
26 random distribution of claimants, is estimated to be \$543 per class member, a good
27 recovery in a case predicated on the miscalculation of the regular rate when
28 "supplemental" or "bonus" wages were paid during weeks where overtime was also

1 incurred. Given the strong case that Defendants could bring to bear to defeat
2 certification and challenge the merits of this action and the damages calculated for
3 a class settlement, this is not an inconsequential sum in these challenging economic
4 times.

5 22. As part of the preparation for the mediation of this matter, Defendants
6 agreed to provide Plaintiff's counsel with data. That data included: work weeks
7 and pay periods with bonus payments and overtime wages, the number of full-time
8 equivalent employees, the average hourly rates for individuals employed in non-
9 exempt hourly-paid job positions, job titles and the average bonus amounts that
10 were paid to each respective job title. Plaintiff also analyzed his own time records
11 and pay records to verify Defendants' data and derive extrapolations for a class-
12 wide settlement. The settlement reflects the best expected value for alleged
13 underpayment of wages for all putative class members. Plaintiff's counsel
14 calculated an adjusted regular rate when including bonus payments into the hourly
15 rate for purposes of calculating overtime wages, and extrapolated those finding to
16 the putative class using data provided by Defendants. In addition to the settlement
17 paying *the full amount of estimated underpaid overtime wages* to claiming class
18 members, it also pays for waiting time penalties and wage statement penalties to
19 each of the putative class members. Incorporating the risks that Defendants might
20 prevail on the "injury" issue in Labor Code § 226 and the "wilfulness" issue in
21 Labor Code § 203, the settlement pays out a significant portion that could be
22 recovered by Plaintiff and class members under a theoretical perfect recovery.
23

24 BY GRANTING PRELIMINARY APPROVAL, THE COURT HAS
25 PRELIMINARILY DETERMINED THE REASONABLENESS OF THE
26 REQUESTED INCENTIVE AWARD

27 23. Here, Plaintiff seeks a service payment of \$7,500. Compared to the
28 Maximum Settlement Amount, the amount of the service award sought by Plaintiff

1 is relatively small and will not appreciably diminish the amount of settlement funds
2 available for distribution to class members. Plaintiff also has no conflict of interest
3 with Class Members that would affect class members, and Defendants do not assert
4 unique defences against Plaintiff. Taking that risk by filing a lawsuit against an
5 employer deserves high reward, especially in light of the settlement achieved by
6 Plaintiff. Additionally, Plaintiff was actively involved in the litigation and
7 settlement negotiations of this Action. He assisted with compiling facts for
8 Plaintiff's Mediation Statement, traveled to and attended the full-day mediation,
9 worked diligently with counsel to pinpoint factual issues leading to written formal
10 discovery requests, and conferred with counsel to provide informal discovery for
11 settlement negotiations. Finally, this fee is not far above the benchmark
12 enhancement award routinely granted in California federal courts. *Faigman v. AT*
13 *& T Mobility LLC*, C-06-04622-MHP, 2011 WL 672648, at *5 (N.D. Cal. Feb. 16,
14 2011) ("In this district, incentive payments of \$5,000 are presumptively
15 reasonable."), citing *Hopkins v. Hanesbrands, Inc.*, No 08-0844, 2009 WL 928133,
16 at *10 (N.D.Cal. Apr.3 2009) (LaPorte M.J.).

17 18 THE EXPERIENCE OF CLASS COUNSEL

19 24. Spiro Moss LLP has been engaged in the practice of employment and
20 labor law since its formation. The firm and its lawyers have handled more than 200
21 overtime and other wage-related class actions in the past ten years. The firm has
22 settled over 100 cases during that time. In the summer of 2004, Spiro Moss
23 handled a wage and hour class action trial, a rarity in this practice area. Spiro Moss
24 is routinely appointed lead or co-lead class counsel (or counsel for representative
25 plaintiffs in FLSA representative actions) in federal and state courts in California
26 and elsewhere, by way of motion for class certification or motion for settlement
27 approval. With respect to this matter in particular, Spiro Moss has successfully
28 litigated at least one dozen class action in which the central issues is or was the

1 calculation of the regular rate of pay for overtime purposes when bonuses are
2 involved.

3 25. Dennis F. Moss, the Spiro Moss partner overseeing this matter, has
4 extensive experience in the field of wage & hour litigation. Mr. Moss, and his
5 partner, Ira Spiro, authored an amicus brief to the California Supreme Court for
6 consideration in landmark case of *Sav-On Drug v. Superior Court*, 34 Cal. 4th 319
7 (2004), which set the standard at that time for class certification in wage and hour
8 disputes.

9 26. Mr. Moss has been an employment/labor lawyer since 1977 and has
10 handled numerous cases in all aspects of employment and labor law, including but
11 not limited to numerous federal and state wage and hour class action cases,
12 National Labor Relations Board proceedings, wrongful discharge litigation,
13 discrimination cases, administrative appeals involving wage and hour and other
14 employment issues, numerous arbitrations, and various other matters involving
15 both traditional labor-law (union/management law) and employment law issues in
16 the non-union context. Mr. Moss successfully argued *Ramirez v. Yosemite Water*
17 *Co.*, 20 Cal. 4th 785 (1999), a case in which defendants asserted sales exemptions
18 in the California Supreme Court.

19 27. Mr. Moss has written amicus briefs in several employment law cases,
20 including the landmark case of *Sav-on v. Superior Court* (2004) 34 Ca1.4th 319. He
21 has lectured on employment law matters before bar groups at least 15 times in the
22 last six years primarily on wage and hour and class action issues. He has been a
23 principal negotiator in wage and hour class action settlements that have yielded in
24 excess of Sixty Million Dollars (\$60,000,000.00). He has directly participated in
25 over thirty-five mediations of wage and hour class actions in the last five years. He
26 also authored an article published in the Daily Journal on class action waiver
27 agreements. Recently, the California Supreme Court granted review in four cases
28 the firm has brought before it. Two involve Labor Code §351, one involves Labor

1 Code §203, and one involves the applicability of overtime exemptions to insurance
2 adjusters.

3 28. As one of the attorneys assigned to this matter at Spiro Moss, I also
4 bring substantial class action experience to this litigation:

5 (a) During 2010 alone, I negotiated or helped negotiate class action
6 settlements worth approximately \$8,500,000. During the first
7 four months of 2011, I negotiated or helped negotiate class
8 action settlements worth over \$3,200,000.

9 (b) I have been involved in the litigation of class actions since 1997,
10 working as a law clerk on a number of class action matters.
11 Since 1999, I have participated as an attorney in the litigation of
12 well over 100 class actions, in California Superior Courts and in
13 federal courts in California and Louisiana.

14 (c) Dating back to 1999, some of the earliest cases in which I
15 contributed to my firm's efforts as co-lead/liaison counsel
16 include:

17 i. *In re Paradise Memorial Park Litigation*, Los Angeles
18 Superior Court Lead Case No. BC130375; and,

19 ii. *In re Lincoln Memorial Park Litigation*, Los Angeles
20 Superior Court Lead Case No. BC133643.

21 (d) I have prosecuted appeals in approximately 20 class action
22 matters, arguing before the United States Court of Appeals for
23 the Ninth Circuit Court and several of California's Courts of
24 Appeal. I have taken several appeals through to Petitions for
25 Writs of Certiorari to the United States Supreme Court. In
26 connection with the appeals I have handled, I have participated
27 in appeals resulting in published appellate decisions concerning
28 or relating to class actions. Among others, those include:

- i. *Ghazaryan v. Diva Limousine, LTD.*, 169 Cal.App.4th 1524 (2009), Pet. for rev. denied;
- ii. *Laliberte v. Pacific Mercantile Bank*, 147 Cal.App.4th 1 (2007), rev. denied, Pet. for Cert. denied;
- iii. *Alvarez v. May Dept. Stores Co.*, 143 Cal.App.4th 1223 (2006), rev. denied, Pet. for Cert. denied;
- iv. *Johnson v. Glaxosmithkline, Inc.*, 166 Cal.App.4th 1497 (2008), rev. denied.
- v. *Howard, et al. v. America Online, Inc.*, 208 F.3d 741 (9th Cir. 2000), Pet. for Cert. denied.

(e) In addition to my work on complex litigation matters and class actions, I have authored published articles and columns on issues related to class actions, including:

- i. H. Scott Leviant, *Unintended Consequences*, 6 U.C. Davis Bus. L.J. 18 (2006), at <http://blj.ucdavis.edu/article.asp?id=636> (May 1, 2006);
- ii. H. Scott Leviant, *Arbitration: A Look Back, a Look Ahead*, DAILY JOURNAL (Los Angeles), December 28, 2010;
- iii. H. Scott Leviant, *Witnesses Cannot Hide*, Daily Journal (Los Angeles), April 21, 2010;
- iv. H. Scott Leviant, *Divide and Conquer: The New Paradigm of Class Action Defense?*, FORUM, January/February 2009
- v. H. Scott Leviant, *Class Action Appellate Report*, FORUM, 2009-2011 (Ongoing column);
- vi. H. Scott Leviant & Linh Hua, *Legislature Using Purse*

- 1 *Strings to Bind Judiciary*, Daily Journal (San
2 Francisco), March 15, 2010;
- 3 vii. H. Scott Leviant, *Wrongfully Recused?*, DAILY
4 JOURNAL (Los Angeles), December 2, 2009;
- 5 viii. H. Scott Leviant, *Cutting Class*, DAILY JOURNAL (Los
6 Angeles), April 15, 2008;
- 7 ix. H. Scott Leviant, *Leveling The Playing Field*, DAILY
8 JOURNAL (Los Angeles), May 4, 2007;
- 9 x. H. Scott Leviant, *A Bad Meal Deal: 'Brinker' Gets the*
10 *Incentive Question Wrong*, DAILY JOURNAL (Los
11 Angeles), August 6, 2008;
- 12 xi. H. Scott Leviant & Jason E. Barsanti, *Maximize*
13 *Recovery in Unpaid Wage Cases*, FORUM,
14 January/February 2008;
- 15 xii. H. Scott Leviant, et al., *Electronic Evidence: No*
16 *Longer an Optional Element in a Comprehensive*
17 *Litigation Plan*, ADVOCATE, April 2006;
- 18 xiii. H. Scott Leviant, *Improving Rule 12(b)(6) survival*
19 *odds: Some considerations for effective RICO*
20 *pleading*, CIVIL RICO REPORT, Volume 15, Number 22,
21 April 26, 2000 (LRP Publications).

22 (f) In addition to publications in industry newspapers, periodicals
23 and journals, I am the Supervising Editor, primary author and
24 founder of the legal blog The Complex Litigator
25 (<http://www.thecomplexlitigator.com>). The Complex Litigator
26 reports and comments on news and topics relevant to class
27 action and complex litigation practice. My blog has been cited
28 to the California Supreme Court in at least one Petition for

1 Review.

- 2 (g) In the December 8, 2008 article “Billable Hours Aren’t the Only
3 Game in Town Anymore,” *NATIONAL LAW JOURNAL*, the
4 following hourly billing rates were reported by Sheppard Mullin
5 Richter & Hampton, a leading firm in the defense of wage-and-
6 hour class actions that I have frequently opposed when litigation
7 wage-and-hour class actions: Partners: \$475-\$795; Associates:
8 1st Year - \$275, 2nd Year - \$310, 3rd Year - \$335, 4th Year -
9 \$365, 5th Year - \$390, 6th Year - \$415, 7th Year - \$435, 8th
10 Year - \$455.
- 11 (h) In 2009 I was retained as appellate counsel in the appeal of a
12 denial of class certification. For the specialized work on that
13 appeal, I charged an hourly rate of \$650.00 per hour, a rate the
14 hiring co-counsel accepted.
- 15 (i) Based upon my experience, my regular hourly billing rate is now
16 \$550.00.
- 17 (j) I am currently serving in my third consecutive year as an elected
18 member of the Board of Governors of the Consumer Attorneys
19 of California. In that capacity, I have worked to preserve the
20 right of California’s consumers and employees to bring
21 proposed class actions. For example, I provided assistance to
22 CAOC in its successful effort to defeat AB 298, which would
23 have substantially impaired the ability of plaintiffs to prosecute
24 class actions in California. More recently, on behalf of CAOC I
25 co-authored several requests for publication of unpublished class
26 action decisions, including one such request in *Jaimez v. Daiohs*
27 *USA, Inc.*, 181 Cal. App. 4th 1286 (2010), and authored amicus
28 briefs for CAOC in the Eighth Circuit matter entitled *Avritt v.*

1 *Reliastar Life. Ins. Co.*, Case No. 09-2843, and the California
2 Supreme Court matter entitled *Californians for Disability Rights*
3 *v. Mervyn's, LLC*, 39 Cal. 4th 223 (2006).

4
5 BY GRANTING PRELIMINARY APPROVAL, THE COURT HAS
6 PRELIMINARILY DETERMINED THE REASONABLENESS OF THE
7 REQUESTED FEE AND COST AWARD

8 29. When this case was taken on a contingent fee basis, with the firm
9 agreeing to assume responsibility for all litigation costs, the ultimate result was far
10 from certain. In the course of this litigation, Spiro Moss LLP paid motion filing
11 fees, copy charges, mailing charges, and fees for the mediation with Michael Loeb.
12 There was never a guarantee that Spiro Moss LLP would recoup those
13 expenditures. Nevertheless, this case required substantial firm resources,
14 including: pre-litigation investigation and research; interviewing Class Members;
15 reading and analyzing documentary evidence (including company records and
16 caselaw); engaging in formal and informal discovery; researching the causes of
17 action, particularly those in flux during this litigation; performing legal and factual
18 analyses in preparation for mediation; and drafting the settlement materials and
19 Class Notice. As a result of those obligations, Class Counsel was precluded from
20 other employment.

21 30. Class Counsel's experience in wage and hour class actions was integral
22 in evaluating the strengths and weaknesses of the case against Defendants and the
23 reasonableness of the settlement. Practice in the narrow field of wage and hour
24 litigation requires skill and knowledge concerning the rapidly evolving substantive
25 law (state and federal), as well as the procedural law of class action litigation.
26 While not the most complex or difficult class action matter to have been litigated
27 by Class Counsel, a survey of recent certification decisions by trial courts and all
28

1 wage & hour class actions have, in recent years, proven perilous for plaintiffs'
2 counsel.

3 31. In the past 5 years, Spiro Moss LLP has settled many dozens of wage
4 & hour class actions. Just as the Court in *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th
5 43, 66, n.11 (2008) observed, it has been the experience at Spiro Moss LLP that
6 attorney fee awards of one-third of a common settlement fund are the rule, rather
7 than the exception. Here, Plaintiff's counsel will not seek more than 25% of the
8 settlement fund for attorney's fees.

9 32. To date, Mr. Moss spent 15 hours on this action and bills at a rate no
10 less than \$700 per hour.

11 33. In addition to Mr. Moss, I am one of the primary attorneys involved in
12 the litigation of this action. My contemporaneously maintained billing records
13 indicate that I spent at least 44.5 hours on this matter to date, and I believe that I
14 did not record all time spent litigating this matter. I bill at a rate of \$525 per hour.

15 34. Joseph Lavi, a partner of Lavi & Ebrahimian LLP, is also involved in
16 the litigation of this action. He estimates that 85 hours were spent litigation this
17 action, and he bills at a rate of \$500 per hour.

18 35. Linh Hua, another associate at Spiro Moss is also involved in the
19 litigation of this action. To date, Ms. Hua spent at least 64.7 hours on this matter
20 and bills at a rate of \$400 per hour.

21
22
23
24
25
26
27
28

1 36. The total current lodestar for class counsel is not less than the
2 following:

Attorney	Hours	Rate	Total
Dennis F. Moss	15	\$700	\$10,500.00
H. Scott Leviant	67.3	\$550	\$37,015.00
H. Scott Leviant (est.)	25	\$550	\$13,750.00
Linh Hua	64.7	\$400	\$25,880.00
Joseph Lavi	85	\$500	\$42,500.00
		Total:	\$129,645.00

3
4
5
6
7
8
9
10
11 Monitoring of the settlement and responding to class member inquiries will require
12 addition time contributions by Class Counsel. The requested fee award is
13 \$118,750. A “negative” multiplier of about 0.9 is necessary to align the lodestar
14 with the requested fee award. Given the comparative efficiency in this case, an
15 award of \$118,750 is reasonable and fair.

16 37. Counsel for Plaintiff in this action have entered into a written fee
17 sharing agreement. Counsel for Plaintiff will disburse the aggregate attorneys’ fees
18 awarded by the Court pursuant to that agreement.

19 38. Over the course of the this Action, Spiro Moss has incurred in excess
20 of \$5,500 in expenses, consisting of the following: mediation fees exceeding
21 \$4,000, filing fees of \$905.00, attorney service charges of \$664.23, mileage and
22 parking expenses of over \$250.00, legal research expenses, photocopy and
23 facsimile charges, and telephone charges. Class Counsel has agreed to request no
24 more than \$5,500 in expenses. The requested sum is reasonable and fair.
25
26
27
28

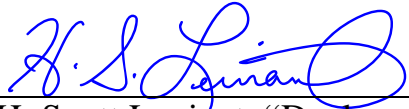
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBITS

39. A true and correct copy of the Settlement Agreement is attached hereto as Exhibit "1."

I declare under penalty of perjury, under the laws of the United States and the State of California, that the foregoing is true and correct.

Executed this 26th day of April 2011, at Los Angeles, California.



H. Scott Leviant, "Declarant"

EXHIBIT 1

1 Dennis F. Moss (State Bar No. 77512), dennisfmoss@yahoo.com
2 H. Scott Leviant (State Bar No. 200834), scott@spiromoss.com
3 Linh Hua (State Bar No. 247419), linh@spiromoss.com
4 **SPIRO MOSS LLP**
5 11377 W. Olympic Blvd., 5th Floor
6 Los Angeles, California 90064-1683
7 Telephone:(310) 235-2468
8 Facsimile: (310) 235-2456

9 Joseph Lavi (SBN 209776), jlavi@lelawfirm.com
10 N. Nick Ebrahimian (SBN 219270), nebrahimian@lelawfirm.com
11 **LAVI & EBRAHIMIAN, LLP**
12 8383 Wilshire Blvd., Suite 840
13 Beverly Hills, California 90211
14 Telephone:(323) 653-0086
15 Facsimile: (323) 653-0081

16 Attorneys for Plaintiff Ramiro Barajas

17 John G. Yslas (SBN 187324), jyulas@foley.com
18 Christopher G. Ward (SBN 238777), cward@foley.com
19 Jeremy C. Wooden (SBN 253088), jwooden@foley.com
20 **FOLEY & LARDNER LLP**
21 555 South Flower Street, Suite 3500
22 Los Angeles, California 90071-2411
23 Telephone:(213) 972-4500
24 Facsimile: (213) 486-0065

25 Attorneys for Defendants Menzies Aviation, Inc
26 and Menzies Aviation Group (USA), Inc.

27 UNITED STATES DISTRICT COURT
28 CENTRAL DISTRICT OF CALIFORNIA

29 RAMIRO BARAJAS, individually and
30 on behalf of other persons similarly
31 situated,
32
33 Plaintiff,
34
35 vs.
36
37 MENZIES AVIATION, INC.;
38 MENZIES AVIATION (USA), INC.;
39 and DOES 1 through 10, inclusive,
40
41 Defendants.

Case No.: 2:10-CV-02315-JEM

**JOINT STIPULATION OF
SETTLEMENT OF CLASS ACTION
AND RELEASE**

1 Michael Loeb of JAMS, during which the parties candidly aired the strengths and
2 weaknesses in their litigation positions. In November 2010 the parties entered into
3 the agreement set forth in this **Settlement Agreement**.

4 **Class Counsel** has conducted a thorough investigation into the facts of this
5 matter, including reviewing data provided by **Menzies** pertaining to incentive
6 compensation programs used by **Menzies** at Los Angeles International Airport, as
7 well as data pertaining to the number of **Class Members** and the compensation
8 records of **Class Members**, and has diligently pursued an investigation of the
9 claims of the **Settlement Classes** against **Menzies**. Based on their own
10 independent evaluation, **Class Counsel** is of the opinion that the **Settlement**
11 **Agreement** for the consideration on the terms set forth in this Joint Stipulation of
12 Class Action Settlement and Release is fair, reasonable, and adequate, and is in the
13 best interests of the **Settlement Classes** in light of all known facts and
14 circumstances, including the risk of significant delay, the risk the **Settlement**
15 **Classes** will not be certified by the Court, defenses asserted by **Menzies**, and
16 numerous potential appellate issues.

17 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by
18 and among the **Representative Plaintiff** (for himself and the **Class Members**) and
19 **Menzies** that, subject to the approval of the Court, the **Released Claims** of the
20 **Settlement Classes** shall be finally and fully compromised, settled and released,
21 and this action shall be dismissed on the merits and with prejudice as to all
22 **Released Claims** of the **Settlement Classes** against **Menzies**, upon and subject to
23 the terms and conditions of this **Settlement Agreement**, as follows:

24 **I. DEFINITIONS**

25 As used in this **Settlement Agreement** the following terms have the
26 meanings specified below:

27 **A. "Administrative Costs"** means the payments made pursuant to
28 Section V.

1 **B. “California Former Hourly Settlement Class”** means all
2 **Individuals** in the **California Hourly Class** whose employment in California
3 ended at any time during the period from February 22, 2006 through November 13,
4 2010.

5 **C. “California Hourly Settlement Class”** means all **Individuals**
6 employed by **Menzies** in any non-exempt hourly paid position at Los Angeles
7 International Airport, at any time during the period from February 22, 2006
8 through November 13, 2010 whose time records and pay records as employees of
9 **Menzies** reflect payment of both overtime and incentive pay and/or performance
10 bonuses during the same pay period.

11 **D. “Claim Form”** means the claim form to be used by **Class Members**.
12 A true and correct copy of the text, subject to agreed revisions, is attached hereto
13 as Exhibit B.

14 **E. “Class Counsel”** means the law firms of SPIRO MOSS LLP and
15 LAVI & EBRAHIMIAN, LLP.

16 **F. “Class Counsel’s Attorney’s Fees and Costs”** means those payments
17 made pursuant to Section IV.

18 **G. “Class Member”** means an **Individual** who falls within the definition
19 of any of the **Settlement Classes**.

20 **H. “Class Period”** means the period of time commencing February 22,
21 2006 and ending on November 13, 2010.

22 **I. “Effective Date”** means the date upon which the **Judgment** is **Final**.

23 **J. “Final”** means: (i) the date of final affirmance on an appeal of the
24 **Judgment**, the expiration of the time for filing a petition for a writ of certiorari to
25 review the **Judgment**, or if certiorari is granted, the date of final affirmance of the
26 **Judgment** following review pursuant to the grant of certiorari; or (ii) the date of
27 final dismissal of any appeal from the **Judgment** or the final dismissal of any
28 proceeding on certiorari to review the **Judgment**; or (iii) if no appeal is filed, the

1 date of entry of the **Judgment**.

2 **K. “Final Approval Hearing”** means the hearing required by Federal
3 Rules of Civil Procedure, Rule 23 *et seq.*

4 **L. “FLSA Settlement Class”** means all **Individuals** employed by
5 **Menzies** in any non-exempt hourly paid position at Los Angeles International
6 Airport at any time during the period from February 22, 2006 through November
7 13, 2010 who received separate incentive and/or performance-based payments in
8 the same pay period they were paid for work for over 40 hours in a week.

9 **M. “Included Overtime Hour”** means an overtime hour worked by a
10 **Class Member** during the **Class Period** in a pay period in which the time records
11 and pay records of **Menzies** for a specified **Class Member** reflect payment both of
12 overtime and incentive pay and/or performance bonuses in the same week.

13 **N. “Independent Claims Administrator”** means the independent third
14 party administrator appointed by the Court to administer the claims process. The
15 **Independent Claims Administrator** shall be Simpluris, Inc.

16 **O. “Individual”** means a natural person, and does not include a
17 corporation or any other non-natural person.

18 **P. “Judgment”** means the judgment to be rendered by the Court
19 pursuant to Federal Rules of Civil Procedure, Rule 23 *et seq.*

20 **Q. “Menzies”** means Menzies Aviation, Inc. and Menzies Aviation
21 Group (USA), Inc.

22 **R. “Net Settlement Fund”** means the portion of the **Settlement Fund**
23 available for distribution as **Settlement Payments** to **Class Members**.

24 **S. “Notice”** means the **Notice to Class Members** pursuant to Federal
25 Rules of Civil Procedure, Rule 23 *et seq.* A copy of the parties’ joint proposed
26 **Notice**, subject to agreed revisions, is attached hereto as Exhibit A.

27 **T. “Payment Date”** means the date that payment checks are mailed to
28 **Class Members** pursuant to Section VIII.

1 **U.** “**Person**” means an individual, corporation, partnership, limited
2 partnership, association, joint stock company, estate, legal representative, trust,
3 unincorporated association, government or any political subdivision or agency
4 thereof, and any business or legal entity and the spouses, heirs, predecessors,
5 successors, representatives or assignees of any of them.

6 **V.** “**Preliminary Approval Order**” means the order conditionally
7 certifying the **Settlement Classes**, preliminarily approving this **Settlement**
8 **Agreement** pursuant to Federal Rules of Civil Procedure, Rule 23 *et seq.*, directing
9 **Notice** to be mailed to the **Settlement Classes**, and setting the date for the **Final**
10 **Approval Hearing**.

11 **W.** “**Related Parties**” means each of a **Person’s** past or present directors,
12 officers, employees, partners, principals, agents, underwriters, issuers, insurers, co-
13 insurers, reinsurers, controlling shareholders, any entity in which the **Person** has a
14 controlling interest, advisors, personal or legal representatives, predecessors,
15 successors, parents, subsidiaries, divisions, joint ventures, assigns, spouses, heirs,
16 associates, related or affiliated entities, any members of his/her/its immediate
17 families, or any trust of which any **Person** is the settlor, or which is for the benefit
18 of any **Person** and/or member(s) of his or her family.

19 **X.** “**Released Claims**” shall mean and include, known or **Unknown**
20 **Claims**, causes of action, liabilities, damages, demands, rights or equitable, legal
21 or administrative relief, of any basis or source, that were based on the facts alleged
22 in the action entitled Barajas v. Menzies Aviation, Inc.; Menzies Aviation (USA),
23 Inc., Central District of California Case No. 10-CV-02315-JEM, including claims
24 alleged in this action that **Menzies** violated federal and state laws for failure to pay
25 overtime wages, failed to promptly pay all wages due and owing at the time of an
26 employee’s termination or discharge, failed to provide accurate itemized wage
27 statements, and claims under California Labor Code §§ 203, 226, 510, 1194, 2699,
28 California Business and Professions Code §§ 17200 *et seq.*, the California

1 Industrial Wage Orders, and the Fair Labor Standards Act (29 U.S.C. §§ 203 and
2 207) for claims alleged in this action.

3 **Y. “Released Persons”** means **Menzies** and its **Related Parties**.

4 **Z. “Representative Plaintiff”** means Ramiro Barajas.

5 **AA. “Service Payment”** means the benefits provided to **Representative**
6 **Plaintiff** pursuant to Section III.

7 **BB. “Settlement Agreement”** means this document, the Joint Stipulation
8 of Class Action Settlement and Release between the **Settling Parties**.

9 **CC. “Settlement Benefits”** means the benefits provided to **Class**
10 **Members** pursuant to Section VI.

11 **DD. “Settlement Classes”** means the **California Hourly Settlement**
12 **Class**, the **California Former Hourly Settlement Class**, and the **FLSA**
13 **Settlement Class**, as certified for settlement purposes only.

14 **EE. “Settlement Fund”** means an amount set aside by **Menzies** to make
15 **Settlement Payments**, the **Service Payment**, and payment of **Administrative**
16 **Costs** and **Class Counsel’s Attorney’s Fees and Costs** pursuant to Sections III –
17 VI, which will not exceed \$475,000.

18 **FF. “Settlement Payments”** means the payments to **Class Members** set
19 forth in Section VI.

20 **GG. “Settling Parties”** means, collectively, **Menzies** and the
21 **Representative Plaintiff** on behalf of himself and the **Class Members**.

22 **HH. “Unknown Claims”** means any **Released Claims** that the
23 **Representative Plaintiff** or any **Class Member** does not know or suspect to exist
24 in his, her or its favor at the time of the release of the **Released Persons** that, if
25 known by him, her or it, might have affected his, her or its settlement with and
26 release of the **Released Persons**, or might have affected his, her or its decision
27 whether or not to object to this settlement. With respect to any and all **Released**
28 **Claims**, the **Settling Parties** stipulate and agree that, upon the **Effective Date**, the

1 **Representative Plaintiff** and the **Class Members** shall be deemed to have, and by
2 operation of the **Judgment** shall have, expressly waived and relinquished, to the
3 fullest extent permitted by law the provisions, rights, and benefits of California
4 Civil Code section 1542, which provides:

5 A GENERAL RELEASE DOES NOT EXTEND TO
6 CLAIMS WHICH THE CREDITOR DOES NOT
7 KNOW OR SUSPECT TO EXIST IN HIS OR HER
8 FAVOR AT THE TIME OF EXECUTING THE
9 RELEASE, WHICH IF KNOWN BY HIM OR HER
10 MUST HAVE MATERIALLY AFFECTED HIS OR
11 HER SETTLEMENT WITH THE DEBTOR.

9 With respect to any and all **Released Claims**, the **Representative Plaintiff**
10 and each of the **Class Members**, upon the **Effective Date**, shall be deemed to
11 have, and by operation of the **Judgment** shall have, waived any and all provisions,
12 rights and benefits conferred by any law of the United States, or any state or
13 territory of the United States, or principle of common law that is similar,
14 comparable or equivalent to California Civil Code section 1542. The
15 **Representative Plaintiff** and **Class Members** may hereafter discover facts in
16 addition to or different from those which he, she, it or they now know or believe to
17 be true with respect to the subject matter of the **Released Claims**, but the
18 **Representative Plaintiff** and **Class Members**, upon the **Effective Date**, shall be
19 deemed to have forever settled and released any and all **Released Claims**, known
20 or unknown, suspected or unsuspected, contingent or non-contingent, whether or
21 not concealed or hidden, that now exist or heretofore have existed, upon any theory
22 of law or equity now existing or coming into existence in the future, including, but
23 not limited to, conduct that is negligent, reckless, intentional, with or without
24 malice, or a breach of any duty, law or rule, without regard to the subsequent
25 discovery or existence of such different or additional facts. Additionally, upon the
26 **Effective Date**, the **Released Persons** and **Representative Plaintiff** provide to
27 each other a general release of all claims, whether known or unknown, including
28 claims related to vacation pay or unpaid insurance premiums.

1 **II. SETTLEMENT CLASSES CERTIFICATION**

2 Solely for purposes of settling this case, the parties and their respective
3 counsel stipulate and agree that the requisites for establishing class certification
4 with the respect to the **Settlement Classes** have been and are met. More
5 specifically, the parties stipulate and agree that:

6 **A.** The **Settlement Classes** are ascertainable and so numerous as to make
7 it impracticable to join all **Class Members**.

8 **B.** There are common questions of law and fact, including, but not
9 limited to, whether various bonus payments made to **Class Members** were
10 required to be included in the calculation of “regular rate” for overtime payment
11 purposes, whether **Menzies** paid the proper overtime rate to **Class Members**,
12 whether **Menzies** paid all wages due at termination to the **California Former**
13 **Hourly Settlement Class**, whether **Menzies** willfully failed to pay all wages due
14 at termination to the **California Former Hourly Settlement Class**, whether
15 **Menzies** knowingly and intentionally failed to provide accurate itemized wage
16 statements to **Class Members**, whether **Class Members** are entitled to penalties
17 under the Private Attorney’s General Act, and whether **Menzies** engaged in unfair
18 business practices affecting the **Class Members**.

19 **C.** The **Representative Plaintiff** believes that his claims are typical of
20 the claims of the members of the **Settlement Classes**.

21 **D.** The **Representative Plaintiff** and **Class Counsel** will fairly and
22 adequately protect the interests of the **Settlement Classes**.

23 **E.** The prosecution of separate actions by individual members of the
24 **Settlement Classes** will create the risk of inconsistent and varying adjudications,
25 which would establish incompatible standards of conduct.

26 **III. CLASS REPRESENTATIVE SERVICE PAYMENT**

27 **A.** The parties agree that the **Representative Plaintiff** may apply to the
28 Court for an award of a class representative **Service Payment** of up to \$7,500 to

1 compensate him for his efforts in this action. The **Service Payment** shall be paid
2 out of the **Settlement Fund** as specified in Section VI.A.c. The Service Payment
3 shall be paid within seven (7) days after **Menzies** provides the **Independent**
4 **Claims Administrator** with the **Settlement Fund**.

5 **B. Menzies** shall not object to an award of a **Service Payment**.

6 **C.** This settlement is not conditioned on the Court's approval of a class
7 representative **Service Payment**.

8 **D.** If the Court grants less than the requested amount to **Representative**
9 **Plaintiff** for his **Service Payment**, any balance between the requested and granted
10 amount will revert to the **Net Settlement Fund** for distribution to **Class Members**.

11 **IV. ATTORNEYS' FEES AND COSTS**

12 **A.** Subject to Court approval, **Menzies** shall pay **Class Counsel** as **Class**
13 **Counsel's Attorney's Fees and Costs** up to twenty-five percent (25%) of the
14 **Settlement Fund** (\$118,750) for payment of attorneys' fees and up to \$5,500 for
15 reimbursement of costs as awarded by the Court. Said fees and costs shall be paid
16 within seven (7) days after **Menzies** provides the **Independent Claims**
17 **Administrator** with the **Settlement Fund**. The **Class Counsel's Attorney's Fees**
18 **and Costs** shall be paid out of the **Settlement Fund** as specified in Section VI.A.c.

19 **B. Menzies** shall not object to or otherwise contest **Class Counsel's**
20 request for approval of such fees and costs.

21 **C. Menzies** shall have no obligation to make any additional payments for
22 fees, expenses or costs to **Class Counsel**, and **Class Counsel** shall not seek any
23 additional fees, expenses or costs. This **Settlement Agreement** is not contingent
24 on the Court's approval of **Class Counsel's** petition for fees and costs.

25 **D.** If the Court grants less than the requested amount to **Class Counsel**
26 for their **Class Counsel's Attorney's Fees and Costs**, any balance between the
27 requested and granted amount will revert to the **Net Settlement Fund** for
28 distribution to **Class Members**.

1 **V. COSTS**

2 **A.** The **Independent Claims Administrator** shall be entitled to receive
3 as **Administrative Costs** reasonable expenses associated with the administration
4 of the terms of this **Settlement Agreement**. The **Administrative Costs** shall be
5 paid out from the **Settlement Funds** as provided for in Section VI.A.c.

6 **B.** The Independent Claims Administrator will be responsible for
7 translating, printing, mailing, processing **Notices, Claim Forms, Settlement**
8 **Payments**, tax forms, reports to the **Settling Parties**, and all other duties requested
9 by the **Settling Parties** or the Court.

10 **C.** Except as provided in Sections III -V, **Menzies** shall not pay any
11 amount for costs and/or expenses incurred by **Class Counsel** or any **Class**
12 **Member** in connection with this action, or this **Settlement Agreement**.

13 **VI. SETTLEMENT BENEFITS AND DIVISION AND DISTRIBUTION**
14 **OF THE SETTLEMENT FUND**

15 **A.** The **Settlement Fund** shall be divided, and **Settlement Benefits** and
16 **Settlement Payments** shall be distributed and made to **Class Members** as follows:

17 a. \$180,000 of the **Settlement Fund** shall be apportioned for the
18 resolution of claims arising under Labor Code §§ 226, 510, and 1194. This
19 amount shall be distributed to **Class Members** on a pro-rata basis
20 determined by calculating a “per **Included Overtime Hour** value.” The per
21 **Included Overtime Hour** value will be determined by dividing \$180,000 by
22 the total number of **Included Overtime Hours** worked by **Class Members**.
23 **Class Members** who timely respond to the **Notice** by completing, signing
24 and returning the **Claim Form** will have their portion of the **Settlement**
25 **Benefits** for this category calculated by multiplying their number of
26 **Included Overtime Hours** by the per **Included Overtime Hour** value.

27 b. \$20,000 of the **Settlement Fund** shall be apportioned for the
28 resolution of penalty claims arising under the Private Attorney General Act,

1 Labor Code § 2699. \$15,000 of this amount shall be paid by the
2 **Independent Claims Administrator** to the California Labor and Workforce
3 Development Agency. The remaining \$5,000 shall be distributed to **Class**
4 **Members** on pro-rata basis determined by calculating a “PAGA per
5 **Included Overtime Hour** value.” The PAGA per **Included Overtime**
6 **Hour** value will be determined by dividing \$5,000 by the total number of
7 **Included Overtime Hours** worked by **Class Members**. **Class Members**
8 who timely respond to the **Notice** by completing, signing and returning the
9 **Claim Form** will have their portion of the **Settlement Benefits** for this
10 category calculated by multiplying their number of **Included Overtime**
11 **Hours** by the PAGA per **Included Overtime Hour** value.

12 c. \$275,000 of the **Settlement Fund** shall be apportioned for the
13 payment of the **Service Payment, Class Counsel’s Attorney’s Fees and**
14 **Costs, Administrative Costs**, and for the resolution of claims arising under
15 Labor Code § 203. Once the **Service Payment, Class Counsel’s**
16 **Attorney’s Fees and Costs, and Administrative Costs** are first deducted
17 from the \$275,000 apportionment, the remaining balance shall be distributed
18 to members of the **California Former Hourly Settlement Class** who timely
19 respond to the **Notice** by completing, signing and returning the **Claim Form**
20 on an equal share basis. The share to be paid to each member of the
21 **California Former Hourly Settlement Class** who timely responds to the
22 **Notice** will be determined by dividing the balance of the \$275,000
23 remaining after payment of the **Service Payment, Class Counsel’s**
24 **Attorney’s Fees and Costs, Administrative Costs** by the total number of
25 members of the **California Former Hourly Settlement Class**.

26 **B.** Subject to Court approval, in the event that **Class Members** do not
27 claim all **Settlement Benefits** in the **Settlement Fund** by timely responding to the
28 **Notice** by completing, signing and returning the **Claim Form**, those unclaimed

1 amounts shall revert to the **Net Settlement Fund** to proportionately increase
2 **Settlement Benefits** to **Class Members** of up to three (3) times their estimated
3 **Settlement Benefits**. The balance of any unclaimed amounts from the **Net**
4 **Settlement Fund** after proportional increases of **Settlement Payments** to **Class**
5 **Members** and payment of **Menzies'** share of payroll taxes and other required
6 withholdings will be provided as a charitable donation in the name of **Menzies** to
7 Airline Ambassadors International.

8 **C.** **Menzies'** share of payroll taxes and other required withholdings
9 including, but not limited to, **Menzies'** FICA and FUTA contributions, based on
10 the payments of **Settlement Benefits** to **Class Members** as provided for in Section
11 VI.A and VI.B, shall, to the extent possible, be paid out of the balance of
12 unclaimed amounts of the **Settlement Fund** prior to distribution of such unclaimed
13 amounts to a charitable organization as provided for above. If **Menzies'** share of
14 payroll taxes and other required withholdings including, but not limited to,
15 **Menzies'** FICA and FUTA contributions, based on the payments of **Settlement**
16 **Benefits** to **Class Members** as provided for in Section VI.A. and VI.B. cannot be
17 fully paid from unclaimed amounts as described in this paragraph, **Menzies** will
18 pay those taxes and withholdings separate from the **Settlement Fund**. If **Menzies'**
19 share of payroll taxes and other required withholdings calculated on the
20 proportionately increased portion of payments of **Settlement Benefits** to **Class**
21 **Members** as provided for in Section VI.B cannot be fully paid from unclaimed
22 amounts as described in this paragraph, each **Class Members'** **Settlement Benefit**
23 shall be proportionately reduced such that **Menzies'** share of payroll taxes and
24 other required withholdings based on the proportionately increased portion only of
25 payments of **Settlement Benefits** are not paid separately from the **Settlement**
26 **Fund**.

27 **D.** In order to receive the **Settlement Benefits**, **Class Members** must
28 timely respond to the **Notice** by completing, signing and returning the **Claim**

1 **Form.**

2 **E. Menzies** guarantees the payment of all **Settlement Payments** to
3 **Class Members** who comply with the requirements of Sections VI and VII herein.

4 **F. Menzies** shall provide the **Independent Claims Administrator** with
5 the **Settlement Funds** ten (10) days after the later of: (a) the **Effective Date** or (b)
6 **Menzies** being informed of its obligation to pay by the **Independent Claims**
7 **Administrator** pursuant to Section VII.I. The **Independent Claims**
8 **Administrator** shall pay all such **Class Members** the sums to which each is
9 entitled under Section VI.A by checks mailed by First Class U.S. mail to each such
10 **Class Member** within seven (7) days after receiving the funds from **Menzies**.

11 **G.** It is expressly understood and agreed that **Menzies** shall have no
12 obligation to pay any person, entity, or organization, other than as stated in this
13 Settlement Agreement, the difference between the amount of its maximum total
14 liability, which is the amount defined as the **Settlement Fund**, and the total of: (1)
15 the valid claims filed by **Class Members**; (2) **Class Counsel's Attorney's Fees**
16 **and Costs** approved by the Court; (3) the **Service Payment** to the **Representative**
17 **Plaintiff** approved by the Court; (4) the **Administrative Costs**; (5) **Menzies'** share
18 of payroll taxes and other required withholdings, including, but not limited to,
19 **Menzies'** FICA and FUTA contributions, based on the payment of claims to the
20 **Class Members**; (6) the cy pres as specified in Section VI.B; and (7) and any other
21 payments provided by this **Settlement Agreement**.

22 **VII. ADMINISTRATION OF CLAIMS**

23 **A. Menzies** shall provide the **Independent Claims Administrator** with
24 information identifying the total number of **Included Overtime Hours** and dates
25 of employment worked by **Class Members** and the names, last known contact
26 information, and social security numbers of **Class Members** within fourteen (14)
27 days after entry of the **Preliminary Approval Order**.

28 **B. The Independent Claims Administrator** will translate the **Notice**

1 and **Claim Form** into Spanish. After performing an update using the National
2 Change of Address Database (NCOA), the **Notice** and **Claim Form** shall be sent
3 in English and Spanish by the **Independent Claims Administrator** to all **Class**
4 **Members** by First Class U.S. mail. The **Independent Claims Administrator**
5 shall send **Notices** and **Claim Forms** based on a database of last known addresses
6 of **Class Members** supplied to the **Independent Claims Administrator** by
7 **Menzies** or as updated through the NCOA. Absent mutual written agreement of
8 counsel for the parties or Court order, the **Independent Claims Administrator**
9 will keep this database confidential and use it only for the purposes described
10 herein, and will return this database to **Menzies** upon written request of **Menzies**
11 and no sooner than 60 days after distribution of **Settlement Payments** to **Class**
12 **Members**.

13 **C. Notices and Claim Forms** shall be mailed in an envelope with the
14 **Independent Claims Administrator's** return address.

15 **D. The costs for the Notice** and all other expenses incurred by the
16 **Independent Claims Administrator** shall be included as part of the
17 **Administrative Costs**.

18 **E. Class Members** who wish to receive **Settlement Benefits** under
19 Section VI must return their **Claim Form** postmarked no later than sixty (60) days
20 after the date **Notice** is mailed, or within such other time as is ordered by the
21 Court. Any **Class Member** who does not return a **Claim Form** postmarked, or as
22 otherwise agreed upon by **Class Counsel** and **Menzies**, by that date shall not
23 receive any **Settlement Benefits**.

24 **F. In the event any Notice** is returned to the **Independent Claims**
25 **Administrator** as undeliverable, the **Independent Claims Administrator** shall
26 perform a skip trace for a new address using the **Class Member's** name and/or
27 social security number. If the **Notice** is returned as undeliverable, the
28 **Independent Claims Administrator** will re-mail the **Notice** and **Claim Form** to

1 **Class Members** only one time. Upon completion of these steps by the
2 **Independent Claims Administrator, Menzies** and the **Independent Claims**
3 **Administrator** shall be deemed to have satisfied their obligations to provide the
4 **Notice and Claim Form** to the affected **Class Members**. The affected **Class**
5 **Members** shall remain a member of the **Settlement Classes** and shall be bound by
6 all the terms of this **Settlement Agreement** and the **Final Judgment**, unless they
7 submit written requests to be excluded from the **Settlement Classes**.

8 **G.** If a **Class Member** timely returns a **Claim Form** that is not signed or
9 otherwise incomplete, the **Independent Claims Administrator** shall send a
10 correspondence to the **Class Member** within three (3) business days of receipt of
11 the unsigned or incomplete form and attempt to obtain a completed form.
12 Completed or corrected **Claim Forms** postmarked within the period set forth in
13 Section VII.E, shall be deemed timely.

14 **H.** All **Claim Forms** shall be processed by the **Independent Claims**
15 **Administrator**.

16 **I.** The **Independent Claims Administrator** shall inform **Menzies** and
17 **Class Counsel** of the name and address of each **Class Member** who returns a
18 **Claim Form**, as well as the **Settlement Benefits** owed to that **Class Member**,
19 pursuant to Section VI, within seven (7) days after the deadline for claims set forth
20 in Section VII.E. This will serve to inform **Menzies** of its obligation to pay.

21 **J.** If a **Class Member** disputes the accuracy of **Menzies'** records, and
22 the parties cannot resolve the dispute informally, the matter will be referred to the
23 **Independent Claims Administrator**. The **Independent Claims Administrator**
24 will review **Menzies'** records and any information or documents submitted by the
25 **Class Member** and issue a non-appealable decision on the dispute. To support the
26 dispute, the **Class Member** must submit information or documents supporting his
27 or her dispute of **Menzies'** records, and must submit such documents to the
28 **Independent Claims Administrator** by the last day to postmark the **Claim Form**.

1 Information not submitted by the deadline to postmark the **Claim Form** will not be
2 considered by the **Independent Claims Administrator**. A dispute by a **Class**
3 **Member** as stated in this paragraph unaccompanied by supporting information or
4 documents will not be considered, and in such situations, **Menzies'** records will be
5 deemed conclusively accurate.

6 **K.** Any **Class Member** may request to be excluded from the **Settlement**
7 **Classes** by mailing a written request for exclusion from the settlement within
8 forty-five (45) calendar days from the date **Notice** is sent to the **Class Members**.
9 Any request for exclusion must be made in accordance with the terms of the
10 **Notice**. Any **Class Member** who timely requests exclusion in compliance with
11 these requirements (i) shall not have any rights under this **Settlement Agreement**;
12 (ii) shall not be entitled to receive any **Settlement Benefits**; and (iii) shall not be
13 bound by this **Settlement Agreement** or the **Court's Order** granting approval of
14 this settlement and **Judgment**.

15 **L.** Any **Class Member** may object to the **Settlement Agreement**. To
16 object, the **Class Member** must file with the Court and serve on the parties'
17 counsel a signed, written objection which states the basis of the objection(s) and
18 notice of intention to appear at the **Final Approval Hearing**. **Class Members**
19 must file and serve their objections within forty-five (45) calendar days from the
20 date **Notice** is sent to **Class Members**. **Class Members** who fail to file and serve
21 timely written objections in the manner specified herein shall be deemed to have
22 waived any objections and shall be foreclosed from making any objection to the
23 **Settlement Agreement**, unless otherwise ordered by the **Court**. **Class Counsel**
24 and **Menzies'** counsel may, at least five (5) days (or some other number of days as
25 the **Court** shall specify) before the **Final Approval Hearing**, file responses to any
26 written objections submitted to the **Court**.

27 **M.** If a **Class Member** submits both a valid claim and a request for
28 exclusion from the settlement, the claim shall be accepted and the request for

1 exclusion shall be deemed invalid. The claim will be paid and the **Class Member**
2 will be bound by all terms of the **Settlement Agreement** and the **Judgment**.

3 **VIII. RELEASES**

4 Upon the **Effective Date**, unless the **Class Member** submits a valid request
5 for exclusion, each of the **Class Members** shall be deemed to have, and by
6 operation of the **Judgment** shall have fully, finally, and forever released,
7 relinquished and discharged all **Released Claims** and **Unknown Claims** against
8 the **Released Persons**, whether or not such **Class Member** executes and delivers a
9 timely **Claim Form**, with the exception that claims arising under the Fair Labor
10 Standards Act shall only be released by **Class Members** who execute and deliver a
11 timely **Claim Form**.

12 **IX. PRELIMINARY APPROVAL ORDER AND SETTLEMENT**
13 **HEARING**

14 A. After execution of the **Settlement Agreement**, the **Settling Parties**
15 shall jointly apply to the Court for a **Preliminary Approval Order** of the
16 **Settlement Agreement**, together with its exhibits. The **Preliminary Approval**
17 **Order** shall provide:

- 18 a. For preliminary approval of the **Settlement Agreement** and
19 directing the parties to proceed to implement the terms of the **Settlement**
20 **Agreement** forthwith;
- 21 b. For settlement purposes only, the preliminary certification of
22 the **Settlement Classes**;
- 23 c. For scheduling the **Final Approval Hearing**;
- 24 d. That the **Final Approval Hearing** may, from time to time and
25 without further notice to the **Settlement Classes** (except those who filed
26 timely and valid objections), be continued or adjourned by order of the
27 Court;
- 28 e. That **Notice** be given to **Class Members**;

1 f. That there be a finding that the form and method of **Notice**
2 constitute the best notice practicable under the circumstances and constitute
3 valid, due and sufficient notice to all **Class Members**, complying fully with
4 the requirements of the Federal Rules of Civil Procedure, the California
5 Civil Code and Code of Civil Procedure, the California Constitution, the
6 Constitution of the United States, and any other applicable law;

7 g. That any **Class Member** may exclude himself or herself from
8 the **Settlement Classes** in the manner and with the consequences described
9 in the **Notice**, and further providing that all such requests for exclusion must
10 be received no later than forty-five (45) days after the **Notice** is mailed, as
11 stated in the **Notice**;

12 h. That all **Class Members** who do not, pursuant to the terms of
13 the **Notice**, submit valid and timely requests for exclusion will be bound by
14 the **Judgment** dismissing this action on the merits and with prejudice;

15 i. That objections by any **Class Member** to certification of the
16 **Settlement Classes**, the **Settlement Agreement** and/or the entry of the
17 **Judgment** shall be considered by the Court only if such objections are in
18 writing, signed, contain a notice of the objector's intention to appear, state
19 the basis of the objection(s) and are both filed with the Court and served on
20 Counsel for the **Settling Parties** (as identified in the **Notice**), so that such
21 objections are actually filed and served no later than forty-five (45) days
22 after the **Notice** is mailed, as stated in the **Notice**;

23 j. That no person shall be entitled to contest the certification of
24 the **Settlement Classes**, the approval of the terms and conditions of this
25 **Settlement Agreement** or the **Judgment** except by filing and serving
26 written objections in accordance with the preceding paragraph, and that any
27 **Class Member** who fails to object in the manner provided in the **Notice**,
28 shall be deemed to have waived and shall be forever foreclosed from raising

1 any such objections; and

2 k. A date (or dates) by which the **Settling Parties** shall file and
3 serve all papers in support of the application for final approval of the
4 **Settlement Agreement** and/or in response to any valid and timely
5 objections received by the counsel for the parties identified in the **Notice**.

6 **X. CONDITIONS OF SETTLEMENT: EFFECT OF DISAPPROVAL OR**
7 **TERMINATION**

8 **A.** The **Settling Parties** shall have the option to withdraw from and
9 terminate the settlement set forth in this **Settlement Agreement**, and to render this
10 **Settlement Agreement** null and void in the event that:

11 a. The **Settlement Classes** are not conditionally certified by the
12 Court or deemed not certifiable by the Court; or

13 b. This **Settlement Agreement** is not approved by the Court; or

14 c. (i) the **Judgment** is not entered, (ii) the **Effective Date** is not
15 reached, or (iii) the **Judgment** is materially modified or reversed on appeal.

16 **B.** In the event that this **Settlement Agreement** is terminated or fails to
17 become effective in accordance with its terms, this **Settlement Agreement**, and all
18 negotiations and proceedings relating hereto, shall be inadmissible and without
19 prejudice as to the rights of the **Settling Parties**, who shall be restored to their
20 respective positions in this action as of the day preceding the filing of the Joint
21 Stipulation to Vacate Status Conference Following Settlement. In such event, the
22 terms and provisions of this **Settlement Agreement** shall have no further force and
23 effect with respect to the **Settling Parties** and shall not be used in this action or in
24 any other proceeding for any purpose; and any judgment or order entered by the
25 Court in accordance with the terms of this **Settlement Agreement** shall be treated
26 as vacated, nunc pro tunc. Except, however, **Menzies** shall pay costs incurred by
27 the **Independent Claims Administrator** for duties performed under this
28 **Settlement Agreement**. No order of the Court, or modification or reversal on

1 appeal of any order of the Court, concerning the amount of any attorney's fees,
2 costs, or expenses awarded by the Court to **Class Counsel**, or any **Service**
3 **Payment** to the **Representative Plaintiff**, shall constitute grounds for, nor effect,
4 cancellation or termination of this **Settlement Agreement**.

5 **C.** In the event this **Settlement Agreement** is terminated or fails to
6 become effective pursuant to Section XI hereof, the **Settling Parties** shall, within
7 two weeks of such event, jointly request a status conference with the Court to be
8 held on the Court's first available date. At such status conference, the **Settling**
9 **Parties** shall ask the Court's assistance in scheduling continued proceedings in this
10 action as between the **Settling Parties**.

11 **XI. MISCELLANEOUS PROVISIONS**

12 **A.** The **Settling Parties** (i) acknowledge that it is their intent to
13 consummate this **Settlement Agreement**; and (ii) agree to cooperate to the extent
14 necessary to effectuate and implement all terms and conditions of this **Settlement**
15 **Agreement**, and to exercise their best efforts to accomplish the terms and
16 conditions of this **Settlement Agreement**.

17 **B.** **Menzies** has denied and continues to deny each and all of the claims
18 alleged in this action. Neither this **Settlement Agreement** nor the settlement, nor
19 any act performed or document executed pursuant to or in furtherance of either this
20 **Settlement Agreement** or the settlement (i) is or may be deemed to be, or may be
21 used as, an admission, or evidence of the validity of any **Released Claim**, or of
22 any wrongdoing by or liability of any of the **Released Persons**; or (ii) is or may be
23 deemed to be, or may be used as, an admission, or evidence of wrongdoing or
24 liability, or fault or omission of any of the **Released Persons** in any civil, criminal
25 or administrative proceeding in any court, administrative agency or other tribunal,
26 other than in such proceedings as may be necessary to consummate or enforce this
27 **Settlement Agreement**, the settlement or the **Judgment**.

28 **C.** All of the exhibits to this **Settlement Agreement** are material and

1 integral parts hereof and are fully incorporated herein by this reference.

2 **D.** This **Settlement Agreement** may be amended or modified only by a
3 written instrument signed by or on behalf of all **Settling Parties** or their respective
4 successors-in-interest.

5 **E.** This **Settlement Agreement** and the exhibits attached hereto
6 constitute the entire agreement among the parties hereto, and no representations,
7 warranties or inducements have been made to any party concerning this
8 **Settlement Agreement** or its exhibits, other than the representations, warranties
9 and covenants contained and memorialized in those documents.

10 **F.** This **Settlement Agreement** may be executed in one or more
11 counterparts. All executed counterparts, and each of them, shall be deemed to be
12 one and the same instrument. A complete set of originally executed counterparts
13 shall be filed with the Court.

14 **G.** This **Settlement Agreement** shall be binding upon, and inure to the
15 benefit of, the successors and assigns of the **Settling Parties**.

16 **H.** The Court shall retain jurisdiction with respect to implementation and
17 enforcement of the terms of this **Settlement Agreement**, and all **Settling Parties**,
18 **Class Members**, and counsel for each hereby specially submit to the jurisdiction
19 of the Court for the purposes of implementing and enforcing this **Settlement**
20 **Agreement**.

21 **I.** The **Settling Parties** acknowledge and agree that this **Settlement**
22 **Agreement** was negotiated and drafted by the **Settling Parties**, that the terms of
23 this **Settlement Agreement** shall be fairly construed, and that any rule of
24 construction to the effect that any ambiguities herein should be resolved against the
25 drafting party shall not be employed in the interpretation of this **Settlement**
26 **Agreement** or any amendments, modifications or exhibits hereto or thereto.

27 **J.** **Class Counsel** represent that they are authorized by the
28 **Representative Plaintiff** to take all appropriate action required or permitted to be

1 taken by the **Class Members** pursuant to this **Settlement Agreement** to effectuate
2 its terms; and that they are also expressly authorized to enter into any
3 modifications or amendments to this **Settlement Agreement** on behalf of the
4 **Class Members** which **Class Counsel** deems appropriate; provided, however, any
5 such modifications or amendments made after this **Settlement Agreement** has
6 been approved by the Court must be agreed to in writing by the **Settling Parties**
7 and approved by the Court.

8 **K.** Counsel for **Menzies** represent that they are expressly authorized by
9 **Menzies** and the **Released Persons** to take on their behalf all appropriate action
10 required or permitted to be taken by **Menzies** pursuant to this **Settlement**
11 **Agreement** to effectuate its terms.

12 IN WITNESS WHEREOF, the **Settling Parties** hereto have caused this
13 **Settlement Agreement** to be executed:

14
15
16 DATED: January 06, 2011



17 Ramiro Barajas, **Representative Plaintiff**

18
19
20
21 DATED: January ____, 2011

Menzies Aviation, Inc. and Menzies
Aviation Group (USA), Inc.

22
23
24 By _____
Philip Harnden
25 Vice President, Commercial & Corporate
26 Services
27
28

1 taken by the **Class Members** pursuant to this **Settlement Agreement** to effectuate
2 its terms; and that they are also expressly authorized to enter into any
3 modifications or amendments to this **Settlement Agreement** on behalf of the
4 **Class Members** which **Class Counsel** deems appropriate; provided, however, any
5 such modifications or amendments made after this **Settlement Agreement** has
6 been approved by the Court must be agreed to in writing by the **Settling Parties**
7 and approved by the Court.

8 **K.** Counsel for **Menzies** represent that they are expressly authorized by
9 **Menzies** and the **Released Persons** to take on their behalf all appropriate action
10 required or permitted to be taken by **Menzies** pursuant to this **Settlement**
11 **Agreement** to effectuate its terms.

12 IN WITNESS WHEREOF, the **Settling Parties** hereto have caused this
13 **Settlement Agreement** to be executed:

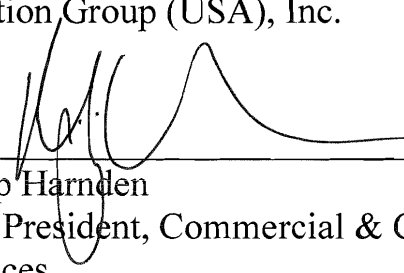
14
15
16 DATED: January __, 2011

17 Ramiro Barajas, **Representative Plaintiff**

18
19
20
21 DATED: January 14th, 2011

Menzies Aviation, Inc. and Menzies
Aviation Group (USA), Inc.

22
23
24 By _____

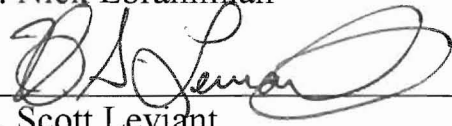

Philip Harnden
Vice President, Commercial & Corporate
Services

1 APPROVED AS TO FORM:

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: January 19, 2011


SPIRO MOSS LLP
LAVI & EBRAHIMIAN, LLP
Dennis F. Moss
H. Scott Leviant
Linh Hua
Joseph Lavi
N. Nick Ebrahimian

By: 
H. Scott Leviant

Attorneys for the Plaintiff Class

DATED: January 18, 2011

FOLEY & LARDNER LLP
John G. Yslas
Christopher G. Ward
Jeremy C. Wooden

By: 
Christopher G. Ward

Attorneys for Defendants Menzies Aviation,
Inc. and Menzies Aviation Group (USA),
Inc.