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12 *Attorneys for Lead Plaintiff AMISH PATEL*

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

15 AMISH PATEL, Individually and on  
16 Behalf of All Others Similarly Situated,

17 Plaintiff.

18 v.

19 AXESSTEL, INC., H. CLARK  
20 HICKOCK and PATRICK GRAY,

21 Defendants

Case No. 3:14-cv-01037-CAB-BGS

**STIPULATION OF SETTLEMENT**

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1 This Stipulation of Settlement dated as of June 8, 2015 (the “Stipulation”), is  
2 made and entered into by and among the following Settling Parties to the above-entitled  
3 Litigation: (i) Lead Plaintiff Amish Patel (“Lead Plaintiff”) and Plaintiff Jesse Cowen  
4 (collectively, “Plaintiffs”) (on behalf of themselves and each of the Settlement Class  
5 Members), by and through their counsel of record in the Litigation; and (ii) Axesstel,  
6 Inc. (“Axesstel”), H. Clark Hickock, and Patrick Gray (collectively, “Defendants”), by  
7 and through their counsel of record in the Litigation. Subject to the approval of the  
8 Court, the Stipulation is intended by the Settling Parties to fully, finally, and forever  
9 resolve, discharge, and settle the Litigation and Released Claims, upon and subject to  
10 the terms and conditions hereof.

#### 11 **I. THE LITIGATION**

12 On April 24, 2014, this Litigation was filed as a class action on behalf of  
13 purchasers of Axesstel securities. By Order dated July 22, 2014 (Dkt. No. 9), this  
14 Court appointed Amish Patel as Lead Plaintiff, appointed Glancy Prongay & Murray  
15 LLP as Lead Counsel, and granted Plaintiffs’ motion to file an amended class action  
16 complaint. On September 22, 2014, Plaintiffs filed the Amended Class Action  
17 Complaint (the “Complaint”), on behalf of purchasers of Axesstel securities between  
18 February 28, 2013, and October 17, 2013, inclusive (the “Settlement Class Period”),  
19 against Axesstel, H. Clark Hickock, and Patrick Gray. The Complaint seeks an  
20 unspecified amount of damages and alleges that Defendants violated Section 10(b) of  
21 the Securities Act of 1934 (the “Securities Act”), and that the Individual Defendants  
22 violated Section 20(a) of the Securities Act.

23 On November 6, 2014, Defendants filed a Motion to Dismiss the Complaint, in  
24 which they argued that the Complaint failed to allege particularized facts sufficient to  
25 give rise to a strong inference of Defendants’ scienter. (Dkt. No. 16). On December  
26 22, 2014, Plaintiffs filed and briefed an opposition to the motion to dismiss, in which  
27 they argued, among other things, that defendants were deliberately reckless in failing to  
28 obtain and disclose readily available facts, that defendants possessed a knowledge of

1 the core operations of the company, and that the nature and magnitude of the  
2 accounting violations and Hickock's departure supported a strong inference of scienter.  
3 (Dkt. No. 18). On February 13, 2015, the Court issued an order denying the  
4 Defendants' Motion to Dismiss. (Dkt. No. 22).

5       Thereafter, the Court ordered an Early Neutral Evaluation (ENE) conference for  
6 the parties to discuss the possibility of settlement to be held on April 28, 2015. (Dkt.  
7 No. 28). In preparation for the ENE conference, the Parties drafted ENE statements  
8 that were submitted to the Court. On April 3, 2015, the parties submitted a joint  
9 discovery plan. In preparation for the discovery stage, Plaintiffs drafted requests for  
10 documents, interrogatories, and subpoenas. On April 24, 2015, after further  
11 negotiations, the parties informed the Court that they agreed to resolve the matter. The  
12 Court ordered Plaintiff to file a Motion for Preliminary Approval of the Class Action  
13 Settlement, no later than June 19, 2015. (Dkt. No. 30). Thereafter, the parties agreed to  
14 the material terms of a settlement of this Litigation and proceeded to draft this  
15 Stipulation.

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

17       Each Defendant has expressly denied and continues to deny all charges of  
18 wrongdoing or liability arising out of any of the conduct, statements, acts, or omissions  
19 alleged, or that could have been alleged, in the Complaint. Pursuant to the terms set  
20 forth below, this Stipulation shall in no event be construed as or deemed to be evidence  
21 of an admission or concession by any Defendant with respect to any claim of any fault,  
22 liability, wrongdoing, or damage whatsoever.

23       Nonetheless, Defendants have concluded that further conduct of the Litigation  
24 would be protracted and expensive, and that it is desirable that the Litigation be fully  
25 and finally settled in the manner and upon the terms and conditions set forth in this  
26 Stipulation. Defendants also have taken into account the uncertainty and risks inherent  
27 in any litigation, especially in complex cases like the Litigation. Defendants have,  
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1 therefore, determined that it is desirable and beneficial that the Litigation be settled in  
2 the manner and upon the terms and conditions set forth in this Stipulation.

3 **III. CLAIMS OF PLAINTIFFS AND BENEFITS OF SETTLEMENT**

4 Plaintiffs believe that the claims asserted in the Litigation have merit and that the  
5 evidence developed to date supports the claims asserted. However, counsel for  
6 Plaintiffs recognize and acknowledge the expense and length of continued proceedings  
7 necessary to prosecute the Litigation against Defendants through trial and through  
8 appeals. Plaintiffs have taken into account the uncertain outcome and the risk of any  
9 litigation, especially in complex actions such as the Litigation, and the difficulties and  
10 delays inherent in such Litigation. Plaintiffs are also mindful of the inherent problems  
11 of proof under and possible defenses to the claims of securities law violations asserted  
12 in the Litigation. Plaintiffs believe that the settlement set forth in the Stipulation  
13 confers substantial benefits upon the Settlement Class. Based on their evaluation,  
14 Plaintiffs and counsel for Plaintiffs have determined that the Settlement set forth in the  
15 Stipulation is in the best interests of Plaintiffs and the Settlement Class and, therefore,  
16 determined that it is desirable and beneficial to Plaintiffs and the Settlement Class that  
17 the Litigation be settled upon the terms and conditions set forth in this Stipulation.

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

19 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and  
20 among Plaintiffs (for themselves and the Settlement Class Members) and Defendants,  
21 by and through their respective counsel or attorneys of record, that, subject to the  
22 approval of the Court, the Litigation and the Released Claims shall be finally and fully  
23 compromised, settled and released, and the Litigation shall be dismissed with prejudice,  
24 upon and subject to the terms and conditions of the Stipulation, as follows.

25 **1. Definitions**

26 As used in the Stipulation, the following terms have the meanings specified  
27 below. In the event of any inconsistency between any definition set forth below and  
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1 any definition set forth in any document attached as an exhibit to this Stipulation, the  
2 definition set forth below shall control.

3 1.1. “Axesstel” means Axesstel, Inc.

4 1.2. “Individual Defendants” means H. Clark Hickock and Patrick Gray.

5 1.3. “Authorized Claimant” means any Member of the Settlement Class  
6 who, in accordance with the terms of this Stipulation, is entitled to a distribution from  
7 the Settlement Fund pursuant to any Plan of Allocation or any order of the Court.

8 1.4. “Claims Administrator” means Gilardi & Co., LLC.

9 1.5. “Complaint” means the Amended Class Action Complaint filed by  
10 Plaintiffs on September 22, 2014.

11 1.6. “Court” means the United States District Court for the Southern  
12 District of California.

13 1.7. “Defendants” means Axesstel, H. Clark Hickock, and Patrick Gray.

14 1.8. “Defendants’ Counsel” means Sheppard Mullin Richter and  
15 Hampton LLP.

16 1.9. “Effective Date” means the first date by which all of the events and  
17 conditions specified in ¶7.1 of this Stipulation have been met and have occurred.

18 1.10. “Escrow Agent” means Glancy Prongay & Murray LLP.

19 1.11. “Final” means, with respect to any order of court, including, without  
20 limitation, the Judgment, that such order represents a final and binding determination of  
21 all issues within its scope and is not subject to further review on appeal or otherwise.  
22 Without limitation, an order becomes “Final” when: (a) no appeal has been filed and  
23 the prescribed time for commencing any appeal has expired; or (b) an appeal has been  
24 filed and either (i) the appeal has been dismissed and the prescribed time, if any, for  
25 commencing any further appeal has expired, or (ii) the order has been affirmed in its  
26 entirety and the prescribed time, if any, for commencing any further appeal has expired.  
27 For purposes of this Paragraph, an “appeal” includes appeals as of right, discretionary  
28 appeals, interlocutory appeals, proceedings involving writs of certiorari or mandamus,

1 and any other proceedings of like kind. Any appeal or other proceeding pertaining to  
2 any order adopting or approving a Plan of Allocation, or to any order issued in respect  
3 to an application for attorneys' fees and expenses, pursuant to ¶¶ 6.1 and 6.2, below,  
4 shall not in any way delay or preclude the Judgment from becoming Final.

5 1.12. "Judgment" means the judgment to be rendered by the Court, in the  
6 form attached as Exhibit B hereto.

7 1.13. "Lead Plaintiff" means Amish Patel.

8 1.14. "Litigation" means *Patel v. Axesstel, Inc. et al.*, Civil Action No.  
9 3:14-cv-01037-CAB-BGS, pending in the United States District Court for the Southern  
10 District of California.

11 1.15. "Person(s)" means an individual, corporation, limited liability  
12 company, professional corporation, partnership, limited partnership, limited liability  
13 partnership, association, joint stock company, estate, legal representative, trust,  
14 unincorporated association, government or any political subdivision or agency thereof,  
15 and any business or legal entity together with their spouses, heirs, predecessors,  
16 successors, representatives, or assignees of any of the foregoing, and any other  
17 representative or person or entity acting on behalf of, or claiming under, any of these  
18 persons and entities.

19 1.16. "Plaintiffs" means Amish Patel and Jesse Cowan.

20 1.17. "Plaintiffs' Lead Counsel" means Glancy Prongay & Murray LLP.

21 1.18. "Plan of Allocation" means a plan or formula of allocation of the  
22 Settlement Fund, to be approved by the Court, whereby the Settlement Fund shall be  
23 distributed to Authorized Claimants after payment of or provision for expenses of  
24 notice and administration of the settlement, Taxes and Tax Expenses, and such  
25 attorneys' fees, costs, expenses, and interest and any award to the Lead Plaintiff as may  
26 be awarded by the Court. Any Plan of Allocation is not part of the Stipulation and the  
27 Released Persons shall not have any responsibility or liability with respect thereto.  
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1           1.19.     “Proof of Claim and Release” means the form to be sent to  
2 Settlement Class Members, in the form attached as Exhibit A-2 hereto, upon further  
3 order(s) of the Court, by which any Settlement Class Member may make claims against  
4 the Settlement Fund for damages allegedly incurred by reason of their investment(s) in  
5 Axesstel common stock.

6           1.20.     “Released Claims” means any and all claims (including Unknown  
7 Claims), demands, losses, rights, causes of action, liabilities, obligations, judgments,  
8 suits, matters, controversies and issues of any kind or nature whatsoever, whether  
9 known or unknown, contingent or absolute, suspected or unsuspected, disclosed or  
10 undisclosed, concealed or hidden, apparent or not apparent, accrued or unaccrued,  
11 matured or unmatured, liquidated or not liquidated, asserted or unasserted that have  
12 been or could have been asserted against Defendants or any of the Released Persons in  
13 the Litigation or in any court, tribunal, forum or proceeding (including, but not limited  
14 to, any claims arising under federal, state or foreign law, common law, statute, rule, or  
15 regulation relating to alleged fraud, breach of any duty, negligence, violations of the  
16 federal securities laws, or otherwise, and including all claims within the exclusive  
17 jurisdiction of the federal courts), whether individual, class, direct, derivative,  
18 representative, legal, equitable or any other type or in any other capacity, which  
19 Plaintiffs or any Member of the Settlement Class ever had, now has, or hereafter can,  
20 shall, or may have against Defendants or any of the Released Persons by reason of,  
21 arising out of, relating to, involving or in connection with, directly or indirectly the  
22 allegations, conduct, facts, events, practices, transactions, acts, occurrences, statements,  
23 representations, alleged misrepresentations, alleged omissions, or any other matter,  
24 thing or cause whatsoever, or any series thereof, that were, could have been or in the  
25 future might be alleged, claimed, asserted, embraced, involved, or set forth, referred to  
26 in or otherwise related to, directly or indirectly, the Litigation or subject matter of the  
27 Litigation, including without limitation, the documents filed with or provided to the  
28 Securities and Exchange Commission and all disclosures or alleged non-disclosures

1 made by Defendants in connection with any of the foregoing, except claims to enforce  
2 the Settlement.

3 1.21. “Released Person(s)” means each and all of Defendants, and/or any  
4 of their respective past, present or future, family members and spouses, parent entities,  
5 associates, affiliates or subsidiaries and each and all of their past, present, or future  
6 officers, directors, stockholders, representatives, employees, attorneys, financial or  
7 investment advisors, consultants, accountants, underwriters, investment banks or  
8 bankers, commercial bankers, insurers, reinsurers, excess insurers, co-insurers,  
9 engineers, advisors, principals or agents, heirs, executors, trustees, estates,  
10 beneficiaries, distributees, foundations, general or limited partners or partnerships, joint  
11 ventures, personal representatives, administrators, and each of their respective  
12 predecessors, successors, and assigns, and any trust of which any Defendant is the  
13 settlor or which is for the benefit of any Defendant and/or member(s) of his family.

14 1.22. “Settlement” means the settlement of the Litigation as embodied in  
15 this Stipulation.

16 1.23. “Settlement Class” means all persons and/or entities other than  
17 Defendants who purchased Axesstel securities between February 28, 2013, and October  
18 17, 2013.

19 1.24. “Settlement Class Member” or “Member of the Settlement Class”  
20 means a Person who falls within the definition of the Settlement Class as set forth in  
21 ¶1.25 and who does not validly request exclusion from the Settlement Class in  
22 accordance with the procedures to be established by the Court in connection with the  
23 approval of this Stipulation and the Settlement.

24 1.25. “Settlement Class Period” means the period commencing on  
25 February 28, 2013 through October 17, 2013, inclusive.

26 1.26. “Settlement Fund” means \$1.25 million dollars (\$1,250,000.00),  
27 plus any interest earned thereon.

28



1           1.27.     “Settling Parties” means, collectively, Defendants and Plaintiffs on  
2 behalf of themselves and the Members of the Settlement Class.

3           1.28.     “Unknown Claims” means any Released Claims which Plaintiffs or  
4 any Settlement Class Member does not know or suspect to exist in his, her or its favor  
5 at the time of the release of the Released Persons which, if known by him, her or it,  
6 might have affected his, her or its settlement with and release of the Released Persons,  
7 or might have affected his, her or its decision not to object to this Settlement.  
8 Unknown Claims include those claims in which some or all of the facts comprising the  
9 claim may be suspected, or even undisclosed or hidden. With respect to any and all  
10 Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date,  
11 Plaintiffs shall expressly waive, and each of the Settlement Class Members shall be  
12 deemed to have, and by operation of the Judgment shall have, expressly waived the  
13 provisions, rights, and benefits of California Civil Code § 1542, which provides:

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

17 Plaintiffs shall expressly waive, and each of the Settlement Class Members shall be  
18 deemed to have, and by operation of the Judgment shall have, expressly waived any and  
19 all provisions, rights, and benefits conferred by any law of any state or territory of the  
20 United States, or principle of common law or foreign law, which is similar, comparable  
21 or equivalent in effect to California Civil Code § 1542. Plaintiffs and Settlement Class  
22 Members may hereafter discover facts in addition to or different from those which he,  
23 she or it now knows or believes to be true with respect to the subject matter of the  
24 Released Claims, but Plaintiffs shall expressly and each Settlement Class Member,  
25 upon the Effective Date, shall be deemed to have, and by operation of the Judgment  
26 shall have, fully, finally, and forever settled and released any and all Released Claims,  
27 known or unknown, suspected or unsuspected, contingent or non-contingent, whether  
28 or not concealed or hidden, which now exist, or heretofore have existed, upon any

1 theory of law or equity now existing or coming into existence in the future, including,  
2 but not limited to, conduct which is negligent, reckless, intentional, with or without  
3 malice, or a breach of any duty, law or rule, without regard to the subsequent discovery  
4 or existence of such different or additional facts. Plaintiffs acknowledge, and the  
5 Settlement Class Members shall be deemed by operation of the Judgment to have  
6 acknowledged, that the foregoing waiver was separately bargained for and a key  
7 element of the settlement of which this release is a part.

8 **2. The Settlement**

9 **A. The Settlement Fund**

10 2.1. Axesstel shall cause the principal amount of the Settlement Fund  
11 (\$1,250,000.00) to be deposited with the Escrow Agent pursuant to wire instructions  
12 timely provided in writing by Plaintiffs' Lead Counsel to Defendants' Counsel on or  
13 before seven (7) business days after the entry of the Notice Order referenced in ¶3.1  
14 below.

15 2.2. Under no circumstances will Defendants collectively or separately  
16 be required to pay or cause to be paid any amount in addition to the principal amount of  
17 the Settlement Fund caused to be deposited with the Escrow Agent pursuant to ¶2.1 of  
18 this Stipulation and the Settlement set forth herein.

19 **B. The Escrow Agent**

20 2.3. The Escrow Agent shall invest the Settlement Fund transferred  
21 pursuant to ¶2.1 hereof, in instruments either fully insured or backed by the full faith  
22 and credit of the United States Government or an agency thereof and shall reinvest the  
23 proceeds of these instruments as they mature in similar instruments at their then-current  
24 market rates. All risks related to the investment of the Settlement Fund shall be borne  
25 by the Settlement Fund and not by any of Defendants or Released Persons.

26 2.4. The Escrow Agent shall permit Plaintiffs' Lead Counsel or the  
27 Claims Administrator to withdraw up to one hundred thousand dollars (\$100,000.00)  
28 from the Settlement Fund upon funding of the Settlement Fund as set forth in ¶2.1, to

1 be used to pay the reasonable costs of providing notice of the Settlement to the  
2 Settlement Class, as well as customary administration costs. Other than amounts  
3 disbursed for providing notice to the Settlement Class, customary administration costs,  
4 and Taxes and Tax Expenses, and the Fee and Expense Award (which shall be paid to  
5 Plaintiffs' Lead Counsel immediately following the Court's execution of an order  
6 awarding such fees and expenses), the Settlement Fund shall not be distributed until the  
7 Effective Date of the Settlement, as set forth in ¶7.1.

8           2.5.       Subject to further order(s) and/or direction(s) as may be made by the  
9 Court, or as provided in this Stipulation, the Escrow Agent is authorized to execute  
10 such transactions as are consistent with the terms of this Stipulation.

11           2.6.       All funds held by the Escrow Agent shall be deemed and considered  
12 to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the  
13 Court, until such time as such funds shall be distributed pursuant to this Stipulation or  
14 are returned to the Persons paying the same pursuant to this Stipulation and Settlement  
15 and/or upon further order(s) of the Court.

16           2.7.       The Escrow Agent shall not be responsible for the payment of any  
17 sums due to Authorized Claimants or other Persons, except to the extent of maintaining  
18 account of and appropriately paying sums as required by this Stipulation, but only to  
19 the limited extent that such sums have been delivered into the Escrow Account as  
20 required by this Stipulation. The Escrow Agent shall be liable to the extent provided  
21 for under the laws of the State of California.

22                   **C.    Taxes**

23           2.8.       The Settling Parties and the Escrow Agent shall treat the escrow  
24 account as a "qualified settlement fund" for purposes of Section 468B of the Internal  
25 Revenue Code of 1986, as amended, and the Treasury Regulations promulgated  
26 thereunder. The Escrow Agent and the Settling Parties shall timely make such  
27 elections as are necessary or advisable to carry out the provision of this ¶2.8, including,  
28 without limitation, the "relation-back election" described in Treas. Reg. §1.468B-1

1 back to the earliest permitted date. Such elections shall be made in compliance with the  
2 procedures and requirements contained in such regulations. It shall be the  
3 responsibility of the Escrow Agent to prepare and deliver timely and properly the  
4 necessary documentation for signature by all necessary parties, and thereafter to cause  
5 the appropriate filing to occur.

6           2.9.       The Escrow Agent shall be the escrow account's "administrator" as  
7 that term is used in Treas. Reg. §1.468B-2. As administrator, the Escrow Agent shall  
8 satisfy the administrative requirements imposed by Treas. Reg. §1.468B-2 by, *e.g.*, (i)  
9 obtaining a taxpayer identification number, (ii) satisfying any information reporting or  
10 withholding requirements imposed on distributions from the Settlement Fund, and (iii)  
11 timely and properly filing applicable federal, state or local tax returns necessary or  
12 advisable with respect to the Settlement Fund (including, without limitation, the returns  
13 described in Treas. Reg. §§1.468B-2(k)) and paying any taxes reported thereon. Such  
14 returns (as well as the election described in this ¶2.8) shall be consistent with this ¶2.8  
15 and in all events shall reflect that all Taxes, as defined in subsection (c) below, on the  
16 income earned by the Settlement Fund shall be paid out of the Settlement Fund as  
17 provided in ¶2.8(c) hereof.

18           2.10.     All: (i) taxes (including any estimated taxes, interest, or penalties)  
19 arising with respect to the income earned by the Settlement Fund, including, without  
20 limitation, any taxes or tax detriments that may be imposed upon Defendants or  
21 Defendants' Counsel with respect to any income earned by the Settlement Fund for any  
22 period during which the Settlement Fund does not qualify as a "qualified settlement  
23 fund" for federal or state income tax purposes (collectively, "Taxes"); and (ii) expenses  
24 and costs incurred in connection with the operation and implementation of this ¶2.8,  
25 including, without limitation, expenses of tax attorneys and/or accountants and mailing  
26 and distribution costs and expenses relating to filing (or failing to file) the returns  
27 described in this ¶2.8 (collectively, "Tax Expenses"), shall be paid out of the Settlement  
28 Fund; in all events neither Defendants nor Defendants' Counsel shall have any liability

1 or responsibility for the Taxes or the Tax Expenses. With funds from the Settlement  
2 Fund, the Escrow Agent shall indemnify and hold harmless Defendants and  
3 Defendants' Counsel for Taxes and Tax Expenses (including, without limitation, Taxes  
4 payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall  
5 be treated as, and considered to be, a cost of administration of the Settlement Fund and  
6 shall timely be paid by the Escrow Agent out of the Settlement Fund without prior  
7 order from the Court and the Escrow Agent shall be obligated (notwithstanding  
8 anything herein to the contrary) to withhold from distribution to Authorized Claimants  
9 any funds necessary to pay such amounts, including the establishment of adequate  
10 reserves for any Taxes and Tax Expenses (as well as any amounts that may be required  
11 to be withheld under Treas. Reg. §1.468B-2(1)(2)); Defendants, Defendants' Counsel  
12 and Defendants' director and officer liability insurance carriers shall not be responsible  
13 in any respect therefore, nor shall they have any liability therefore. The Settling Parties  
14 agree to cooperate with the Escrow Agent, each other, and their tax attorneys and  
15 accountants to the extent reasonably necessary to carry out the provisions of this ¶2.8.

### 16 **3. Notice Order and Settlement Hearing**

17 3.1. As soon as practicable after execution of this Stipulation, Plaintiffs'  
18 Lead Counsel shall submit the Stipulation to the Court and shall apply for entry of an  
19 order (the "Notice Order") attached hereto as Exhibit A, requesting, *inter alia*, the  
20 preliminary approval of the Settlement set forth in this Stipulation, approval for the  
21 mailing of a settlement notice (the "Notice") in the form attached as Exhibit A-1 hereto,  
22 and publication of a summary notice (the "Summary Notice") in the form attached as  
23 Exhibit A-3 hereto. The Notice shall include the general terms of the Settlement set  
24 forth in this Stipulation, the proposed Plan of Allocation, the general terms of the Fee  
25 and Expense Application as defined in ¶6.1 hereof, and the date of the Settlement  
26 Hearing as defined below. Defendants do not and shall not take any position as to the  
27 proposed Plan of Allocation.  
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1           3.2.       Plaintiffs’ Lead Counsel shall request that the Court hold a hearing  
2 (the “Settlement Hearing”) at which time Plaintiffs’ Lead Counsel shall request that the  
3 Court finally approve the Settlement of the Litigation as set forth herein.

4           3.3.       At the Settlement Hearing, the Settling Parties shall jointly request  
5 entry of a Judgment, in the form attached hereto as Exhibit B:

6               (a)     finally approving the Settlement as fair, reasonable, and adequate,  
7 within the meaning of Rule 23 of the Federal Rules of Civil Procedure, and directing its  
8 consummation pursuant to its terms;

9               (b)     directing that the Litigation be dismissed without costs and with  
10 prejudice, and releasing the Released Claims;

11              (c)     permanently barring and enjoining the institution and prosecution,  
12 by Plaintiffs and the Settlement Class Members, of any other action against the  
13 Released Persons in any court asserting any Released Claims; provided, however, that  
14 the Judgment shall not bar any action or claim to enforce the terms of the Settlement, as  
15 approved by the Court, or the Judgment;

16              (d)     reserving jurisdiction over the Litigation, including all future  
17 proceedings concerning the administration, consummation, and enforcement of this  
18 Stipulation;

19              (e)     finding that the Complaint in the Litigation was filed on a good faith  
20 basis in accordance with the Private Securities Litigation Reform Act of 1995 and Rule  
21 11 of the Federal Rules of Civil Procedure;

22              (f)     finding, pursuant to Rule 54(b) of the Federal Rules of Civil  
23 Procedure, that there is no just reason for delaying and directing entry of a final  
24 judgment; and

25              (g)     containing such other and further provisions consistent with the  
26 terms of this Stipulation to which the Settling Parties expressly consent in writing.  
27  
28

1           3.4.       At or after the Settlement Hearing, Plaintiffs' Lead Counsel also  
2 will request that the Court approve the proposed Plan of Allocation and the Fee and  
3 Expense Application.

4           **4.       Releases and Bar Order**

5           4.1.       Upon the Effective Date, Plaintiffs and each of the Settlement Class  
6 Members, for themselves and for each of their respective officers, directors,  
7 shareholders, employees, agents, spouses, subsidiaries, heirs at law, successors and  
8 assigns, and any other Person claiming (now or in the future) through or on behalf of  
9 them, and regardless of whether any such Plaintiff or Settlement Class Member ever  
10 seeks or obtains by any means, including, without limitation, by submitting a Proof of  
11 Claim and Release, any distribution from the Settlement Fund, shall be deemed to have,  
12 and by operation of the Judgment shall have, fully, finally, and forever released,  
13 relinquished, and discharged all Released Claims against the Released Persons and  
14 shall have covenanted not to sue the Released Persons with respect to all such Released  
15 Claims, and shall be permanently barred and enjoined from instituting, commencing, or  
16 prosecuting any Released Claim against the Released Persons except to enforce the  
17 releases and other terms and conditions contained in this Stipulation or the Judgment  
18 entered pursuant thereto.

19           4.2.       Upon the Effective Date, each of Defendants shall be deemed to  
20 have, and by operation of the Judgment shall have, fully, finally, and forever released,  
21 relinquished, and discharged the Settlement Class (except any Settlement Class  
22 Member who opts out of the Settlement), Plaintiffs and counsel to Plaintiffs from all  
23 claims (including Unknown Claims) arising out of, relating to, or in connection with,  
24 the institution, prosecution, assertion, settlement, or resolution of the Litigation or the  
25 Released Claims except to enforce the releases and other terms and conditions  
26 contained in this Stipulation

1           **5. Administration and Calculation of Claims, Final Awards, and**  
2           **Supervision and Distribution of the Settlement Fund**

3           5.1.       The Claims Administrator, subject to such supervision and direction  
4 of the Court as may be necessary or as circumstances may require, shall administer and  
5 calculate the claims submitted by Settlement Class Members and shall oversee  
6 distribution of the Net Settlement Fund (defined below) to Authorized Claimants  
7 pursuant to the Plan of Allocation.

8           5.2.       Upon the Effective Date and thereafter, the Settlement Fund shall be  
9 applied as follows:

10           (a)     to pay counsel for Plaintiffs’ attorneys’ fees and expenses with  
11 interest thereon (the “Fee and Expense Award”), if and to the extent allowed by the  
12 Court;

13           (b)     to pay any award of reimbursement to the Lead Plaintiff;

14           (c)     to pay all the costs and expenses reasonably and actually incurred in  
15 connection with providing notice, locating Settlement Class Members, soliciting  
16 Settlement Class claims, assisting with the filing of claims, administering and  
17 distributing the Net Settlement Fund to Authorized Claimants, processing Proof of  
18 Claim and Release forms, and paying escrow fees and costs, if any;

19           (d)     to pay the Taxes and Tax Expenses described in ¶2.8 hereof; and

20           (e)     to distribute the balance of the Settlement Fund (the “Net Settlement  
21 Fund”) to Authorized Claimants as allowed by the Stipulation, the Plan of Allocation,  
22 or order of the Court.

23           5.3.       Upon the Effective Date and thereafter, and in accordance with the  
24 terms of the Stipulation, the Plan of Allocation, or such further approval and further  
25 order(s) of the Court as may be necessary or as circumstances may require, the Net  
26 Settlement Fund shall be distributed to Authorized Claimants, subject to and in  
27 accordance with the following:  
28



1 (a) Within one hundred-twenty (120) days after the mailing of the  
2 Notice or such other time as may be set by the Court, each Person claiming to be an  
3 Authorized Claimant shall be required to submit to the Claims Administrator a  
4 completed Proof of Claim and Release form (“Proof of Claim”), substantially in the  
5 form of Exhibit A-2 attached hereto, signed under penalty of perjury, and supported by  
6 such documents as are specified in the Proof of Claim and as are reasonably available  
7 to such Person.

8 (b) Except as otherwise ordered by the Court, any and all Settlement  
9 Class Members who fail to timely submit a Proof of Claim within such period, or such  
10 other period as may be ordered by the Court, or otherwise allowed, shall be forever  
11 barred from receiving any payments pursuant to the Stipulation and the Settlement set  
12 forth therein, but will in all other respects be subject to and bound by the provisions of  
13 the Stipulation, the releases contained therein, and the Judgment. Notwithstanding the  
14 foregoing, Plaintiffs’ Lead Counsel shall have the discretion to accept late-submitted  
15 claims for processing by the Claims Administrator so long as distribution of the Net  
16 Settlement Fund is not materially delayed thereby.

17 (c) The Net Settlement Fund shall be distributed to Authorized  
18 Claimants substantially in accordance with the Plan of Allocation set forth in the Notice  
19 and approved by the Court. Any such Plan of Allocation is not a part of this  
20 Stipulation. No funds from the Net Settlement Fund shall be distributed to Authorized  
21 Claimants until the Effective Date. If there is any balance remaining in the Net  
22 Settlement Fund after six (6) months from the date of distribution of the Net Settlement  
23 Fund (whether by reason of tax refunds, uncashed checks, or otherwise), Plaintiffs’  
24 Lead Counsel shall, if feasible, reallocate such balance among Authorized Claimants in  
25 an equitable and economic fashion. Thereafter, any balance which still remains in the  
26 Net Settlement Fund shall be donated to one or more secular §501(c)(3) organization(s)  
27 selected by the Court.

28

1           5.4.       The Released Persons, Defendants’ Counsel and Defendants’  
2 directors and officers liability insurance carriers shall have no responsibility for, interest  
3 in, or liability whatsoever with respect to any act, omission or determination of the  
4 Escrow Agent, Claims Administrator, Plaintiffs’ counsel, including Plaintiffs’ Lead  
5 Counsel, or designees of said persons regarding the investment or distribution of the  
6 Settlement Fund or Net Settlement Fund, the Plan of Allocation, the determination,  
7 administration, or calculation of claims, the payment or withholding of Taxes or Tax  
8 Expenses, or any losses incurred in connection with any such matters. Plaintiffs and  
9 each Settlement Class Member hereby fully, finally, and forever release, relinquish, and  
10 discharge the Released Persons and their counsel from any and all such liability.

11           5.5.       No Person shall have any claim against Plaintiffs, Plaintiffs’ Lead  
12 Counsel, the Claims Administrator, or their counsel based on the distributions made  
13 substantially in accordance with the Stipulation and the Settlement contained herein, the  
14 Plan of Allocation, or further order(s) of the Court. No Person shall have any claim  
15 against the Released Persons or their counsel arising from or relating to the  
16 management of, distributions from, or the disposition of the Settlement Fund or the Net  
17 Settlement Fund, and Plaintiffs and each Settlement Class Member hereby fully,  
18 finally, and forever release, relinquish, and discharge the Released Persons and their  
19 counsel from any and all such liability.

20           5.6.       It is understood and agreed by the Settling Parties that any proposed  
21 Plan of Allocation of the Net Settlement Fund including, but not limited to, any  
22 adjustments to an Authorized Claimant’s claim set forth therein, is not a part of the  
23 Stipulation and is to be considered by the Court separately from the Court’s  
24 consideration of the fairness, reasonableness, and adequacy of the Settlement set forth  
25 in the Stipulation, and any order or proceeding relating to the Plan of Allocation shall  
26 not operate to terminate or cancel the Stipulation or affect the finality of the Court’s  
27 Judgment approving the Stipulation and the Settlement set forth therein, or any other  
28 orders entered pursuant to the Stipulation. The time to appeal from approval of the

1 Settlement shall commence upon the Court's entry of the Judgment regardless of  
2 whether a Plan of Allocation has been submitted to the Court or has been approved.

3           5.7. All Persons who fall within the definition of Members of the  
4 Settlement Class shall be subject to and bound by the provisions of this Stipulation, the  
5 releases contained herein, and the Judgment with respect to all Released Claims,  
6 regardless of whether such Persons seek or obtain by any means, including, without  
7 limitation, by submitting a Proof of Claim or any similar document, any distribution  
8 from the Settlement Fund or the Net Settlement Fund.

9           **6. Plaintiffs' Counsel's Attorneys' Fees and Expenses**

10           6.1. Plaintiffs' Lead Counsel may submit an application or applications  
11 (the "Fee and Expense Application") for distributions to Plaintiffs' counsel from the  
12 Settlement Fund for: (a) an award of attorneys' fees; plus (b) the payment of reasonable  
13 expenses incurred in connection with prosecuting the Litigation (including, but not  
14 limited to the fees and expenses of experts and consultants), plus any interest on such  
15 attorneys' fees and expenses at the same rate and for the same periods as earned by the  
16 Settlement Fund (until paid) as may be awarded by the Court; plus (c) the payment to  
17 Lead Plaintiff for time and expense in litigation this action. Plaintiffs' Lead Counsel  
18 reserve the right to make additional applications to the Court for fees and expenses  
19 incurred.

20           6.2. The Fee and Expense Award, including the fees and expenses of  
21 experts and consultants as awarded by the Court shall be payable to Lead Counsel, from  
22 the Settlement Fund immediately upon the entry of the Court's order awarding such  
23 fees and expenses. Plaintiffs' Lead Counsel may thereafter allocate the attorneys' fees  
24 among other Plaintiffs' counsel in a manner in which they in good faith believe reflects  
25 the contributions of such counsel to the initiation, prosecution, and resolution of the  
26 Litigation. If, and when, as a result of any appeal and/or further proceedings on  
27 remand, or successful collateral attack, the Fee and Expense Award is overturned or  
28 lowered, or if the Settlement is terminated or is not approved by the Court, or if there is

1 an appeal and any order approving the Settlement does not become Final and binding  
2 upon the Class, then, within five (5) business days from receiving notice from  
3 Defendants' Counsel or from a court of appropriate jurisdiction, Plaintiffs' Lead  
4 Counsel shall refund to the Settlement Fund such fees and expenses previously paid to  
5 them from the Settlement Fund plus interest thereon at the same rate as earned on the  
6 Settlement Fund in an amount consistent with such reversal or modification. Each such  
7 Plaintiff's counsel's law firm receiving fees and expenses, as a condition of receiving  
8 such fees and expenses, on behalf of itself and each partner and/or shareholder of it,  
9 agrees that the law firm and its partners and/or shareholders are subject to the  
10 jurisdiction of the Court for the purpose of enforcing the provisions of this Paragraph.

11           6.3.       The procedure for and the allowance or disallowance by the Court  
12 of any Fee and Expense Application by Plaintiffs' Lead Counsel to be paid out of the  
13 Settlement Fund, are not part of the Settlement set forth in the Stipulation, and are to be  
14 considered by the Court separately from the Court's consideration of the fairness,  
15 reasonableness, and adequacy of the Settlement set forth in the Stipulation; and any  
16 order or proceeding relating to any Fee and Expense Application, or any appeal from  
17 any order relating thereto or reversal or modification thereof, shall not operate to  
18 terminate or cancel the Stipulation or the Settlement.

19           6.4.       The Released Persons and their counsel shall have no responsibility  
20 for, and no liability whatsoever with respect to, any payment from the Settlement Fund  
21 of any type or nature whatsoever, including attorneys' fees and expenses paid to any  
22 counsel for Plaintiffs or the Settlement Class.

23           6.5.       The Released Persons and their counsel shall have no responsibility  
24 for, and no liability whatsoever with respect to, the allocation among Plaintiffs'  
25 counsel, and/or any other Person who may assert some claim thereto, of any Fee and  
26 Expense Award that the Court may make in the Litigation.

27  
28

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

3           7.1. The Effective Date of the Stipulation, and the Settlement  
4 incorporated therein, shall be conditioned on the occurrence of all of the following  
5 events:

6                   (a) the Court has entered the Notice Order, as required by ¶3.1 hereof;

7                   (b) the Court has approved the Settlement as described herein,  
8 following notice to the Settlement Class and a Settlement Hearing, as prescribed by  
9 Rule 23 of the Federal Rules of Civil Procedure, and has entered the Judgment, in  
10 accordance with ¶3.3 hereof; and

11                   (c) the Judgment has become Final, as defined in ¶1.12 hereof.

12           7.2. Upon the occurrence of all of the events referenced in ¶7.1 hereof,  
13 any and all remaining interest or right of Defendants in or to the Settlement Fund, if  
14 any, shall be absolutely and forever extinguished. If either of the conditions specified  
15 in ¶7.1(a) or ¶7.1(b) hereof are not met, or if the conditions in ¶7.1(c) are not met and  
16 there is no longer any possibility that the conditions in ¶7.1(c) can be met, then the  
17 Stipulation shall be canceled and terminated subject to ¶7.3 hereof, unless Plaintiffs'  
18 Lead Counsel and Defendants' Counsel all mutually agree in writing to proceed with  
19 the Settlement in accordance with ¶7.4.

20           7.3. Unless otherwise ordered by the Court, in the event the Effective  
21 Date does not occur or this Stipulation shall terminate, or be canceled, or otherwise fail  
22 to become effective for any reason, including, without limitation, in the event that the  
23 Settlement as described herein is not approved by the Court or the Judgment is reversed  
24 or vacated following any appeal taken there from, then:

25                   (a) within five (5) business days after written notification of such event  
26 is sent by Defendants' Counsel or Plaintiffs' Lead Counsel to the Escrow Agent, the  
27 Settlement Fund (including accrued interest), excluding only reasonable costs incurred  
28 in connection with providing notice to the Settlement Class that have either been

1 properly disbursed or are due and owing pursuant to ¶2.4 and Taxes and Tax Expenses  
2 that have been paid or that have accrued and will be payable at some later date in  
3 accordance with ¶2.8, will be refunded, reimbursed, and repaid by the Escrow Agent as  
4 directed by Defendants' Counsel; if said amount or any portion thereof is not returned  
5 within such five (5) day period, then interest shall accrue thereon at the same rate as  
6 earned by the Settlement Fund until the date that said amount is returned;

7 (b) at the request of Defendants' Counsel, the Escrow Agent or its  
8 designee shall apply for any Tax refund owed on the Settlement Fund and pay the  
9 proceeds as directed in writing by Defendants' Counsel, after deduction of any fees or  
10 expenses reasonably incurred in connection with such application(s) for refund pursuant  
11 to such written request;

12 (c) the Settling Parties shall be restored to their respective positions in  
13 the Litigation as of June 8, 2015, with all of their respective claims and defenses  
14 preserved as they existed on that date;

15 (d) the terms and provisions of the Stipulation shall be null and void and  
16 shall have no further force and effect with respect to the Settling Parties, and neither the  
17 existence nor the terms of this Stipulation (nor any negotiations preceding this  
18 Stipulation nor any acts performed pursuant to, or in furtherance of, this Stipulation)  
19 shall be used in this Litigation or in any other proceeding for any purpose; and

20 (e) any judgment or order entered by the Court in accordance with the  
21 terms of the Stipulation shall be treated as vacated, *nunc pro tunc*.

22 7.4. If the Court does not enter the Judgment in the form attached as  
23 Exhibit B hereto, or if the Court enters the Judgment and appellate review is sought  
24 and, on such review, the entry of the Judgment is finally vacated, modified, or reversed,  
25 then this Stipulation and the Settlement incorporated therein shall be cancelled and  
26 terminated, unless all parties who are adversely affected thereby, in their sole discretion  
27 within thirty (30) days from the date of the mailing of such ruling to such parties,  
28 provide written notice to all other parties hereto of their intent to proceed with the

1 Settlement under the terms of the Judgment as modified by the Court or on appeal.  
2 Such notice may be provided on behalf of Plaintiffs and the Settlement Class Members  
3 by Plaintiffs' Lead Counsel. No Settling Party shall have any obligation whatsoever to  
4 proceed under any terms other than substantially in the form provided and agreed to  
5 herein; provided, however, that no order of the Court concerning any Fee and Expense  
6 Application or Plan of Allocation, or any modification or reversal on appeal of such  
7 order, shall constitute grounds for cancellation or termination of this Stipulation by any  
8 Settling Party. Without limiting the foregoing, Defendants shall have, in their sole and  
9 absolute discretion, the option to terminate the Settlement in its entirety in the event  
10 that the Judgment, upon becoming Final, does not provide for the dismissal with  
11 prejudice of the Litigation against them.

12           7.5.       If, prior to the Settlement Hearing, any Persons who otherwise  
13 would be Settlement Class Members have validly requested exclusion from the  
14 Settlement Class ("Requests for Exclusion") in accordance with the provisions of the  
15 Notice or Notice Order, and such Persons, in the aggregate, during the Settlement Class  
16 Period purchased equal to or more than a certain percentage of Axesstel common stock  
17 specified in a separate Supplemental Agreement to the Stipulation, then Axesstel  
18 Defendants shall have, in their sole and absolute discretion, the option to terminate this  
19 Stipulation on behalf of all Parties in accordance with the procedures set forth in the  
20 Supplemental Agreement. Plaintiffs' Lead Counsel shall, however, have an  
21 opportunity to seek retraction of any Request for Exclusion until the deadline for such  
22 retractions as set forth in the Notice or Notice Order. The Supplemental Agreement  
23 shall not be filed with the Court. If required by the Court, Plaintiffs and Axesstel  
24 Defendants shall request that the Supplemental Agreement be filed under seal and/or  
25 any of its terms be disclosed only *in camara* to the Court for purposes of approving the  
26 Settlement, and that such disclosure shall be carried out to the fullest extent possible in  
27 accordance with the practices of the Court so as to preserve the confidentiality of the  
28 Supplemental Agreement, particularly the threshold percentage amount of Axesstel

1 common stock specified in the Supplemental Agreement. Plaintiffs' Lead Counsel  
2 shall promptly provide copies of any or all Requests for Exclusion received by  
3 Plaintiffs' Counsel to Defendants' Counsel. A listing of all persons who have validly  
4 requested exclusion from the Settlement Class shall be provided to Defendants'  
5 Counsel and the Court no later than five (5) days prior to the Settlement Hearing.

6 **8. Miscellaneous Provisions**

7 8.1. The Settling Parties: (a) acknowledge that it is their intent to  
8 consummate this Stipulation; and (b) agree to cooperate to the extent reasonably  
9 necessary to effectuate and implement all terms and conditions of the Stipulation and to  
10 exercise their best efforts to accomplish the foregoing terms and conditions of the  
11 Stipulation.

12 8.2. The Settling Parties intend this Settlement to be a final and complete  
13 resolution of all disputes between them. The Settlement compromises claims which are  
14 contested and shall not be deemed an admission by any Settling Party as to the merits  
15 of any claim or defense.

16 8.3. While Defendants deny that the claims advanced in the Litigation  
17 were meritorious, they will not assert in any public statement that the Litigation was not  
18 filed in good faith and/or is not being settled voluntarily after consultation with  
19 competent legal counsel. The Judgment will contain a finding that, during the course of  
20 the Litigation, the parties and their respective counsel at all times complied with the  
21 requirements of Federal Rule of Civil Procedure 11. The Settling Parties agree that the  
22 amount paid to the Settlement Fund and the other terms of the Settlement were  
23 negotiated in good faith by the Settling Parties and reflect a Settlement that was reached  
24 voluntarily after consultation with competent legal counsel. The Settling Parties  
25 reserve their right to rebut, in a manner that such party determines to be appropriate,  
26 any contention made in any public forum that the Litigation was brought or defended in  
27 bad faith or without a reasonable basis.

28



1           8.4.       Neither this Stipulation nor the Settlement contained herein, nor any  
2 act performed or document executed pursuant to or in furtherance of this Stipulation or  
3 the Settlement: (a) is or may be deemed to be or may be used as an admission of, or  
4 evidence of, the validity of any Released Claim, any allegation made in the Litigation,  
5 or any wrongdoing or liability of Defendants or any Released Persons; or (b) is or may  
6 be deemed to be or may be used as an admission of, or evidence of, any liability, fault,  
7 or omission of any of Defendants or any Released Persons in any civil, criminal, or  
8 administrative proceeding in any court, administrative agency, or other tribunal.  
9 Neither this Stipulation nor the Settlement, nor any act performed or document  
10 executed pursuant to or in furtherance of this Stipulation or the Settlement shall be  
11 admissible in any proceeding for any purpose, except to enforce the terms of the  
12 Settlement, except that Defendants may file the Stipulation and/or the Judgment in any  
13 action that may be brought against them in order to support a defense or counterclaim  
14 based on principles of *res judicata*, collateral estoppel, release, good faith settlement,  
15 judgment bar or reduction, or any other theory of claim preclusion or issue preclusion  
16 or similar defense or counterclaim.

17           8.5.       The Stipulation may be amended or modified only by a written  
18 instrument signed by or on behalf of all Settling Parties or their respective successors-  
19 in-interest. After prior notice to the Court, the Settling Parties may agree to reasonable  
20 extensions of time to carry out any provisions of this Stipulation.

21           8.6.       The Stipulation, including its Exhibits and Supplemental Agreement  
22 which are material parts thereof, constitutes the entire agreement among the parties  
23 hereto and no representations, warranties, or inducements have been made to any party  
24 concerning the Stipulation other than the representations, warranties, and covenants  
25 contained and memorialized in such documents. It is understood by the Settling Parties  
26 that, except for the matters expressly represented herein, the facts or law with respect to  
27 which this Stipulation is entered into may turn out to be other than, or different from,  
28 the facts now known to each party or believed by such party to be true; each party

1 therefore expressly assumes the risk of the facts or law turning out to be so different,  
2 and agrees that this Stipulation shall be in all respects effective and not subject to  
3 termination by reason of any such different facts or law. Except as otherwise provided  
4 herein, each party shall bear its own costs.

5           8.7.       Plaintiffs' Lead Counsel, on behalf of the Settlement Class, is  
6 expressly authorized by Plaintiffs to take all appropriate action required or permitted to  
7 be taken by the Settlement Class pursuant to the Stipulation to effectuate its terms and  
8 also are expressly authorized to enter into any modifications or amendments to the  
9 Stipulation on behalf of the Settlement Class which they deem appropriate. Plaintiffs  
10 and Plaintiffs' Lead Counsel represent and warrant that none of Plaintiffs' claims or  
11 causes of action referred to herein or that could have been alleged in the Litigation has  
12 been assigned, encumbered or in any manner transferred in whole or in part.

13           8.8.       Each counsel or other Person executing the Stipulation and any  
14 documents prepared in furtherance of the Stipulation on behalf of any party hereto,  
15 hereby warrants that such Person has the full authority to do so.

16           8.9.       The Stipulation may be executed in one or more counterparts. All  
17 executed counterparts and each of them shall be deemed to be one and the same  
18 instrument. A complete set of executed counterparts shall be filed with the Court.

19           8.10.     The Stipulation shall be binding upon, and inure to the benefit of,  
20 the successors and assigns of the parties hereto, including any corporation or other  
21 entity into or with which any party merges, consolidates, or reorganizes.

22           8.11.     The Court shall retain jurisdiction with respect to implementation  
23 and enforcement of the terms of the Stipulation, and all parties hereto submit to the  
24 jurisdiction of the Court for purposes of implementing and enforcing the settlement  
25 embodied in the Stipulation.

26           8.12.     Nothing in this Stipulation, Settlement, or the negotiations or  
27 proceedings relating to the foregoing is intended to or shall be deemed to constitute a  
28 waiver of any applicable privilege or immunity, including, without limitation, the

1 accountants' privilege, the attorney-client privilege, the joint defense privilege, or work  
2 product immunity.

3 8.13. This Stipulation and the Settlement contemplated by it, and all  
4 disputes arising out of or relating to the Stipulation and Settlement shall be construed  
5 and enforced in accordance with, and governed by, the substantive laws and procedural  
6 rules of the State of California without giving effect to California's choice-of-law  
7 principles.

8 8.14. Any written notice required pursuant to or in connection with this  
9 Stipulation shall be addressed to the parties' counsel as designated and identified  
10 below.

11 IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be  
12 executed, by their duly authorized attorneys, dated as of June 8, 2015.

13 Dated: June 8, 2015

GLANCY PRONGAY & MURRAY LLP

14  
15 By:   
16 Lionel Z. Glancy  
17 Robert V. Prongay  
18 Casey E. Sadler  
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*Lead Counsel for Lead Plaintiff  
and the Class*

21 Dated: June 8, 2015

SHEPPARD, MULLIN, RICHTER  
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