

STIPULATION OF SETTLEMENT AND RELEASE

This stipulation of settlement and release ("Stipulation of Settlement") is made and entered into by and between plaintiff Vanessa LaBoy ("Plaintiff" or "Class Representative"), individually and on behalf of all others similarly situated, and defendants Bare Escentuals, Inc. and Bare Escentuals Beauty, Inc. ("Defendants"), and their respective counsel of record, subject to the terms and conditions hereof and the Court's approval. This Stipulation of Settlement is a global resolution which, subject to Court approval, is intended to be a full and final resolution of both Plaintiff's class and individual claims, pending in the Alameda County Superior Court and with JAMS.

A. Definitions

1. "Action" means the case entitled, "*VANESSA LABOY, on behalf of herself and all others similarly situated, Plaintiff vs. BARE ESCENTUALS, INC., BARE ESCENTUALS BEAUTY, INC. and Does 1 through 50, inclusive, Defendants*," filed on July 6, 2012 in the Superior Court of the State of California, Alameda County, Case No. RG12638047, and all amendments thereto, as well as the concurrent JAMS arbitration of the same name, JAMS Ref. No. 1100074779.
2. "Administration Costs" means the actual and direct costs reasonably charged by the Settlement Administrator for its services in administering the Settlement, currently projected by the Parties not to exceed Thirty Thousand Dollars (\$30,000.00). Administrative Costs allocated but not paid to the Settlement Administrator shall be added to the Net Settlement Proceeds.
3. "Claim Form" means a proof of claim and release in substantially the form as Exhibit 1, attached hereto.
4. "Claims Deadline" means the date forty-five (45) days following the date on which the Settlement Administrator first mails the Notice and Claim Form to the Class Members.
5. "Claimants" means those Class Members who submit a timely and valid Claim Form.
6. "Class Counsel" means Plaintiff's counsel, Qualls & Workman, LLP.
7. "Class Released Claims" means all claims, demands, rights, liabilities and causes of action that were or could have been asserted (whether in tort, contract or otherwise) for violation of the Fair Labor Standards Act, the California Labor Code, the California Business and Professions Code, the Private Attorneys General Act ("PAGA"), the applicable Industrial Welfare Commission Orders or any similar local, state or federal law, whether for economic damages, non-economic damages, liquidated damages, punitive damages, restitution, penalties, other monies, or other relief based on any facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act pled in the Complaint, which are or could be the basis of claims that Defendants failed to pay all wages due, failed to pay overtime wages due, failed to reimburse necessary business expenses, failed to provide accurate wage statements, compelled or coerced employees to patronize Defendants, and/or engaged in unfair business practices; that Defendants allegedly required employees to apply makeup off-the-clock before their shift, purchase Bare Escentuals merchandise, and/or purchase and maintain required uniforms without reimbursement; and for penalties under the Private Attorneys General Act of 2004, penalties for any violations

enumerated above, or penalties for any other provision of the Labor Code, at any time on or before the date of Preliminary Approval.

8. "Complaint" means the Complaint filed in the Action on or about July 6, 2012 and the First Amended Complaint filed in the Action on or about August 20, 2012.
9. "Court" means the Superior Court of the State of California, County of Alameda.
10. "Class Period" is the period beginning July 6, 2008 through the date of Preliminary Approval.
11. "Defendants' Counsel" means the law firm of Orrick, Herrington & Sutcliffe LLP.
12. "Exclusion Letter" means a letter submitted by a Class Member to the Settlement Administrator and postmarked by the Objection/Exclusion Deadline that includes the Class Member's name and signature and the following statement, or something similar to, "I request to be excluded from the class action proceedings taking place in the matter of *LaBoy v. Bare Escentuals, Inc. and Bare Escentuals Beauty, Inc.*, Alameda Superior Court Case No. RG12638047."
13. "Fee and Expense Award" means such award of fees and costs/expenses as the Court may authorize to be paid to Class Counsel for the services they have rendered and will render to Plaintiff and the Class in the Action. The Fee and Expense Award will not exceed 33% of the Maximum Settlement Amount (\$150,000.00), plus Class Counsel's actual out-of-pocket costs/expenses in prosecuting this Action, which will not exceed Eighteen Thousand Dollars (\$18,000.00).
14. "Final Approval" means that the Final Approval Order and Judgment has been entered by the Court.
15. "Final Approval Order and Judgment" means the Order Granting Final Approval of Class Settlement and Judgment, in substantially the form as Exhibit 2, attached hereto, issued by the Court within the meaning and for purposes of Code of Civil Procedure sections 577, 904.1(a), and Rule 3.769 of the California Rules of Court.
16. "Individual Settlement Payment" means the portion of the Net Settlement Proceeds distributable to each Claimant.
17. "Individual Work Weeks" means weeks of employment for each Class Member as reflected by Defendants' corporate and business records, exclusive of leaves of absence. Approximations and averages will be used to cover periods where data is missing or otherwise not available.
18. "Maximum Settlement Amount" means the maximum amount of Four Hundred and Fifty Thousand Dollars (\$450,000.00) that Defendants shall pay as a result of this Stipulation of Settlement.
19. "Mediator" means Mark S. Rudy, Esq.
20. "Named Plaintiff Award" means the sum paid to Plaintiff Vanessa LaBoy in recognition of her effort in obtaining the benefits of the Settlement and for her general release of claims. The Named Plaintiff Award shall not exceed Five Thousand Dollars (\$5,000.00).

21. "Net Settlement Proceeds" means the Maximum Settlement Amount less the Fees and Expense Award, class member payroll and employment tax obligations arising from the settlement, the Named Plaintiff Award, the PAGA Payment, and Administration Costs, as approved and awarded by the Court. At this time, the Net Settlement Proceeds is estimated to be \$242,000.00.

22. "Notice" means the Court-approved form of notice to Class Members, substantially in the form as Exhibit 3, attached hereto.

23. "Objection/Exclusion Deadline" means the date forty-five (45) days following the date on which the Settlement Administrator first mails the Notice and Claim Form to the Class Members.

24. "PAGA Payment" means the sum of Five Thousand Dollars (\$5,000.00), which shall be allocated from the Maximum Settlement Amount to pay all applicable penalties under PAGA to the Labor and Workforce Development Agency ("LWDA"). Seventy-five percent (75%) of this sum (\$3,750) shall be paid to the LWDA, and the remainder shall be included in the Net Settlement Proceeds and distributed to Claimants.

25. "Parties" means Plaintiff and the Settlement Class and Defendants, collectively.

26. "Payment Obligation and Class Release Date" means the date which is sixty-five (65) days after (a) service of notice of entry of the Final Approval Order and Judgment on the Parties to the Action and all objectors to the Settlement, if any, without any appeals or requests for review being taken, or (b) orders affirming said Final Approval Order and Judgment or denying review after exhaustion of all appellate remedies, if appeals or requests for review have been taken.

27. "Payroll Taxes" means the employer's portion of FICA, FUTA, and all other state and federal payroll taxes.

28. "Percentage Share" means each Class Member's Individual Work Weeks divided by the Total Work Weeks.

29. "Preliminary Approval" means that the Court has entered an order substantially in the form as Exhibit 4, attached hereto, preliminarily approving the terms and conditions of this Stipulation of Settlement, including the manner of providing notice to Class Members.

30. "Released Parties" means Defendants, their subsidiaries, affiliates, parents; and their past or present officers, directors, members, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, and attorneys.

31. "Settlement" means the terms and conditions set forth in this Stipulation of Settlement.

32. "Settlement Administrator" means Heffler Claims Group LLC or such other entity which the Parties mutually agree shall serve as Settlement Administrator.

33. "Settlement Class" or "Class" means all individuals employed by Bare Escentuals, Inc. or Bare Escentuals Beauty, Inc. in California in a store during the Class Period and paid on an

hourly basis. Members of the Settlement Class are referred to herein as a "Class Member" or "Class Members."

34. "Total Work Weeks" means the sum of all Individual Work Weeks for all Class Members.

B. General

35. Plaintiff filed her initial complaint in the Superior Court of the State of California, Alameda County on July 6, 2012. On or about August 20, 2012, Plaintiff filed a first amended complaint, which added claims under PAGA. The Complaint seeks to certify a class of all hourly paid employees in California during the Class Period. Plaintiff's Complaint alleges that these employees did not receive minimum and overtime wages due because they were required to purchase Bare Escentuals merchandise without reimbursement, required to purchase and maintain uniforms without reimbursement, and required to apply make-up off-the-clock prior to their shifts. The Complaint seeks recovery of allegedly unpaid wages and overtime wages, restitution, penalties, interest, attorneys' fees and costs. Based on an arbitration agreement in Plaintiff's offer letter, signed September 9, 2010, the Court ordered Plaintiff's individual claims to arbitration, and stayed Plaintiff's PAGA and class claims pending arbitration.

36. Defendants deny any liability and wrongdoing of any kind associated with the claims alleged in the Action, and further denies that the Action is appropriate for class treatment for any purpose other than this Settlement. Defendants contend, among other things, that they have complied at all times with the California Labor Code, the Industrial Welfare Commission Wage Orders, and the California Business and Professions Code. In addition, it is Defendants' position that, if this case were to be litigated, class certification would be inappropriate.

37. The Class Representative believes that the Action is meritorious and that class certification is appropriate.

38. Class Counsel have conducted a thorough investigation into the facts of the Action, including formal discovery and extensive informal discovery and exchange of information. This has included a sampling of Class Members' payroll data and employee history records and the number of weeks worked by Class Members. Class Counsel are knowledgeable about and have done extensive research with respect to the applicable law and potential defenses to the claims of the Settlement Class. Class Counsel have diligently pursued an investigation of the Class Members' claims against Defendants. Based on documents obtained from Defendants through discovery, the forgoing data, and on their own independent investigation and evaluation, Class Counsel are of the opinion that the Settlement with Defendants for the consideration and on the terms set forth in this Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of the Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendants, and numerous potential appellate issues. Further, the Class Representative has carefully evaluated the terms of the Settlement, and, based upon that review, has determined that it is fair and reasonable, and therefore hereby waives her right to object to the Settlement or appeal any aspect of the Settlement. Any such objection or appeal shall therefore be void and of no force or effect. Defendants agree not to dispute that the Settlement is fair, reasonable and adequate.

39. The Parties stipulate and agree to the conditional certification of the Class for purposes of this Settlement only. Should, for whatever reason, the Court not grant Final Approval,

the Parties' stipulation to class certification as part of the Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection with, the issue of whether or not certification would be appropriate in a non-settlement context. Defendants expressly reserve their right and declare that they intend to oppose class certification vigorously should this Settlement not be granted Final Approval.

C. Settlement Components

40. The Settlement in this Action shall have five components: (1) the Individual Settlement Payments; (2) the Named Plaintiff Award; (3) the Fee and Expense Award; (4) the Administration Costs; and (5) the PAGA Payment. All of these components are included in the Maximum Settlement Amount.

(a) **Payroll Taxes:** The Maximum Settlement Amount does not include the Payroll Taxes, which shall be paid by Defendants separate and apart from the Maximum Settlement Amount. The Payroll Taxes will be computed by the Settlement Administrator based on the amounts paid to the Claimants. The Settlement Administrator shall be responsible for making all necessary payments and government filings in connection with such payments. If less than the full Net Settlement Proceeds is claimed by Claimants, the remaining amount may be used by Defendants to pay the employer's portion of the Payroll Taxes related to the Individual Settlement Payments.

(b) **Calculation of the Individual Settlement Payments:** The Settlement Administrator shall have the authority and obligation to calculate the amounts of Individual Settlement Payments in accordance with the methodology set forth in this Stipulation of Settlement and orders of the Court. The Parties recognize and agree that the claims for relief in the Action are extremely difficult to determine with any certainty for any given year, or at all, and are subject to myriad differing calculations and formulas. The Parties agree that the formula for allocating the Individual Settlement Payments to Claimants provided herein is reasonable and that the payments provided herein are designed to provide a fair settlement to such persons, in light of the uncertainties of the compensation alleged to be owed to the Class and the calculation of such amounts.

It shall be the responsibility of the Settlement Administrator to timely and properly withhold from Individual Settlement Payments payable to Claimants all applicable payroll and employment taxes, but not federal, state, and local income taxes, and to prepare and deliver the necessary tax documentation and, thereafter, to cause the appropriate deposits of withholding taxes and informational and other tax return filing to occur. Each Claimant's share of all applicable payroll and employment taxes withheld and deposited with the applicable governmental authorities in accordance with this Stipulation of Settlement shall be a part of, and paid out of, the Individual Settlement Payment to each Claimant. Each Claimant will be responsible for paying all applicable state, local, and federal income taxes on all amounts the Claimant receives pursuant to this Stipulation of Settlement.

The Parties have agreed that the Individual Settlement Payments will be calculated on the basis of the number of Individual Work Weeks. Given a prior class action settlement covering much of the Class Period, the Parties have agreed that ten percent (10%) of the Net Settlement Proceeds shall be allocated to Class Members employed during the period of July 6, 2008 to April 3, 2012 and ninety percent (90%) of the Net Settlement Proceeds shall be allocated to Class Members employed during the period of April 4, 2012 through Preliminary Approval. The Individual Settlement Payments

will therefore be dependent upon each Claimant's dates of employment, and will be calculated by multiplying the applicable Net Settlement Proceeds by each Class Member's applicable Percentage Share, and the result of this multiplication will be the Class Member's Individual Settlement Payment.

The Individual Settlement Payments will be allocated as follows: 25% to settlement of wage claims, which portion will be subject to required tax withholdings, and 75% to settlement of claims for reimbursement, interest, and statutory penalties, which portion will be paid without withholding any amount. The portion allocated to wages shall be reported on an IRS Form W-2, and the portion allocated to interest and penalties shall be reported on an IRS Form 1099.

(c) **Named Plaintiff Award:** Defendants agree not to object to Class Counsel's request for the Named Plaintiff Award to the Class Representative. The Named Plaintiff Award will be paid in addition to Plaintiff's Individual Settlement Payment. Should the Named Plaintiff Award approved by the Court be less than the amount sought, the difference shall be added to the Net Settlement Proceeds. An IRS Form 1099 will be issued to the Class Representative in connection with the Named Plaintiff Award.

Plaintiff agrees not to object to the Settlement, request exclusion from the Settlement or appeal any aspect of the Settlement. Any such objection, request for exclusion, or appeal shall therefore be void and of no force or effect. The Service Payment is paid in exchange for a general release by Plaintiff of all Released Parties for all claims, demands, rights, liabilities, and causes of action, including without limitation known or unknown claims, whether for economic damages, non-economic damages, punitive damages, restitution, tort, contract, penalties, injunctive or declaratory relief, attorneys fees, costs, or other monies or remedies. This release by Plaintiff includes all federal and state statutory claims, and federal and state common law claims (including but not limited to those for contract, tort, and equity), including, without limitation, the Americans with Disabilities Act, Age Discrimination in Employment Act, Title VII of the Civil Rights Act of 1964 (as amended), 42 U.S.C. § 1981, 42 U.S.C. § 1983, the Fair Labor Standards Act, the Employee Retirement Security Income Act of 1974, the California Constitution, the California Fair Employment and Housing Act, the California Unfair Competition Act (California Business and Professions Code section 17200 et seq.), the California Labor Code, including section 132a claims, and claims for additional compensation relating to stock options. Plaintiff acknowledges the language of Section 1542 of the California Civil Code, which provides:

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

Plaintiff expressly waives the protection of Section 1542. Plaintiff understands and agrees that claims or facts in addition to or different from those which are now known or believed by her to exist may hereafter be discovered. It is her intention to settle fully and release all of the claims she now has against the Released Parties, whether known or unknown, suspected or unsuspected. The Named Plaintiff Award shall be paid to Plaintiff specifically in exchange for the general release of the Released Parties from all claims, including those specified in this paragraph and a covenant not to sue the Released Parties. In exchange for the Named Plaintiff Award, Plaintiff also agrees never to apply for or accept employment with Defendants. Defendants agree to comply with their reference policy with respect to Plaintiff.

(d) **Class Counsel's Fees and Costs:** Defendants agree not to object to Class Counsel's request for its Fee and Expense Award. Should the Fee and Expense Award approved by the Court be less than the amount sought, the difference shall be added to the Net Settlement Proceeds. A Form 1099 will be issued to Class Counsel's firm with respect to the award of attorneys' fees and costs. Payment of the Fee and Expense Award to Class Counsel shall constitute full satisfaction of any obligation to pay any amounts to any person, attorney or law firm for attorneys' fees, expenses or costs in the Action incurred by any attorney on behalf of Plaintiff or the Class, and shall relieve Defendants and Defendants' Counsel of any other claims or liability to any other attorney or law firm for any attorneys' fees, expenses and/or costs to which any of them may claim to be entitled on behalf of Plaintiff and/or the Class. Upon receipt of the Fee and Expense Award, Class Counsel, Plaintiff and the Class will be deemed to have released Defendants from any and all claims for fees and costs resulting from the Action.

D. Release by the Class.

41. Upon the Payment Obligation and Class Release Date, the Class Members (other than those who submit a timely and valid Exclusion Letter), will fully release the Class Released Claims. The Class Members (other than those who submit a timely and valid Exclusion Letter) agree not to sue or otherwise make a claim against any of the Released Parties for the Class Released Claims. The Individual Settlement Payments shall be paid to Claimants specifically in exchange for the release of the Released Parties from the Class Released Claims and the covenant not to sue concerning the Class Released Claims.

E. Preliminary Approval

42. Class Counsel shall request a hearing before the Court to seek Preliminary Approval of the Settlement on the earliest practical mutually available date. In conjunction with such hearing, Class Counsel shall submit this Stipulation of Settlement, together with the exhibits attached hereto, and any other documents necessary to implement the Settlement. Class Counsel shall provide the papers they intend to file in support of Preliminary Approval to Defendants' Counsel at least three (3) business days prior to filing.

F. Notice and Claim Process.

43. Within fourteen (14) calendar days after entry of the order granting Preliminary Approval, Defendants shall provide to the Settlement Administrator a list of all Class Members, including their last known address, telephone number, social security number, and Individual Work Weeks.

44. Within ten (10) calendar days after receiving the Class Member list from Defendants, the Settlement Administrator shall send the Notice and Claim Form via first class mail to all Class Members. Prior to the initial mailing, the Settlement Administrator will check the addresses provided by Defendants through the National Change of Address System. Twenty-one (21) calendar days prior to the Claims Deadline, the Settlement Administrator will send a reminder postcard to each of the Class Members who have not then submitted either a Claim Form or Exclusion Letter.

45. If an original Notice and Claim Form is returned as undeliverable with a forwarding address provided by the United States Postal Service, the Claims Administrator will promptly resend a Notice and Claim Form to that forwarding address along with a brief letter stating that the

recipient of the Notice and Claim Form has until the original deadline set forth on the Notice or fifteen (15) calendar days after the re-mailing of the Notice and Claim Form (whichever is later) to submit a Claim Form. If an original Notice and Claim Form is returned as undeliverable without a forwarding address, the Claims Administrator will make reasonable efforts to locate forwarding addresses, including a skip trace, and if it obtains a more recent address, will resend a Notice and Claim Form along with a brief letter stating that the recipient of the Notice and Claim Form has until the original deadline set forth on the Notice or fifteen (15) calendar days after the re-mailing of the Notice and Claim Form (whichever is later) to submit a Claim Form.

46. At least five (5) calendar days prior to the final approval hearing, the Settlement Administrator will provide a declaration of due diligence and proof of mailing with regard to the mailing of the Notice and Claim Form to counsel for all Parties.

47. For purposes of this Stipulation of Settlement, a Claim Form shall be deemed valid only if the Class Member has dated and signed the Claim Form. If the Settlement Administrator receives a Claim Form on or before the Claims Deadline but the Claim Form is defective, then within five (5) calendar days of its receipt of the defective Claim Form, the Settlement Administrator shall, after retaining a copy of the defective form, mail the defective Claim Form back to the Class Member with instructions on how to cure the defect(s) and instructions that the corrected Claim Form must be received by the Settlement Administrator by the original deadline set forth on the Notice or fifteen (15) calendar days after the mailing of the defective Claim Form (whichever is later). If the Class Member's Claim Form remains defective after this opportunity to cure, unless the Parties agree otherwise, the Claim Form shall be rejected by the Settlement Administrator and the Settlement Administrator shall send that person a notice stating the reason the claim was denied.

48. To the extent a Claimant disputes the Individual Work Weeks shown in his or her Claim Form, the Claimant may produce evidence to the Settlement Administrator establishing the dates he or she contends to have worked during the Class Period. Defendants' records will be presumed determinative. The Settlement Administrator shall notify counsel for the Parties of any disputes. Defendants shall review their records and provide further information to the Settlement Administrator, as necessary. The Settlement Administrator shall resolve any disputes and notify counsel for the Parties of its decision.

49. The Settlement Administrator's determination of eligibility for any Individual Settlement Payment under the terms of this Stipulation of Settlement shall be conclusive, final and binding on all Parties and all Class Members, so long as the Settlement Administrator has first consulted with the Parties regarding any disputes or questions as to eligibility.

50. The Notice shall provide that Class Members who wish to exclude themselves from the Settlement must submit an Exclusion Letter. Any Class Member who properly requests exclusion using this procedure will not be entitled to any payment from the Settlement and will not be bound by the Stipulation of Settlement or have any right to object, appeal or comment thereon. Class Members who fail to submit a valid and timely Exclusion Letter shall be bound by all terms of the Stipulation of Settlement and any judgment entered in the Action if the Settlement is approved by the Court.

51. If five percent (5%) or more of the Class Members submit a timely and valid Exclusion Letter, Defendants shall have the option of canceling the Settlement and all actions taken in its furtherance will be null and void. Defendants must exercise this right within ten (10) calendar

days after the Settlement Administrator notifies the Parties of the number of valid requests for exclusion received, which the Settlement Administrator must do within seven (7) calendar days after the Objection/Exclusion Deadline.

52. In order to object to the Settlement, a Class Member must file his or her objection with the Court and serve it on all Parties no later than the Objection/Exclusion Deadline, or fifteen (15) calendar days after the re-mailing of the Notice and Claim Form to that Class Member, whichever is later.

53. Class Members must mail or deliver a completed Claim Form to the Settlement Administrator by the Claims Deadline, or fifteen (15) calendar days after the re-mailing of the Notice and Claim Form to that Class Member, whichever is later. The timeliness of submitted Claim Forms will be determined by valid postmark. In the event that the postmark is illegible, the Claim Form shall be deemed timely if it is received within seven (7) calendar days after the Claims Deadline.

54. Defendants will provide the Settlement Administrator with sufficient funds to make all payments due to Plaintiff, Class Counsel, the LWDA, the Settlement Administrator, and the Claimants, plus any owed Payroll Taxes within five (5) calendar days after the Payment Obligation and Class Release Date.

55. The Settlement Administrator will mail or wire all required payments no later than five (5) calendar days after the Payment Obligation and Class Release Date. If a Claimant's check is returned to the Settlement Administrator, the Settlement Administrator will make all reasonable efforts to re-mail it to the Claimant at his or her correct address. It is expressly understood and agreed that the checks for the Individual Settlement Payments will become void and no longer available if not cashed within one hundred twenty (120) calendar days after mailing. The amounts represented by checks remaining uncashed after the 120-day deadline will be forwarded to the California Secretary of State's Unclaimed Property Division for further handling on behalf of the Claimant. Upon completion of administration of the Settlement, the Settlement Administrator shall provide written certification of such completion to the Court, Class Counsel and Defendants' Counsel.

56. No person shall have any claim against Defendants, Defendants' Counsel, Plaintiff, the Class, Class Counsel or the Settlement Administrator based on mailings, distributions and payments made in accordance with this Stipulation of Settlement.

G. Motion for Final Approval.

57. Class Counsel shall provide the papers they intend to file in support of Final Approval to Defendants' Counsel at least three (3) business days prior to filing. Plaintiff shall timely file the motion for final approval and request entry of the Final Approval Order and Judgment.

H. No Effect on Employee Benefits.

58. The Individual Settlement Payments paid to Claimants and the Named Plaintiff Award paid to Plaintiff shall be deemed not to be "pensionable" earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g. vacation, retirement plans, etc.) of Claimants or Plaintiff. The Parties agree that any Individual Settlement Payments or

Named Plaintiff Award paid to Claimants or Plaintiff under the terms of this Stipulation of Settlement do not represent any modification of Claimants' or Plaintiff's previously credited hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or any other plan or program. Further, any Individual Settlement Payments or Named Plaintiff Award paid hereunder shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan, employee welfare benefit plan, or any other plan or program sponsored by Defendants. No benefit, including but not limited to 401K benefits, shall increase or accrue as a result of any payment made as a result of this Settlement.

I. Publicity.

59. Plaintiff and Class Counsel will not engage in any publicity or disparagement of any type related to this Settlement or Defendants.

J. Privacy of Documents and Information.

60. Plaintiff and Class Counsel agree that they will destroy all confidential documents and information provided to them by Defendants within thirty (30) calendar days of the Payment Obligation and Class Release Date, except for documents that must be saved for malpractice purposes. Plaintiff and Class Counsel further agree that none of the documents and information provided to them by Defendants shall be used for any purpose other than prosecution of this Action or the defense or prosecution of a malpractice action.

K. Voiding the Agreement.

61. In the event of any of the following: (i) five percent (5%) or more of the Class Members opt-out of the Settlement; (ii) the Court does not approve the scope of the Class Released Claims or there is a change to the scope of the Class Released Claims; and/or (iii) the Court finds the Maximum Settlement Amount is insufficient to warrant approval, Defendants may elect to reject this Settlement and the Stipulation of Settlement shall be null and void *ab initio* and any order or judgment entered by the Court in furtherance of this Settlement shall be treated as withdrawn or vacated by stipulation of the Parties. In such case, the Class Members and Defendants shall be returned to their respective statuses as of the date immediately prior to the execution of this Stipulation of Settlement. In the event an appeal is filed from the Final Approval Order and Judgment, or any other appellate review is sought prior to the Payment Obligation and Class Release Date, administration of the Settlement shall be stayed pending final resolution of the appeal or other appellate review.

L. Parties' Authority.

62. The signatories hereto represent that they are fully authorized to enter into this Stipulation of Settlement and bind the Parties to the terms and conditions hereof.

M. Mutual Full Cooperation.

63. The Parties and their counsel agree to fully cooperate with each other to accomplish the terms of this Stipulation of Settlement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Stipulation of Settlement. The Parties to this Stipulation of Settlement shall use their best

efforts, including all efforts contemplated by this Stipulation of Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Stipulation of Settlement and the terms set forth herein. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions or actions that may become necessary to effectuate the terms of this Stipulation of Settlement, the Parties shall seek the assistance of the Court or the Mediator to resolve such disagreement.

N. No Prior Assignments.

64. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights released and discharged by this Stipulation of Settlement.

O. No Admission.

65. Nothing contained herein, nor the consummation of this Stipulation of Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants or any of the other Released Parties. Each of the Parties hereto has entered into this Stipulation of Settlement with the intention of avoiding further disputes and litigation with the attendant risk, inconvenience and expenses. This Stipulation of Settlement is a settlement document and shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408 and/or any other similar law, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Stipulation of Settlement.

P. Construction.

66. The Parties hereto agree that the terms and conditions of this Stipulation of Settlement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Stipulation of Settlement shall not be construed in favor of or against any of the Parties by reason of the extent to which any Party or her or its counsel participated in the drafting of this Stipulation of Settlement.

Q. Jurisdiction of the Court.

67. Except for those matters to be resolved by the Mediator or the Settlement Administrator as expressly stated, any dispute regarding the interpretation or validity of or otherwise arising out of this Stipulation of Settlement, or relating to the Action or the Class Released Claims, shall be subject to the exclusive jurisdiction of the Court, and the Plaintiff, Class Members, and Defendants agree to submit to the personal and exclusive jurisdiction of the Court. The Court shall retain jurisdiction solely with respect to the interpretation, implementation and enforcement of the terms of this Stipulation of Settlement and all orders and judgments entered in connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement embodied in this Stipulation of Settlement and all orders and judgments entered in connection therewith.

R. California Law Governs.

68. All terms of this Stipulation of Settlement and the exhibits hereto shall be governed by and interpreted according to the laws of the State of California, regardless of its conflict of laws.

S. Invalidity of Any Provision.

69. The Parties request that before declaring any provision of this Stipulation of Settlement invalid, the Court shall first attempt to construe all provisions valid to the fullest extent possible consistent with applicable precedents.

T. Headings.

70. The headings contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Stipulation of Settlement or any provision hereof.

U. Exhibits.

71. The terms of this Stipulation of Settlement includes the terms set forth herein and attached Exhibits 1-4, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Stipulation of Settlement are an integral part of the Settlement.

V. Amendment or Modification.

72. This Stipulation of Settlement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

W. Entire Agreement.

73. This Stipulation of Settlement, including Exhibits 1-4 attached hereto, contains the entire agreement between Plaintiff and Defendants relating to the Settlement and transactions contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, including the Memorandum of Understanding between the Parties dated April 2, 2014, are merged herein. No rights hereunder may be waived except in writing.

X. Binding On Assigns.

74. This Stipulation of Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

Y. No Solicitation of Settlement Objections or Exclusions.

75. The Parties or their counsel shall not seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement or requests for exclusion from the Settlement, or encourage Class Members to appeal from the Court's Final Approval Order and Judgment.

Z. Interim Stay of Proceedings.

76. The Parties agree to hold in abeyance all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the final approval hearing to be conducted by the Court.

AA. Counterparts.

77. This Stipulation of Settlement may be executed in counterparts, and when each of the Parties has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Stipulation of Settlement, which shall be binding upon and effective as to all Parties.

CLASS COUNSEL:

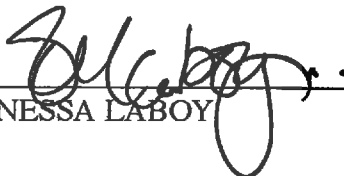
Dated: April __, 2014

QUALLS & WORKMAN, LLP

By: _____
ROBIN WORKMAN

Dated: April 20, 2014

CLASS REPRESENTATIVE:



VANESSA LABOY

DEFENDANTS' COUNSEL:

Dated: April __, 2014

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: _____
JESSICA PERRY

DEFENDANTS:

Dated: April __, 2014

BARE ESCENTUALS, INC.
BARE ESCENTUALS BEAUTY, INC.

By: _____
KARIN DURHAM
VP OF GLOBAL HUMAN RESOURCES

Z. Interim Stay of Proceedings.

76. The Parties agree to hold in abeyance all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the final approval hearing to be conducted by the Court.

AA. Counterparts.

77. This Stipulation of Settlement may be executed in counterparts, and when each of the Parties has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Stipulation of Settlement, which shall be binding upon and effective as to all Parties.

CLASS COUNSEL:

Dated: April 21, 2014

QUALLS & WORKMAN, LLP

By: 
ROBIN WORKMAN

Dated: April 20, 2014

CLASS REPRESENTATIVE:


VANESSA LABOY

DEFENDANTS' COUNSEL:

Dated: April __, 2014

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: _____
JESSICA PERRY

DEFENDANTS:

Dated: April __, 2014

BARE ESSENTUALS, INC.
BARE ESSENTUALS BEAUTY, INC.

By: _____
KARIN DURHAM
VP OF GLOBAL HUMAN RESOURCES

Z. Interim Stay of Proceedings.

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CLASS COUNSEL:

Dated: April __, 2014

QUALLS & WORKMAN, LLP

By: _____
ROBIN WORKMAN

Dated: April __, 2014

CLASS REPRESENTATIVE:

VANESSA LABOY

DEFENDANTS' COUNSEL:

Dated: May 27, 2014

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: _____
JESSICA PERRY

DEFENDANTS:

Dated: April __, 2014

BARE ESCENTUALS, INC.
BARE ESCENTUALS BEAUTY, INC.

By: _____
KARIN DURHAM
VP OF GLOBAL HUMAN RESOURCES

Z. Interim Stay of Proceedings.

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CLASS COUNSEL:

Dated: April __, 2014

QUALLS & WORKMAN, LLP

By: _____
ROBIN WORKMAN

Dated: April __, 2014

CLASS REPRESENTATIVE:

VANESSA LABOY

DEFENDANTS' COUNSEL:

Dated: April __, 2014

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: _____
JESSICA PERRY

DEFENDANTS:

May
Dated: ~~April~~ 22, 2014

BARE ESCENTUALS, INC.
BARE ESCENTUALS BEAUTY, INC.

By:  _____
KARIN DURHAM
VP OF GLOBAL HUMAN RESOURCES

EXHIBIT 1

CLAIM FORM
Vanessa LaBoy v. Bare Escentuals, Inc., et al.
Alameda County Superior Court, Case No. RG12638047

THE DEADLINE FOR SUBMITTING THIS FORM IS _____ **[45 days from mailing]**, 2014.

I. CLAIMANT IDENTIFICATION

Please Make any Name/Address Corrections Below:

<<First>> <<Last>> _____
<<Address1>> _____
<<Address2>> _____
<<City>> <<State>> <Zip>> _____

II. GENERAL INFORMATION

As an individual employed by Bare Escentuals, Inc. or Bare Escentuals Beauty, Inc. in California in a store and paid on an hourly basis, at any time between July 6, 2008 and _____ **[preliminary approval date]**, you are a Class Member in the class action entitled LaBoy v. Bare Escentuals, Inc., et al., Case No. RG12638047, Superior Court of California, County of Alameda. You are eligible to submit a Claim Form to participate in the Settlement reached by the Parties.

According to the payroll records maintained by Defendants, the total number of weeks you were employed as a Class Member, excluding leaves of absence, ("Individual Work Weeks") is: _____. Therefore, your estimated share of the settlement is \$_____.

In order to receive money from the Settlement, you must sign this Claim Form and return it by first-class mail, **postmarked no later than _____ **[45 days from mailing of Notice and Claim Form]**, 2014** to the following address:

LaBoy v. Bare Escentuals, Inc.
c/o Heffler Claims Group LLC
P.O. Box [_____] **[Address]**
[Number]

If you fail to submit a timely Claim Form, you will not receive any money in connection with the Settlement (although you will be bound by the other provisions of the Stipulation of Settlement approved by the Court, unless you request exclusion from the Class).

III. CERTIFICATION

I have received the Notice. I submit this Claim Form under the terms of the proposed Settlement described in the Notice. I also submit to the jurisdiction of the Alameda County Superior Court with respect to my claim as a Class Member and for purposes of enforcing the release of claims stated in the Stipulation of Settlement and Notice. The full and precise terms of the proposed settlement are contained in the Stipulation of Settlement filed with the Court. I further acknowledge that I am bound by the terms of any judgment that may be entered in this Action. I agree to furnish additional information to support my claim if required to do so. If I am the executor and/or heir of a Class Member or a representative of a Class Member, I have provided appropriate documentation about the capacity in which I am submitting this Claim Form on separate sheets attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing information is true and accurate, that I have read and understand the Notice that was mailed with this Claim Form, and agree to abide by the terms of the Notice and this Claim Form.

Taxpayer Identification Number Certification - Substitute IRS Form W-9

Enter the last four digits of your Social Security Number:

Under penalties of perjury, I certify that:

1. The last four digits of the social security number shown on this form is part of my correct taxpayer identification number (or I am waiting for a number to be issued to me); **and**
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; **and**
3. I am a U.S. citizen or resident alien.

Note: If you have been notified by the IRS that you are subject to backup withholding, you must cross out item 2 above.

The IRS does not require your consent to any provision of this document other than this Form W-9 certification to avoid backup withholding.

Dated: _____

Signature

EXHIBIT 2

JESSICA R. PERRY (STATE BAR NO. 209321)
ALEXANDRA PAVLIDAKIS (STATE BAR NO. 267895)
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, California 94025
Telephone: 650-614-7400
Facsimile: 650-614-7401
jperry@orrick.com
apavlidakis@orrick.com

Attorneys for Defendants
BARE ESCENTUALS, INC. and BARE ESCENTUALS
BEAUTY, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

VANESSA LABOY on behalf of herself and
all others similarly situated,

Plaintiff,

v.

BARE ESCENTUALS, INC., BARE
ESCENTUALS BEAUTY, INC. and DOES 1
through 50, inclusive,

Defendants.

Case No. RG12638047

CLASS ACTION

**[PROPOSED] ORDER AND
JUDGMENT GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

1 Plaintiff Vanessa LaBoy (“Plaintiff”) and Defendants Bare Escentuals, Inc. and Bare
2 Escentuals Beauty, Inc. (“Defendants”) (together the “Parties”) have entered into a Stipulation of
3 Settlement and Release (“Stipulation of Settlement”) to settle the above-captioned class action
4 subject to the Court’s approval (the “Settlement”). The Settlement provides for the mailing of
5 notices and claim forms and the payment of compensation to each Class Member who timely
6 submits a valid Claim Form (a “Claimant”).

7 **I. BACKGROUND**

8 **A. Procedural History**

9 The Action was filed by Plaintiff on July 6, 2012 in Alameda County Superior Court
10 alleging four causes of action: (1) Failure to Pay Overtime Wages Pursuant to California Labor
11 Code § 1194; (2) Failure to Reimburse for Expenses in Violation of California Labor Code §
12 2802, Industrial Welfare Commission Wage Order No. 7-2011, 8 Cal. Code Regs. § 11070 ¶9(A);
13 (3) Violation of California Labor Code Section 450; and (4) Unlawful, Unfair and Fraudulent
14 Business Practices Pursuant to California Business & Professions Code § 17200 *et seq.* On
15 August 20, 2012, Plaintiff filed a First Amended Complaint, adding a claim for Labor Code
16 Private Attorneys General Act of 2004: Labor Code Section 2698, *et seq.* (“PAGA”).

17 The Parties engaged in extensive informal discovery and exchange of information. This
18 has included a sampling of Class Members’ payroll data and employee history records and the
19 number of weeks worked by Class Members. The Parties then agreed to participate in a private
20 mediation on April 2, 2014 before respected neutral mediator (and plaintiffs’ counsel) Mark S.
21 Rudy, Esq. to try and resolve the claims. The parties reached a settlement at the mediation and
22 entered into a Memorandum of Understanding on that date. On or about _____
23 Plaintiff and Defendants executed the Stipulation of Settlement and Release, setting forth the
24 terms of the Settlement (“Stipulation of Settlement”).

25 **B. Investigation in the Class Action**

26 The Parties have conducted significant investigation of the facts and law during the
27 prosecution of this Action. Such discovery and investigations has included the exchange of
28 information and documents pursuant to discovery, meetings and conferences, and interviews of

1 numerous potential witnesses and putative class members. Counsel for the Parties have further
2 investigated the applicable law as applied to the facts discovered regarding the alleged claims of
3 the Class Members and potential defenses thereto and the damages claimed by Plaintiff.

4 **C. Benefits of the Settlement to Class Members**

5 Plaintiff recognizes the expense and length of continued proceedings necessary to
6 continue the litigation against Defendants through trial and through any possible appeals.
7 Plaintiff has also taken into account the uncertainty and risk of the outcome of further litigation,
8 and the difficulties and delays inherent in such litigation, including those involved in class
9 certification. Plaintiff is also aware of the burdens of proof necessary to establish liability for the
10 claims asserted in the Action, Defendants' defenses thereto, and the difficulties in establishing
11 damages for Class Members. Plaintiff has also considered the significant settlement negotiations
12 conducted by the Parties, and the advice of the neutral mediator. Based on the foregoing, Plaintiff
13 has determined that the Settlement set forth in the Stipulation of Settlement is a fair, adequate and
14 reasonable settlement, and is in the best interests of all Class Members.

15 **D. Class Members**

16 The "Class Members" are defined as "all individuals employed by Bare Escentuals, Inc. or
17 Bare Escentuals Beauty, Inc. in California in a store during the Class Period and paid on an
18 hourly basis," with "Class Period" defined as "the period beginning July 6, 2008 through the date
19 of Preliminary Approval."

20 **E. Plaintiff's Claims**

21 Plaintiff has claimed and continues to claim that the Class Released Claims have merit
22 and give rise to Defendants' liability. Neither the Stipulation of Settlement nor any documents
23 referred to herein, or any action taken to carry out the Stipulation of Settlement is or may be
24 construed as or may be used as an admission by or against Plaintiff as to the merits or lack thereof
25 of the claims asserted by Plaintiff.

26 **F. Defendants' Denials of Wrongdoing**

27 Defendants contend that all of their employees have been compensated in compliance
28 with the law, and that their conduct was not willful with respect to any alleged failure to pay any

1 wages (including but not limited to minimum wage, straight-time or overtime wages, or
2 otherwise), provide accurate itemized wage statements, reimburse necessary business expenses,
3 or in any other respect. Defendants have denied and continue to deny each of the claims and
4 contentions alleged by Plaintiff in the Action. Defendants deny any wrongdoing or legal liability
5 arising out of any of the facts or conduct alleged in the Action, and believe that they have valid
6 defenses to Plaintiff's claims. Neither the Stipulation of Settlement, nor any document referred to
7 or contemplated herein, nor any action taken to carry out the Stipulation of Settlement, may be
8 construed as or may be used as an admission, concession, or indication by or against Defendants
9 of any fault, wrongdoing or liability whatsoever, or of any concession that certification of a class
10 other than for purposes of this Settlement would be appropriate in this or any other case.

11 **G. Operation of the Settlement.**

12 Pursuant to the Order Granting Preliminary Approval of Class Action Settlement dated
13 _____, 2014, this Court conditionally certified the Class and granted preliminary
14 approval to the Settlement (the "Preliminary Approval Order"). The Preliminary Approval Order
15 also approved of the proposed forms of notice and notice plan. The Court entered the Preliminary
16 Approval Order after review and consideration of all of the pleadings filed in connection
17 therewith, and the oral presentations made by counsel at the hearing.

18 In compliance with the Preliminary Approval Order, Notices and Claim Forms were sent
19 to all Class Members via first class mail. Furthermore, reminder postcards and follow-up
20 mailings were performed for returned mail, in addition to the distribution of any Claim Forms to
21 Class Members requesting copies. The notice program was timely completed.

22 This matter is now before the Court on Plaintiff's Motion for Final Approval of the Class
23 Action Settlement, including approval of a Named Plaintiff Award for Class Representative
24 Vanessa LaBoy and Class Counsel's Application for a Fee and Expense Award. The Court has
25 read, heard, and considered all the pleadings and documents submitted, and the presentations
26 made in connection with the Motion and Application which came on for hearing on
27 _____, 2014.

28 This Court finds that the Settlement appears to be the product of serious, informed, non-

1 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential
2 treatment to any individuals. The Court further finds that the Settlement is fair, reasonable and
3 adequate and that Plaintiff has satisfied the standards for final approval of a class action
4 settlement under California law. Under the provisions of California Code of Civil Procedure
5 section 382 and Federal Rule of Civil Procedure 23, as approved for use by the California state
6 court in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971), the trial court has discretion to
7 certify a class where:

8 [Q]uestions of law or fact common to class members predominate
9 over any questions affecting only individual members, and that a
10 class action is superior to other available methods for fairly and
efficiently adjudicating the controversy....

11 Fed. R. Civ. Proc. 23.

12 Certification of a settlement class is the appropriate judicial device under these circumstances.

13 **II. ORDER AND JUDGMENT**

14 Based on the foregoing, **IT IS HEREBY ORDERED THAT:**

15 1. This Court has jurisdiction over the claims of the Class Members asserted in this
16 proceeding and over all Parties to the Action.

17 2. For the reasons set forth in the Preliminary Approval Order and in the transcript of
18 the proceedings of the Preliminary Approval hearing, which are adopted and incorporated herein
19 by reference, this Court finds that the applicable requirements of the California Code of Civil
20 Procedure Section 382 and Rule 3.769 of the California Rules of Court have been satisfied with
21 respect to the Class and the proposed Settlement. The Court hereby makes final its earlier
22 provisional certification of the Class, as set forth in the Preliminary Approval Order.

23 3. The Notice given to the Class Members fully and accurately informed the Class
24 Members of all material elements of the proposed Settlement and of their opportunity to object to
25 or comment thereon; was the best notice practicable under the circumstances; was valid, due and
26 sufficient notice to all Class Members; and complied fully with the laws of the State of California,
27 the United States Constitution, due process and other applicable law. The Notice fairly and
28 adequately described the Settlement and provided Class Members adequate instructions and a

1 variety of means to obtain additional information. A full opportunity has been afforded to the
2 Class Members to participate in this hearing, and all Class Members and other persons wishing to
3 be heard have been heard. Accordingly, the Court determines that all Class Members who did not
4 timely and properly execute a request for exclusion are bound by this Order and Judgment of
5 Final Approval.

6 4. Pursuant to California law, the Court hereby grants final approval to the Settlement
7 and finds it reasonable and adequate, and in the best interests of the Class as a whole. More
8 specifically, the Court finds that the Settlement was reached following meaningful discovery and
9 investigation conducted by Class Counsel; that the Settlement is the result of serious, informed,
10 adversarial, and arms-length negotiations between the Parties; and that the terms of the Settlement
11 are in all respects fair, adequate, and reasonable. In so finding, the Court has considered all of the
12 evidence presented, including evidence regarding the strength of the Plaintiff's case; the risk,
13 expense, and complexity of the claims presented; the likely duration of further litigation; the
14 amount offered in Settlement; the extent of investigation and discovery completed; and the
15 experience and views of Class Counsel. The Court further has considered the absence of
16 objection to the Settlement by Class Members, as well as the _____ Exclusion Letters submitted
17 by _____. Accordingly, the Court hereby directs that the Settlement be affected in
18 accordance with the Stipulation of Settlement and the following terms and conditions.

19 5. It is hereby ordered that the Settlement Administrator shall pay the Individual
20 Settlement Payments to the Claimants according to the methodology as set forth in the Stipulation
21 of Settlement.

22 6. It is hereby ordered that the that the Settlement Administrator shall pay the Named
23 Plaintiff Award of \$5,000.00 to Class Representative Vanessa LaBoy because the Court finds the
24 Named Plaintiff Award is fair and reasonable for the work she provided to the Class and Class
25 Counsel and in exchange for a general release.

26 7. It is hereby ordered that the Settlement Administrator shall pay the PAGA
27 Payment of \$3,500.00 to the Labor and Workforce Development Agency to pay all applicable
28 penalties under the California Labor Code's Private Attorney General Act of 2004, as amended,

1 California Labor Code sections 2699 *et seq.*

2 8. It is hereby ordered that the Settlement Administrator pay the PAGA Payment of
3 \$1,250.00 to Claimants on a pro rata basis according to the terms of the Stipulation of Settlement.

4 9. It is hereby ordered that the Settlement Administrator, Heffler Claims Group LLC
5 shall pay itself a payment of \$_____ for the services performed in administering the
6 Settlement.

7 10. It is hereby ordered that the Settlement Administrator shall pay the Fee and
8 Expense Award of \$_____, plus \$_____ in actual litigation costs/expenses, to
9 Class Counsel because Class Counsel's request falls within the range of reasonableness and the
10 result achieved justified the award. Class Counsel's actual litigation costs/expenses in
11 prosecuting this Action are hereby approved as reasonably incurred. The Settlement
12 Administrator shall hold 10% of the Fee and Expense Award in an interest-bearing account until
13 the Court's approval of a final compliance status report after completion of the distribution
14 process. The Compliance Hearing shall be _____ at _____ in Department 21 of the
15 Alameda County Superior Court, located at 1221 Oak Street, Oakland, California 94612. Class
16 Counsel shall file a compliance status report by _____.

17 11. With this Final Approval of the proposed Settlement, it is hereby ordered that
18 Class Members (other than those who submit a timely and valid Exclusion Letter) and their
19 successors shall conclusively be deemed to have given a release, as set forth in the Stipulation of
20 Settlement and the Notice, against the Released Parties, and all such participating Class Members
21 and their successors shall be permanently enjoined and forever barred from asserting any claim
22 related to this Action against the Released Parties. The Class Released Claims include all claims,
23 demands, rights, liabilities and causes of action that were or could have been asserted (whether in
24 tort, contract or otherwise) for violation of the Fair Labor Standards Act, the California Labor
25 Code, the California Business and Professions Code, the Private Attorneys General Act
26 ("PAGA"), the applicable Industrial Welfare Commission Orders or any similar local, state or
27 federal law, whether for economic damages, non-economic damages, liquidated damages,
28 punitive damages, restitution, penalties, other monies, or other relief based on any facts,

1 transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to
2 act pled in the Complaint, which are or could be the basis of claims that Defendants failed to pay
3 all wages due, failed to pay overtime wages due, failed to reimburse necessary business expenses,
4 failed to provide accurate wage statements, compelled or coerced employees to patronize
5 Defendants, and/or engaged in unfair business practices; that Defendants allegedly required
6 employees to apply makeup off-the-clock before their shift, purchase Bare Escentuals
7 merchandise, and/or purchase and maintain required uniforms without reimbursement; and for
8 penalties under the Private Attorneys General Act of 2004, penalties for any violations
9 enumerated above, or penalties for any other provision of the Labor Code, at any time on or
10 before the date of Preliminary Approval (and whether such claims are based on California or
11 federal wage and hour law, contract law, or other law).

12 12. No other costs or fees relief shall be awarded, either against Defendants or any
13 related persons or entities, as defined in the Stipulation of Settlement, or from the award to the
14 Settlement Class.

15 13. Judgment is hereby entered. Without affecting the finality of this Order and
16 Judgment of Final Approval in any way, the Court retains jurisdiction pursuant to Code of Civil
17 Procedure section 664.6 and Rule 3.769(h) of the California Rules of Court to enforce the terms
18 of this Order and Judgment of Final Approval and of the Stipulation of Settlement.

19 14. Neither the making of the Stipulation of Settlement nor the entry into the
20 Stipulation of Settlement constitutes an admission by Defendants, nor is this Order a finding of
21 the validity of any claims in the Complaint or of any other wrongdoing. Further, the Stipulation
22 of Settlement is not a concession, and shall not be used as an admission of any wrongdoing, fault,
23 or omission of any entity or persons; nor may any action taken to carry out the terms of the
24 Stipulation of Settlement be construed as an admission or concession by or against Defendants or
25 any related person or entity.

26 15. The Settlement Administrator shall post this Order and Judgment on its website
27 upon the Court's signature for a period of no less than thirty (30) days.

28 **IT IS SO ORDERED.**

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Dated: _____, 2014

Hon. Wayne Carvill
Judge of the Superior Court of California

EXHIBIT 3

IMPORTANT LEGAL NOTICE

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

VANESSA LABOY on behalf of herself and all others
similarly situated,

Plaintiff,

vs.

BARE ESCENTUALS, INC., BARE ESCENTUALS BEAUTY,
INC. and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: RG12638047

**NOTICE OF (1) PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT; (2) FINAL
APPROVAL HEARING; (3) RIGHT TO OBJECT
OR OPT OUT; AND (4) REQUIREMENT TO
RETURN A CLAIM FORM TO RECEIVE A
MONETARY PAYMENT FROM THE
SETTLEMENT**

**THIS NOTICE AFFECTS YOUR RIGHTS - PLEASE
READ IT CAREFULLY.**

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU WERE EMPLOYED ON AN HOURLY BASIS BY BARE ESCENTUALS, INC. OR BARE ESCENTUALS BEAUTY, INC. IN CALIFORNIA IN A STORE BETWEEN JULY 6, 2008 AND _____ **[Date of Preliminary Approval]**.

YOU ARE HEREBY NOTIFIED that the Court has granted preliminary approval of a proposed class settlement (the "Settlement") of the above-captioned purported class action ("the Action") filed in Alameda County Superior Court ("the Court"). The proposed Settlement will resolve all class claims in this Action. The Court has ordered that this Notice be sent to you because you may be a Class Member. The purpose of this Notice is to inform you of the Settlement of this Action and your legal rights under the Settlement.

If you would like to receive money from the Settlement, you must return the attached Claim Form, and it must be postmarked by _____ **[45 days from mailing of Notice and Claim Form]. If you fail to file a Claim Form by that date, you will receive no payment under the Settlement, but you will be bound by its terms, unless you request exclusion from the Class.** Please refer to pages 4-5 of this Notice for a more complete explanation of your options under the Settlement.

SUMMARY OF CASE

On July 6, 2012, Plaintiff Vanessa LaBoy filed a complaint in the Superior Court of California for the County of Alameda against Bare Escentuals, Inc. and Bare Escentuals Beauty, Inc. (together, "Defendants") on behalf of herself and other similar employees who worked in a store. She filed a first amended complaint on August 20, 2012. The Action alleges, among other things, that the Class Members are owed compensation for alleged unpaid wages, unreimbursed necessary business expenses, non-compliant wage statements, penalties under PAGA and other related penalties. The Action seeks damages for unpaid wages and overtime wages, restitution, penalties, interest, attorneys' fees and costs and other relief. The Action includes claims under the California Labor Code, related Wage Orders of the Industrial Welfare Commission, and California Business and Professions Code Section 17200 *et seq.*

After extensive investigation and an exchange of relevant information, the Parties mediated the Action and reached the Settlement that is memorialized in the Stipulation of Settlement on file with the Court, and whose terms are generally summarized in this Notice.

POSITIONS OF THE PARTIES AND REASONS FOR SETTLEMENT

Defendants contend that they compensate employees in full compliance with the law. They deny each of the claims and contentions alleged by Plaintiff in the Action. Although Defendants have strong defenses to the Action, they have concluded that a lengthy and expensive lawsuit is not in the best interests of either side. Defendants have, therefore, agreed to settle this Action in the manner and upon the terms set forth in the proposed Settlement to put to rest all claims that are or could have been asserted against it in the Action. Nothing regarding the Settlement may be construed as, or may be used as, an admission, concession or indication by or against Defendants of any fault, wrongdoing or liability whatsoever.

Class Counsel recognizes the expense and length of continued proceedings necessary to continue the Action against Defendants through certification, trial and any possible appeals, the uncertainty and the risk of the outcome of further litigation, including the risk that the class might not be certified, as well as the difficulties and delays generally inherent in such litigation, the burdens of proof necessary to establish liability for the claims, and of the difficulties in establishing damages for the Class Members. Class Counsel believes the proposed Settlement is fair, adequate and reasonable and in the best interests of the Class Members.

The Court has made no ruling on the merits of the Class Members' claims and has determined only that certification of the Class for settlement purposes is appropriate under California law.

SUMMARY OF SETTLEMENT TERMS

Settlement Amount. The Stipulation of Settlement provides that Defendants will pay \$450,000.00 (the "Maximum Settlement Amount") to fully resolve the claims in the Action. The following deductions will be made from this Maximum Settlement Amount:

- Settlement Administration. The Court has tentatively approved a payment of not to exceed \$30,000.00 to the Settlement Administrator, Heffler Claim Group, LLC for the costs incurred in notifying the Class of this Settlement and processing any claims.
- Attorneys' Fees and Expenses. The Court preliminarily appointed the following attorneys as Class Counsel to represent the Class in this Action:

Daniel H. Qualls
Robin G. Workman
Aviva N. Roller
QUALLS & WORKMAN L.L.P.
177 Post Street, Suite 900
San Francisco, California 94108
(415) 782-3660

Class Counsel will ask the Court to approve a Fee and Expense Award of \$150,000.00, plus reimbursement of the actual litigation costs/expenses they incurred, not to exceed \$18,000.00. Class Counsel have been prosecuting the Action on behalf of the Class on a contingency fee basis (that is, without being paid to date) while advancing litigation costs and expenses. The Fee and Expense Award will constitute full compensation for all legal fees and litigation costs/expenses of Class Counsel in the Action, including any work they do in the future. Class Members are not personally responsible for any fees or litigation costs/expenses.

- Named Plaintiff Award to Class Representative. Class Counsel will also ask the Court to approve a Named Plaintiff Award in the amount of \$5,000.00 for Class Representative Vanessa LaBoy for acting as the representative on behalf of the Class, spending time assisting with the lawsuit, signing a

general release of all claims she might have against Defendants, and agreeing to never apply for or accept employment with Defendants, which is not required of Class Members.

- **PAGA Payment.** An amount of \$5,000.00 is allocated to pay all applicable penalties under California Labor Code's Private Attorneys General Act of 2004 ("PAGA"). 75% of this PAGA Payment will be paid to California's Labor and Workforce Development Agency and 25% of this PAGA Payment will be paid to Class Members.

Payment to Class Members: Plan of Allocation. Class Members who submit Claim Forms on or before the deadline ("Claimants") may receive an Individual Settlement Payment, as set forth below.

Calculation of Individual Settlement Payments to Claimants. The balance of the Maximum Settlement Amount after the deductions described above is called the "Net Settlement Proceeds." The Net Settlement Proceeds are currently estimated to be \$242,000.00, which is the total amount that will be available to Claimants. Given the claims at issue and potential liability periods, ten percent of the Net Settlement Proceeds is allocated to Class Members employed during the period of July 6, 2008 to April 3, 2012 and ninety percent of the Net Settlement Proceeds is allocated to Class Members employed during the period of April 4, 2012 through _____ [date of Preliminary Approval]. Each Claimant will receive an Individual Settlement Payment out of the Net Settlement Proceeds based on the dates of his/her employment and his/her number of weeks of employment with Defendants as a Class Member, as reflected by Defendants' payroll records, exclusive of leaves of absence ("Individual Work Weeks"). Approximations and averages will be used to cover periods where data is missing or otherwise not available.

Tax Information. IRS Forms W-2 and 1099 (and the equivalent California forms) will be distributed to Claimants reflecting the payments they receive under the Settlement. For tax purposes, 25% of each Claimant's Individual Settlement Payment will be treated as damages for unpaid wages and reported on a W-2, and 75% will be treated as interest and penalties under the California Labor Code and reported on a Form 1099. Claimants should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement. The usual and customary employee payroll deductions will be taken out of the amounts attributable to unpaid wages.

Release of Claims. If the Settlement is approved by the Court, it will bar any Class Member who does not timely opt out of the Settlement from bringing certain claims against Defendants, described below. The Settlement will fully release and discharge Defendants, their subsidiaries, affiliates, parents, and their past or present officers, directors, members, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, and attorneys (the "Released Parties") from all claims, demands, rights, liabilities and causes of action that were or could have been asserted (whether in tort, contract or otherwise) for violation of the Fair Labor Standards Act, the California Labor Code, the California Business and Professions Code, the Private Attorneys General Act ("PAGA"), the applicable Industrial Welfare Commission Orders or any similar local, state or federal law, whether for economic damages, non-economic damages, liquidated damages, punitive damages, restitution, penalties, other monies, or other relief based on any facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act pled in the complaint, which are or could be the basis of claims that Defendants failed to pay all wages due, failed to pay overtime wages due, failed to reimburse necessary business expenses, failed to provide accurate wage statements, compelled or coerced employees to patronize Defendants, and/or engaged in unfair business practices; that Defendants allegedly required employees to apply makeup off-the-clock before their shift, purchase Bare Escentuals merchandise, and/or purchase and maintain required uniforms without reimbursement; and for penalties under PAGA, penalties for any violations enumerated above, or penalties for any other provision of the Labor Code, at any time on or before the date of Preliminary Approval (and whether such claims are based on California

or federal wage and hour law, contract law, or other law). These claims that Class Members are agreeing to release and discharge are referred to as "Class Released Claims," as that term is more fully defined in the Stipulation of Settlement.

Please note that even if Class Members may later discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Class Released Claims, each Class Member, upon the Payment Obligation and Class Release Date, shall be deemed to have, and by operation of the Final Approval Order and Judgment shall have, fully, finally, and forever settled and released any and all Class Released Claims. This is true whether the Class Released Claims are known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts.

The Class Members agree not to sue or otherwise make a claim against any of the Released Parties for the Class Released Claims. The Individual Settlement Payments are paid to Claimants specifically in exchange for the release of the Released Parties from the Class Released Claims and for their agreement not to sue concerning the Class Released Claims.

YOUR OPTIONS UNDER THE SETTLEMENT

Option 1 – Submit the Enclosed Claim Form for Payment

If you would like to receive money from the Settlement, you must complete and sign the enclosed Claim Form. You need to complete the Claim Form and promptly fax or mail it to the Settlement Administrator postmarked no later than _____ [45 days from mailing of Notice and Claim Form], 2014 in order to be eligible for an Individual Settlement Payment.

If you choose this **Option 1**, and if the Court grants Final Approval of the Settlement, you will be mailed a check for your Individual Settlement Payment. In addition, you will be deemed to have released and waived the Class Released Claims against the Released Parties.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the Settlement, you can request to be excluded from the Settlement. To do so, you must submit an Exclusion Letter to the Settlement Administrator clearly indicating that you have decided not to participate in the Settlement and desire to be excluded from the Settlement. The written Exclusion Letter must set forth your name, address, telephone number and last four digits of your social security number, and it must include the following statement, or something similar: "I request to be excluded from the class action proceedings taking place in the matter of *LaBoy v. Bare Escentuals, Inc. and Bare Escentuals Beauty, Inc.*, Alameda Superior Court Case No. RG12638047."

You must sign, date, and either fax the Exclusion Letter to (**) ***-**** or mail it by First Class U.S. Mail or equivalent no later than _____ [45 days from mailing of Notice and Claim Form], 2014, to _____.

If you choose this **Option 2**, you will no longer be a Class Member. You will not be deemed to have released the Class Released Claims, but you also will not receive an Individual Settlement Payment from the Settlement and you will be barred from filing any objection to the Settlement.

Option 3 – File an Objection with the Court

If you wish to object to the Settlement, you can file an objection with the Court explaining the reasons why you object to the Settlement. Your objection must state your full name, address, telephone number, dates of

employment with Defendants, and the basis for your objection. Your objection must be (i) filed with the Court, and (ii) either faxed to **(**) ***_****** or mailed to _____, and (iii) mailed to each of the attorneys listed below:

QUALLS & WORKMAN L.L.P.
Robin Workman
177 Post Street, Suite 900
San Francisco, California 94108

ORRICK, HERRINGTON & SUTCLIFFE, LLP
Jessica Perry
1000 Marsh Road
Menlo Park, California 94025

You must file your objection with the Court no later than _____ **[45 days from mailing of Notice and Claim Form]**, 2014. Late objections will not be considered. If you file an objection, you are not excluding yourself from the Settlement. To exclude yourself from the Settlement, you must follow the directions described above in Option 2. Please note that you cannot both object to the Settlement and exclude yourself. You must choose one option only.

If you file a valid and timely objection, you may also, if you wish, appear at the Final Approval hearing on the Settlement, set for _____ at __: __ .m. in the Alameda County Superior Court and discuss your objection with the Court and the parties at your own expense. The date and time of the hearing may change without notice.

If you choose this **Option 3**, you may still receive an Individual Settlement Payment, but only if you complete your Claim Form and fax or postmark it by _____ **[45 days from mailing of Notice and Claim Form]**, 2014. Otherwise, if the Court overrules your objection, you will be deemed to have released the Class Released Claims against the Released Parties.

Option 4 – Do Nothing

You may also choose to do nothing. If you choose this **Option 4**, and if the Court grants Final Approval of the Settlement, you will be deemed to have released the Class Released Claims against the Released Parties even though you will not receive any money from the Settlement.

ADDITIONAL INFORMATION

This Notice is only a summary of the Action and the basic terms of the Settlement. For a more detailed statement of the matters involved in the Action and the Settlement, you may:

- Refer to the pleadings, the Stipulation of Settlement, and other papers filed in the Action, which you will find at the Office of the Clerk of the Alameda County Superior Court located at 1221 Oak Street, Oakland, California 94612, during regular business hours of each court day.
- Visit the Alameda County Superior Court’s website, known as DomainWeb, at <https://publicrecords.alameda.courts.ca.gov/prs>. Once there, click on the “Case Number Search” option then enter Case Number RG12638047 (Case Type is General Civil).
- Contact Class Counsel at:

Daniel H. Qualls
Robin G. Workman
Aviva N. Roller
QUALLS & WORKMAN L.L.P.
177 Post Street, Suite 900
San Francisco, California 94108

(415) 782-3660
dan@qualls-workman.com
robin1@qualls-workman.com
aviva@qualls-workman.com

- Visit the following website: [URL of website established by Heffler or Plt's counsel with links to notice and most important documents in case]

Please direct all inquiries regarding this Notice and/or the Settlement to the Settlement Administrator at (***) ***-****.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANTS OR DEFENDANTS' ATTORNEYS WITH INQUIRIES.

DATED: _____, 2014

BY ORDER OF THE COURT
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

EXHIBIT 4

1 JESSICA R. PERRY (STATE BAR NO. 209321)
2 ALEXANDRA PAVLIDAKIS (STATE BAR NO. 267895)
3 ORRICK, HERRINGTON & SUTCLIFFE LLP
4 1000 Marsh Road
5 Menlo Park, California 94025
6 Telephone: 650-614-7400
7 Facsimile: 650-614-7401
8 jerry@orrick.com
9 apavlidakis@orrick.com

10 Attorneys for Defendants
11 BARE ESCENTUALS, INC. and BARE ESCENTUALS
12 BEAUTY, INC.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

1 VANESSA LABOY on behalf of herself and
2 all others similarly situated,

3 Plaintiff,

4 v.

5 BARE ESCENTUALS, INC., BARE
6 ESCENTUALS BEAUTY, INC. and DOES 1
7 through 50, inclusive,

8 Defendants.

Case No. RG12638047

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

1 On July 6, 2012, Plaintiff Vanessa LaBoy (“Plaintiff”), individually, and on behalf of
2 other members of the general public similarly situated, filed suit against Defendants Bare
3 Escentuals, Inc. and Bare Escentuals Beauty, Inc. (“Defendants”) in the Superior Court of
4 California for the County of Alameda. On August 20, 2012, Plaintiff filed a First Amended
5 Complaint. The First Amended Complaint asserted claims under California Labor Code sections
6 201, 202, 203, 204, 212, 226, 226.3, 450, 510, 558, 1174, 1194, 2698 *et seq.*, and 2802,
7 California Industrial Welfare Commission Wage Orders, and representative claims under
8 California Business and Professions Code sections 17200 *et seq.* Plaintiff alleged that hourly paid
9 employees of Defendants are owed compensation for alleged unpaid wages, unreimbursed
10 necessary business expenses, non-compliant wage statements, and various penalties. Plaintiff
11 seeks damages for unpaid wages and overtime wages, restitution, penalties, interest, attorneys’
12 fees and costs and other relief. Defendants denied all of Plaintiff’s claims and disputed that they
13 owned any compensation to Plaintiff or the Class Members.

14 The Parties engaged in extensive informal discovery and exchange of information. This
15 has included a sampling of Class Members’ payroll data and employee history records and the
16 number of weeks worked by Class Members. The Parties then agreed to participate in a private
17 mediation on April 2, 2014 before respected neutral mediator (and plaintiffs’ counsel) Mark S.
18 Rudy, Esq. to try and resolve the claims. The parties reached a settlement at the mediation and
19 entered into a Memorandum of Understanding on that date. On or about _____
20 Plaintiff and Defendants executed the Stipulation of Settlement and Release, setting forth the
21 terms of the Settlement (“Stipulation of Settlement”).

22 A preliminary hearing was held before this Court on _____, for the purpose
23 of determining, among other things, whether the Stipulation of Settlement was within the range of
24 possible approval and whether notice to the Class of its terms and conditions, and the scheduling
25 of a formal fairness hearing, also known as a final approval hearing, will be worthwhile.
26 Appearing at the hearing were Jessica R. Perry of Orrick, Herrington & Sutcliffe LLP on behalf
27 of Defendants, and _____ of Qualls & Workman L.L.P. on behalf of Plaintiff and the
28 Class Members.

1 The Court, having reviewed the papers and documents presented, having heard the
2 statements of counsel, having considered the matter, and making findings and rulings at the
3 hearing,

4 **IT IS HEREBY ORDERED:**

5 1. The Court hereby GRANTS preliminary approval of the terms and conditions
6 contained in the Stipulation of Settlement. The Court preliminarily finds that the terms of the
7 Stipulation of Settlement appear to be within the range of possible approval, pursuant to the
8 provisions of Section 382 of the California Code of Civil Procedure.

9 2. It appears to the Court on a preliminary basis that: (1) the settlement amount is fair
10 and reasonable to the Class Members when balanced against the probable outcome of further
11 litigation relating to class certification, liability and damages issues and potential appeals; (2)
12 significant discovery, investigation, research, and litigation have been conducted such that
13 counsel for the Parties at this time are able to reasonably evaluate their respective positions; (3)
14 settlement at this time will avoid substantial costs, delay and risks that would be presented by the
15 further prosecution of the litigation; and (4) the proposed settlement has been reached as the result
16 of intensive, serious and non-collusive negotiations between the Parties. Accordingly, the Court
17 preliminarily finds that the Stipulation of Settlement was entered into in good faith.

18 3. The Court hereby GRANTS conditional certification of the provisional class, in
19 accordance with the Stipulation of Settlement for the purposes of this Settlement only. The Class
20 is defined as “all individuals employed by Bare Escentuals, Inc. or Bare Escentuals Beauty, Inc.
21 in California in a store during the Class Period and paid on an hourly basis,” with “Class Period”
22 defined as “the period beginning July 6, 2008 through the date of Preliminary Approval.”

23 4. The Court hereby authorizes the retention of Heffler Claims Group LLC as
24 Settlement Administrator for the purpose of this Settlement.

25 5. The Court hereby conditionally finds that Daniel H. Qualls, Robin G. Workman,
26 and Aviva N. Roller of Qualls & Workman L.L.P. may act as counsel for the Class for settlement
27 purposes only, and that Plaintiff Vanessa LaBoy may act as class representative for the Class for
28 settlement purposes only.

1 6. The Court hereby APPROVES the Notice of (1) Preliminary Approval of Class
2 Action Settlement; (2) Final Approval Hearing; (3) Right to Object or Opt Out; and (4)
3 Requirement to Return a Claim Form to Receive a Monetary Payment from the Settlement (the
4 “Notice”), attached hereto as **EXHIBIT A**. The Court finds that the Notice along with the related
5 notification materials constitute the best notice practicable under the circumstances and are in full
6 compliance with the laws of the State of California, to the extent applicable, the United States
7 Constitution, and the requirements of due process. The Court further finds that the Notice
8 appears to fully and accurately inform the Class Members of all material elements of the
9 Stipulation of Settlement, of the Class Members’ right to be excluded from the Class, and of each
10 Class Member’s right and opportunity to object to the Settlement. The Notice shall be mailed via
11 first class mail to the most recent known address of each Class Member within ten (10) days of
12 the Settlement Administrator’s receipt of the Class Member list from Defendants, and twenty-one
13 (21) days prior to the Claims Deadline, a reminder postcard shall be mailed via first class mail to
14 Class Members who have not yet responded.

15 7. The Court hereby APPROVES the proposed procedure for exclusion from the
16 Class by submitting a written Exclusion Letter to the Settlement Administrator no later than forty-
17 five (45) days following the date on which the Settlement Administrator first mails the Notice and
18 Claim Forms to Class Members. Any Class Member who submits a valid and timely Exclusion
19 Letter shall no longer be a member of the Class, shall be barred from participating in the
20 Settlement and shall receive no benefit from the Settlement.

21 8. The Court hereby APPROVES the proposed Claim Form for use in administering
22 the Settlement, attached hereto as **EXHIBIT B**. Claim Forms must be mailed to Class Members
23 along with the Notice. Class Members must return completed Claim Forms to the Settlement
24 Administrator, postmarked no later than forty-five (45) days following the date on which the
25 Settlement Administrator first mails the Notice and Claim Form to Class Members.

26 9. The Court hereby ORDERS that Class Counsel shall file a motion for Final
27 Approval of the Class Action Settlement, with the appropriate declarations and supporting
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1 evidence, including a declaration setting forth the identity of any Class Members who timely
2 submitted an Exclusion Letter, by _____.

3 10. The Court further ORDERS that Class Counsel shall file a motion for approval of
4 the Fees and Expense Award and the Named Plaintiff Award, with the appropriate declarations
5 and supporting evidence, by _____, to be heard at the same time as the motion for
6 Final Approval of the Class Action Settlement.

7 11. The Court further ORDERS that each Class Member who does not timely submit
8 an Exclusion Letter shall be given a full opportunity to object to the Stipulation of Settlement and
9 request for attorneys' fees and to participate at a Final Approval hearing, which the Court sets to
10 commence on _____ at _____ in Department 21 of the Alameda County Superior
11 Court, located at 1221 Oak Street, Oakland, California 94612. Any Class Member seeking to
12 object to the proposed Settlement shall file such objection in writing with the Court and shall
13 serve such objection by certified mail on Class Counsel and Defendants' Counsel no later than
14 forty-five (45) days following the date on which the Settlement Administrator first mails the
15 Notices and Claim Forms to Class Members. Any Class Member who fails to file and serve a
16 timely written objection shall be foreclosed from objecting to the Stipulation of Settlement, unless
17 otherwise ordered by the Court.

18 12. The Court further ORDERS that pending further order of this Court all
19 proceedings in this Action, except those contemplated herein and in the Stipulation of Settlement,
20 are stayed.

21 13. The Court further ORDERS that to facilitate administration of this Settlement, all
22 Class Members, including Plaintiff, are hereby enjoined from filing or prosecuting any claims,
23 cases, suits or administrative proceedings (including filing or pursuing claims with the California
24 Division of Labor Standards Enforcement) regarding claims released by the Settlement unless and
25 until such Class Members have submitted valid and timely written Exclusion Letters to the
26 Settlement Administrator and the time for filing claims with the Settlement Administrator has
27 elapsed.
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1 14. If the Court grants final approval, Class Members (other than those who submit a
2 timely and valid Exclusion Letter) and their successors shall conclusively be deemed to have
3 given a release, as set forth in the Stipulation of Settlement and Notice, against the Released
4 Parties, and all such Class Members and their successors shall be permanently enjoined and
5 forever barred from asserting any claim related to this Action against the Released Parties. If for
6 any reason the Court does not execute and file a Final Approval Order and Judgment, the
7 proposed Settlement subject to this Order and all evidence and proceedings had in connection
8 with the Settlement shall be null and void.

9 **IT IS SO ORDERED.**

10 Dated: _____, 2014

11 Hon. Wayne Carvill
12 Judge of the Superior Court of California
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