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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO, NORTH COUNTY BRANCH

In Re:

No.

RELEASE AND SETTLEMENT
AGREEMENT

This Release and Settlement Agreement is entered into by the parties signing below, who agree as follows:

1. Recitals and Representations.

a. The recitals and representations of the parties are set forth on the attachment to this Agreement.

b. There are no recitals or representations.

2. Terms of Agreement. The major terms of this agreement are set forth on the attachment to this Agreement.

3. Costs.

a. Each party shall bear its own costs and attorney's fees, and all

1 other costs of administration and sale shall be borne by the estate trust.

2 b. The provisions for the payment of costs and attorney's fees is set
3 forth on the attachment to this Agreement.

4 4. Mutual Release. Except for those rights specifically created by this
5 Agreement, the parties hereby covenant that they will not institute any claim, demand,
6 action, cause of action, arbitration proceeding, or lawsuit pertaining to the subject of
7 the lawsuit and hereby mutually release and forever discharge the other, and the
8 officers, employees, agents, attorneys, successors, predecessors, or assigns, and all
9 other persons acting for, under, or in concert with others, past and present, from any
10 and all claims, demands, actions, causes of action, obligations, damages, liabilities, lost
11 costs or expenses, including attorney's fees of any kind or nature whatsoever, past or
12 present, ascertained or unascertained, whether or not known, suspected, or claimed,
13 relating to the subject of this suit.

14 5. Waiver. Each party hereto expressly waives any rights or benefits
15 available under Section 1542 of the Civil Code of the State of California which provides
16 as follows:

17 _____ "A general release does not extend to a claim which
18 the creditor does not know or suspect to exist in his favor at
19 the time of executing the release, which if known by him
20 must have materially affected his settlement with the
21 debtor."
22

23 6. Final Settlement. The parties understand and agree that except as
24 specifically set forth herein, this Release and Settlement Agreement will act as a
25 release of future claims that may arise from the dispute regarding the subject of the
26 lawsuit whether such claims are currently known, unknown, foreseen, or unforeseen.

1 The parties understand and acknowledge the significance and consequence of the
2 specific waiver of Section 1542 described above and hereby assume full responsibility
3 for any injury, loss, damage, or liability that may hereafter be incurred by reason of,
4 or related to, the matters alleged and raised in this Agreement.

5 7. No Assignment. Each party represents, warrants, and agrees that it has
6 not heretofore assigned or transferred, to any person or entity any claim, demand, or
7 cause of action based on, arising out of, or in connection with the transactions and
8 events which are the subject of this suit and agreement.

9 8. No Inducement/Entire Agreement. Each party, individually and
10 collectively, declares and represents that no promises, inducements, or other
11 agreements not expressly referred to herein have been made, that this document
12 contains the entire agreement between the parties, and that the terms of this
13 Agreement are contractual and not recitals only.

14 Each party understands that the other parties are relying on the truthfulness
15 and validity of the representations made by the others that are set forth in the recitals
16 and only enter into this Agreement based upon those representations.

17 9. Binding Effect. This Agreement is binding on the parties and their
18 successors, heirs, representatives, assigns, agents, officers, employees, and personal
19 representatives. This Agreement is enforceable by and shall inure to the benefit of all
20 successors, heirs, representatives, assigns, agents, officers, employees, and personal
21 representatives of each party.

22 10. Admissibility/Disclosure.

23 a. This Agreement is admissible and subject to disclosure.

24 b. This Agreement is not admissible or subject to disclosure unless
25 an action or proceeding is brought to enforce its terms.

26 11. Attorney's Fees. In the event any action or proceeding to enforce, set
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1 aside, or modify the terms of this Agreement, including an arbitration or reference
2 pursuant to Section 638 of the Code of Civil Procedure, is brought by either party
3 against the other under this Agreement, the prevailing party shall be entitled to
4 recover all costs and expenses, including the actual fees of its attorneys incurred for
5 prosecution, defense, consultation, or advice in such action or proceeding.

6 12. Further Documents. Each party hereby agrees to execute and deliver
7 such additional documents as may be required to effectuate the purpose and terms of
8 this Agreement and, should it become necessary to obtain court approval, the parties
9 will execute such consents, agreements, and acknowledgments as are necessary to
10 obtain approval of this Agreement and the modification/termination of the
11 instrument(s) in dispute, if any.

12 13. No Modification. This document sets forth the entire agreement between
13 the parties and may not be altered, amended, or modified in any respect, except by a
14 writing duly executed by the parties to be charged. All earlier understandings, oral
15 agreements, and writings, unless referred to herein, are expressly superseded hereby
16 and are of no further force or effect.

17 14. No Admission of Liability. The parties, by entering into this Agreement,
18 do not abrogate or concede their positions, and no admission of liability can be presumed
19 or inferred by the execution of this Agreement.

20 15. Effectiveness/Counterparts. This Agreement shall not be effective or
21 binding on any party until fully executed by all parties. The parties may execute this
22 Agreement in any number of counterparts, each of which shall be deemed to be an
23 original instrument, but all of which together shall constitute one agreement.

24 16. Entry of Judgment/Jurisdiction. The parties adopt the provisions of CCP
25 §664.6 and request that judgment be entered pursuant to the terms of this Agreement
26 and that the Court retain jurisdiction over the parties to enforce this Agreement.

1 17. Court Approval. This Agreement is subject to court approval. If the court
2 does not approve this agreement then:

3 _____
4 _____
5 _____

6
7 SO AGREED:

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9 _____ Date _____
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11 _____ Date _____
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13 _____ Date _____
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15 _____ Date _____
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17 APPROVED AS TO FORM AND CONTENT:

18
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20 By: _____ Date _____
21 Attorney for: _____

22
23 By: _____ Date _____
24 Attorney for: _____
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Attachment to Settlement Agreement in the Matter of:
