

1 GLENN D POMERANTZ (State Bar No. 112503)
glenn.pomerantz@mto.com
2 TAMERLIN J. GODLEY (State Bar No. 194507)
tamerlin.godley@mto.com
3 JORDAN D. SEGALL (State Bar No. 281102)
4 Jordan.segall@mto.com
MUNGER, TOLLES & OLSON LLP
5 350 South Grand Avenue
Fiftieth Floor
6 Los Angeles, California 90071-1560
7 Telephone: (213) 683-9100
Facsimile: (213) 687-3702
8
9 Attorneys for Defendant SONY PICTURES
ENTERTAINMENT INC.

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES, CENTRAL CIVIL WEST DIVISION

13 LARRY E. MARTINDALE, in his capacity as
14 Trustee of the Bronson Survivors' Trust, and
15 CONCOURSE PRODUCTIONS, INC.,

16 Plaintiffs,

17 v.

18 SONY PICTURES ENTERTAINMENT INC.
19 and DOES 1-100,

20 Defendants.
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Case No. BC499182

CLASS ACTION

**STIPULATION AND AGREEMENT OF
SETTLEMENT**

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STIPULATION AND AGREEMENT OF SETTLEMENT

Diana Tailleir, in her capacity as Trustee of the Bronson Survivors’ Trust (“Bronson”) and Concourse Productions, Inc. (collectively “Plaintiffs”), on behalf of themselves and the Settlement Class,¹ on the one hand, and Sony Pictures Entertainment Inc. (“SPE”) on the other hand (together with Plaintiffs, “the Parties”), by and through their counsel of record in this case, hereby stipulate to the settlement and release of the claims asserted by Plaintiffs and the Settlement Class against SPE in *Martindale., et al. v. Sony Pictures Entertainment Inc.*, Los Angeles Superior Court Case Number BC499182 (the “Action”), upon the terms and conditions of this Stipulation and Agreement of Settlement (the “Stipulation”), subject to the approval of the Court.

RECITALS

WHEREAS, on January 16, 2013, Larry E. Martindale in his capacity as Trustee of the Bronson Survivors’ Trust filed a putative class action complaint against SPE in the Superior Court for the State of California, County of Los Angeles (the “Court”);

WHEREAS, the complaint was filed on behalf of a putative class of persons who entered into Profit Participation Contracts and who alleged breaches of those Profit Participation Contracts with respect to the calculation of Profit Participation relating to Home Video Revenue, Electronic Sell-Through Revenue, and Video on Demand (“VOD”) Revenue;

WHEREAS, on November 26, 2013, Plaintiffs filed a first amended complaint (the “FAC”) in the Action adding Concourse Productions, Inc. as a Named Plaintiff;

WHEREAS, on January 17, 2014, SPE filed an answer to the FAC that generally denied the allegations in the FAC and asserted certain affirmative defenses;

WHEREAS, on July 10, 2014 Diana Tailleir succeeded Larry E. Martindale as the Trustee of the Bronson Survivors’ Trust by order of the court *In the Matter of The Bronson Living Trust Dated May 1, 1989*, Los Angeles Superior Court Case Number BP150744.

WHEREAS, the parties have participated in multiple in-person and telephonic mediation sessions with the Honorable Louis Meisinger (Ret.) of ADR Services, Inc. as well as additional

¹ Capitalized terms, if not defined elsewhere, are defined in the “Definitions” section below.

1 telephone conferences and in-person meetings of counsel;

2 WHEREAS, the Parties have exchanged certain documents, calculations and analyses
3 relating to the issues raised in the FAC;

4 WHEREAS, SPE denies all allegations of wrongdoing, fault, or liability or that it has acted
5 improperly in any way; believes that the FAC in this Action lacks merit; would have continued to
6 resist vigorously Plaintiffs' claims and contentions and would have continued to assert its defenses
7 thereto had this Stipulation not been reached; and has entered into this Stipulation to put the
8 claims to rest finally and forever solely for the purpose of avoiding prolonged and expensive
9 litigation, without acknowledging in any way any fault, wrongdoing or liability whatsoever; and

10 WHEREAS, Plaintiffs and their counsel believe that the claims asserted in the Action are
11 meritorious, but they have considered and weighed the issues involved in establishing the validity
12 of their claims and have concluded that, in light of the uncertainty of the outcome as well as the
13 substantial risks and inevitable delay in proceeding to trial, compared to the benefits being
14 provided hereby, the terms and conditions set forth herein are fair and reasonable and should be
15 submitted to the Court for approval.

16 **NOW THEREFORE**, without any admission or concession on the part of Plaintiffs of
17 any lack of merit of the Action, and without any admission or concession on the part of SPE of
18 any liability or wrongdoing or lack of merit in the defenses, **IT IS HEREBY STIPULATED**
19 **AND AGREED**, by and among the Parties to this Stipulation, through their respective attorneys,
20 subject to approval of the Court, in consideration of the benefits flowing to the Parties hereto from
21 the Settlement, that all Released Claims as against the Released Parties shall be compromised,
22 settled, released and judgment entered, upon and subject to the following terms and conditions.

23 **DEFINITIONS**

24 1. As used in this Stipulation, the following capitalized terms (not already defined
25 above or as may be defined below) shall have these meanings:

26 1.1 "Accounting Relief Fund" means the \$5 million in accounting adjustments
27 SPE will provide to the Unrecouped Class Members as set forth in Paragraph 5 below.

28 1.2 "Action" means the action entitled *Martindale, et al. v. Sony Pictures*

1 *Entertainment Inc.*, Los Angeles Superior Court Case Number BC499182, now pending in the
2 Superior Court for the State of California, County of Los Angeles.

3 1.3 “Affiliate” means a second entity that is related in whole or in part to the
4 first entity as a direct or indirect parent or subsidiary, or is otherwise owned or controlled in whole
5 or in part by the first entity or by a direct or indirect parent or subsidiary of the first entity.

6 1.4 “Class Counsel” means Johnson & Johnson LLP; Boucher LLP; Kiesel Law
7 LLP; and Pearson, Simon & Warshaw, LLP.

8 1.5 “Class Member” means a member of the Settlement Class.

9 1.6 “Class Profit Participation Contract” means a Profit Participation Contract,
10 entered into on or before December 31, 1981, that does not include express provisions, either as
11 initially drafted or as later amended, regarding the calculation of the Profit Participant’s Profit
12 Participation with regard to Home Video Revenue, Electronic-Sell Through Revenue and/or VOD
13 Revenue.

14 1.7 “Confidential Supplemental Agreement” means the agreement so entitled
15 and signed between the Parties concurrently herewith.

16 1.8 “Effective Date” means the date on which the Settlement contemplated by
17 this Stipulation shall become effective, as set forth in Paragraph 14 below.

18 1.9 “Electronic Sell-Through Revenue” means revenue derived from the sale of
19 digital copies of motion pictures that are delivered to the consumer via electronic transmission.
20 Electronic Sell-Through Revenue excludes VOD Revenue.

21 1.10 “Home Video Revenue” means revenue derived from the sale of physical
22 copies of motion pictures that are delivered to the consumer in tangible products such as
23 Videocassettes, DVDs, and Blu-Ray discs.

24 1.11 “Motion Picture Studio” means any of the defendants sued in the cases
25 designated by the Court as related to this Action, as well as The Walt Disney Studios, and all of
26 their Affiliates.

27 1.12 “Named Plaintiffs” or “Plaintiffs” mean Diana Tailleir, in her capacity as
28 Trustee of the Bronson Survivors’ Trust, and Concourse Productions, Inc.

1 1.13 “Notice” means the Notice of Pendency of Class Action and Proposed
2 Settlement, which is to be sent to Class Members substantially in the form attached hereto as
3 Exhibit 1.

4 1.14 “Preliminary Approval Order” means the order to be entered by the Court,
5 *inter alia*, directing that the Notice be provided to the Settlement Class, and scheduling a hearing
6 concerning final approval of the Settlement.

7 1.15 “Profit Participant” means a person or entity that has executed a Profit
8 Participation Contract.

9 1.16 “Profit Participation” means contingent compensation in the form of a
10 percentage of the gross or net revenue (as contractually defined) derived from exploitation of a
11 motion picture.

12 1.17 “Profit Participation Contract” means a contract between SPE or its
13 Affiliates or its or their predecessors, on the one hand, and an individual or entity granting the
14 individual or entity Profit Participation, on the other hand, excluding any contracts between SPE
15 or its Affiliates or its or their predecessors, on the one hand, and any other Motion Picture Studio
16 and its Affiliates or predecessors, on the other hand.

17 1.18 “Prospective Relief” means payment from the Settlement Fund Payout to
18 the Recouped Class Members for claims related to Profit Participation amounts to be calculated or
19 paid for future periods, as described in Paragraph 4 below.

20 1.19 “Prospective Relief Fund” means 30% of the Settlement Fund Payout.

21 1.20 “Publication Notice” means the summary notice of proposed Settlement and
22 Hearing for publication, substantially in the form attached hereto as Exhibit 2.

23 1.21 “Released Claims” means any and all actions, suits, claims, demands,
24 rights, liabilities and causes of action, of every nature and description whatsoever, whether
25 individual, class, derivative, representative, legal, equitable or any other type or in any other
26 capacity, or whether concealed or hidden, that were asserted or that could have been asserted
27 (including without limitation claims for negligence, gross negligence, breach of contract, breach of
28 duty of care and/or breach of duty of loyalty, fraud, breach of fiduciary duty, or violations of any

1 state or federal common law, statutes, rules, or regulations), including both known claims and
2 Unknown Claims, that Releasing Parties had in the past, now have, or might in the future have
3 against the Released Parties on the basis of, connected with, or in any way relating to or arising
4 out of any allegation that (i) any past, present, or future Profit Participation or any other payments
5 on account of Home Video Revenue or Electronic Sell-Through Revenue should have been in the
6 past, should now or in the future be calculated based on more than 20% of Home Video Revenue
7 or Electronic Sell-Through Revenue, whatever the theory and wherever in the world the
8 transaction takes place and/or (ii) any past or present Profit Participation or any other payments on
9 account of VOD Revenue should have been calculated through the Effective Date based on more
10 than 20% of VOD Revenue, whatever the theory and wherever in the world the transaction takes
11 place.

12 1.22 “Released Parties” means SPE, including its divisions and business units,
13 and any of its and their past, present, or future parent entities, associates, Affiliates, direct and
14 indirect subsidiaries, licensees, grantees, and each and all of its and their past, present and future
15 officers, directors, stockholders, principals, employees, advisors, agents, attorneys, financial or
16 investment advisers, consultants, lenders, insurers, investment bankers, commercial bankers,
17 representatives, Affiliates, associates, parents, direct and indirect subsidiaries, joint ventures and
18 venturers, general and limited partners and partnerships, heirs, executors, trustees, personal
19 representatives, estates, administrators, trusts, licensees, grantees, licensors, distributors,
20 subdistributors, predecessors, successors and assigns.

21 1.23 “Releasing Parties” means Plaintiffs, the Settlement Class, or any Class
22 Member and all of their successors and assigns, direct and indirect subsidiaries, insurers, partners,
23 members, affiliates, joint venturers, licensees, grantees, and all of their respective officers,
24 directors, shareholders, employees, agents, and attorneys (other than attorneys acting solely in
25 their capacity as Class Counsel), and the successors and assigns of each.

26 1.24 “Recouped Class Member” mean a Class Member who, as of December 31,
27 2016, is a Profit Participant on one or more motion pictures that have realized sufficient revenue to
28 require payment of Profit Participation to that Class Member under the terms of that person’s or

1 entity's Class Profit Participation Contract. Where a person or entity is a Recouped Class Member
2 pursuant to one or more Class Profit Participation Contracts and an Unrecouped Class Member
3 and/or not a Class Member in regard to other Profit Participation Contracts, the person or entity
4 will be treated as a Recouped Class Member only with regard to the Class Profit Participation
5 Contract(s) for which the person or entity is recouped.

6 1.25 "Request for Exclusion" means a written request to be excluded from the
7 Settlement Class submitted by a member of the Settlement Class in such form, in such manner,
8 and within the time limitation as set forth by the Court.

9 1.26 "Retrospective Relief" means payment from the Settlement Fund Payout to
10 Recouped Class Members for claims related to Profit Participation amounts calculated or paid for
11 past periods, as described in Paragraph 4 below.

12 1.27 "Retrospective Relief Fund" means 70% of the Settlement Fund Payout.

13 1.28 "Settlement" means the settlement contemplated by this Stipulation.

14 1.29 "Settlement Administrator" means a company specializing in the
15 administration of class action settlements.

16 1.30 "Settlement Check" means the checks prepared by the Settlement
17 Administrator for the benefit of the Recouped Class Members for their Retrospective and
18 Prospective Relief.

19 1.31 "Settlement Class" means the definition set forth in Paragraph 2 below.

20 1.32 "Settlement Class Information" means a list to be provided by SPE to the
21 Settlement Administrator, for the sole purpose of effectuating this Settlement, with the following
22 information: (a) the names of the Recouped Class Members; (b) the last known street address (or
23 post office box number) for each Recouped Class Member currently in SPE's active participations
24 records; (c) the total amount of Profit Participation paid or payable to each Recouped Class
25 Member pursuant to a Class Profit Participation Contract for all periods through each Recouped
26 Class Members' last statement period ending date; (d) the total amount of Profit Participation paid
27 or payable to each Recouped Class Member pursuant to a Class Profit Participation Contract over
28 the last four years of each Recouped Class Member's statements; (e) the names of the Unrecouped

1 Class Members; and (f) the last known street address (or post office box number) for each
2 Unrecouped Class Member currently in SPE's computer systems.

3 1.33 "Settlement Fund" means the \$5 million that SPE will make available for
4 compensation to the Recouped Class Members, administrative and notice expenses, any special
5 compensation to the Named Plaintiffs, and attorneys' fees and costs. Under no circumstances will
6 any portion of the Settlement Fund revert to SPE.

7 1.34 "Settlement Fund Payout" means the amount of the Settlement Fund
8 remaining for distribution to the Recouped Class Members after the payment of administrative and
9 notice expenses, any special compensation to the Named Plaintiffs, and attorneys' fees and costs.

10 1.35 "Settlement Hearing" means the final settlement hearing to be held to
11 determine, among other things, the fairness, reasonableness, and adequacy of the Settlement.

12 1.36 "Unknown Claims" means any and all Released Claims that the Named
13 Plaintiffs, do not know of or suspect to exist in their favor at the time of the release of the
14 Released Parties which, if known by them, might have affected their agreement to the Settlement.
15 With respect to Unknown Claims, the Named Plaintiffs shall be deemed to have, and by operation
16 of the settlement of the Action and upon the Effective Date shall have, hereby expressly waived
17 and relinquished, to the fullest extent permitted by law, the benefits of Section 1542 of the
18 California Civil Code (and all similar provisions from any and all jurisdictions), which states:

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

23 The Named Plaintiffs and SPE acknowledge, and the Released Parties by operation of law
24 shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition
25 of Released Claims was specifically bargained for and a key element of the Settlement of which
26 this release is a part.

27 1.37 "Unrecouped Class Member" means a Class Member who, as of December
28 31, 2016, is a Profit Participant on one or more motion pictures that have not realized sufficient
revenue to require payment of Profit Participation to that Class Member under the terms of that

1 person's or entity's Class Profit Participation Contract. Where a person or entity is an
2 Unrecouped Class Member pursuant to one or more Class Profit Participation Contracts and a
3 Recouped Class Member and/or not a Class Member pursuant to one or more separate Profit
4 Participation Contracts, the Class Member will be treated as an Unrecouped Class Member only in
5 regard to the Class Profit Participation Contracts for which the person or entity is not recouped.

6 1.38 "VOD Revenue" means revenue derived from digital streaming of motion
7 pictures, including through services commonly known as "video-on-demand" or "subscription
8 video-on-demand", where the consumer does not obtain permanent ownership of a copy of the
9 motion picture.

10 **SETTLEMENT CLASS**

11 2. Definition of Settlement Class. Plaintiffs shall request that the Court certify for
12 settlement purposes only the following Settlement Class: All persons and entities (and their
13 successors-in-interest, assigns, and heirs) that are parties to a Class Profit Participation Contract.
14 Where a person or entity is a party to one or more Profit Participation Contracts that are not Class
15 Profit Participation Contracts and one or more Profit Participation Contracts that are Class Profit
16 Participation Contracts, that person or entity is a member of the Settlement Class only with regard
17 to the Class Profit Participation Contracts and not a part of the Settlement Class with regard to any
18 other Profit Participation Contracts.

19 3. Exclusions from Settlement Class. Excluded from the Settlement Class are:

20 3.1 SPE and any person, trust, firm, corporation or other entity Affiliated with
21 or related to SPE;

22 3.2 Any persons or entities who exclude themselves by submitting a timely
23 Request for Exclusion in accordance with the requirements set forth by the Court.

24 3.3 Persons or entities who have entered into an agreement with SPE or its
25 Affiliates and their predecessors, subsequent to their Class Profit Participation Contract but
26 regarding the same motion picture, that includes express provisions regarding the calculation of
27 the Profit Participant's Profit Participation with regard to Home Video Revenue and/or Electronic
28 Sell-Through Revenue, and/or VOD Revenue including but not limited to a settlement agreement,

1 an amendment to the relevant Class Profit Participation Contract, a side letter, or any other writing
2 that sets forth such provisions, and was made prior to the date of the Preliminary Approval Order.
3 Such persons or entities are excluded from the Class only as to the Class Profit Participation
4 Contract(s) that are the subject to the express provisions and not for any other Class Profit
5 Participation Contract.

6 3.4 Other Motion Picture Studios.

7 **DISTRIBUTION OF THE SETTLEMENT FUND**

8 4. The Settlement Fund Payout shall be distributed to Recouped Class Members,
9 without the necessity of filing a claim, as follows:

10 4.1 Retrospective Relief. Each Recouped Class Member shall be entitled to the
11 percentage of the Retrospective Relief Fund equal to the ratio of the total amount of Profit
12 Participation paid or payable to the Recouped Class Member pursuant to one or more Class Profit
13 Participation Contracts through that Recouped Class Member's last statement period ending date
14 on or before December 31, 2016, compared to the total amount of Profit Participation paid or
15 payable to all of the Recouped Class Members pursuant to Class Profit Participation Contracts for
16 all periods through their last statement period date on or before December 31, 2016.

17 4.2 Prospective Relief. Each Recouped Class Member shall be entitled to the
18 percentage of the Prospective Relief Fund equal to the ratio of the total amount of Profit
19 Participation paid or payable to the Recouped Class Member pursuant to one or more Class Profit
20 Participation Contracts over the last four years of each Recouped Class Member's statements on or
21 before December 31, 2016, compared to the total amount of Profit Participation paid or payable to
22 all of the Recouped Class members pursuant to Class Profit Participation Contracts for the last
23 four years of each Recouped Class Member's statement activity on or before December 31, 2016,
24 with such ratio serving as an estimate of the ratio of future Profit Participation payments.

25 4.3 Payment. The Settlement Administrator will be responsible for the
26 calculation and payment of the amounts due Recouped Class Members from the Settlement Fund
27 based upon the Settlement Class Information received from SPE. Within sixty (60) days after the
28 Effective Date, the Settlement Administrator shall mail to each Recouped Class Member a check

1 with their share of the Retrospective Relief Fund and the Prospective Relief Fund. Uncashed
2 and/or undeposited checks will be considered stale after 180 days and cancelled. A second
3 distribution to Recouped Class members who negotiated their first check may occur if Class
4 Counsel determines that there are sufficient funds to justify a second distribution in light of the
5 administrative cost and amount of the proposed distribution to the Recouped Class members. In
6 such event, the Settlement Administrator shall make a second pro rata distribution to the Recouped
7 Class Members using the methodology as set forth in section 4.1. If the total amount of the stale
8 checks does not justify the cost of a second distribution, the remaining funds in the Settlement
9 Fund after cancellation of outstanding checks shall be donated via *cy pres* to the Motion Picture &
10 Television Fund.

11 **ACCOUNTING RELIEF**

12 5. Calculation of Accounting Relief. All Unrecouped Class Members shall be entitled
13 to Accounting Relief from the Accounting Relief Fund, without the necessity of filing a claim, as
14 follows:

15 5.1 Calculation of Accounting Relief. SPE shall apply a credit to the
16 accounting for each Unrecouped Class Member for each Class Profit Participation Contract to
17 which that Unrecouped Class Member is a party. The credit is an accounting adjustment that shall
18 be that Class Profit Participation Contract's share of the Accounting Relief Fund determined by
19 the ratio of the total amount of Home Video Revenue, Electronic Sell-Through Revenue and VOD
20 Revenue derived by SPE through December 31, 2016, for that motion picture compared to the
21 total amount of Home Video Revenue, Electronic Sell-Through Revenue and VOD Revenue
22 derived by SPE through December 31, 2016, for all of the motion pictures receiving an accounting
23 adjustment under this section. SPE will be responsible for the calculation of the accounting
24 credits due and for applying the accounting credits within its profit participation accounting
25 system.

26 5.2 The accounting adjustment shall only be applied for the benefit of the
27 Unrecouped Class Members. Any person or entity that is a Recouped Class Member or not a
28 Class Member in regard to a motion picture will not receive the benefit of the accounting

1 adjustment.

2 **JUDGMENT AND RELEASE**

3 6. Final Judgment. Subject to Court approval, the Parties to this Stipulation agree to
4 entry of final judgment in this Action, and to providing for the releases herein.

5 7. Release. Upon the Effective Date, Releasing Parties and each of them shall be
6 deemed to have, and by entry of judgment of the Action shall have, fully, finally and forever
7 released, relinquished, and discharged the Released Parties with respect to each and every
8 Released Claim and shall forever be enjoined from prosecuting any of the Released Claims with
9 respect to each and every Released Party and covenant not to sue any of the Released Parties with
10 respect to any of the Released Claims. Except as expressly provided in this Stipulation, nothing
11 shall be deemed to terminate, modify or cancel any provision of any Class Member's Profit
12 Participation Contract, each of which shall otherwise continue in full force and effect in
13 accordance with its terms. The release of the Released Claims pursuant to this Settlement is
14 without prejudice to any other rights not involving those claims.

15 8. Continuing Accounting Practice. Plaintiffs acknowledge and agree that SPE will
16 continue to account to each Class Member for Home Video Revenue and Electronic Sell-Through
17 Revenue as it has done and currently does on a royalty basis. Plaintiffs hereby waive any claims
18 related to this accounting practice for Home Video Revenue and Electronic Sell-Through Revenue
19 in the calculation of Profit Participation for Class Members in both the past, present and the future.
20 For purposes of settlement only and without conceding or agreeing in any way that this is the
21 appropriate treatment, and without precedent for the treatment of any other Profit Participation
22 Contract, SPE agrees that, in the absence of an existing or future agreement that includes express
23 provisions regarding the calculation of VOD Revenue, SPE will, beginning after the Effective
24 Date, account to each Class Member in connection with the Class Profit Participation Contracts
25 for VOD Revenue, and any future methods of streaming now known or hereafter created, on the
26 basis of 100% of such VOD Revenue received after the Effective Date in a manner otherwise
27 consistent with the terms of each Class Profit Participation Contract.

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1 **PRELIMINARY APPROVAL AND NOTICE**

2 9. Preliminary Approval Order. As soon as practicable, Plaintiffs shall move the
3 Court for entry of the Preliminary Approval Order. SPE agrees, solely for purposes of
4 effectuating the Settlement, not to oppose certification of the Settlement Class. SPE does not
5 waive and expressly reserves the right to contest class action treatment of Plaintiffs' claims in the
6 Action if the Effective Date fails to occur for any reason as set forth in Paragraph 16 below.

7 10. Notice.

8 10.1 Settlement Class Member Information Exchange. Within ten (10) days
9 after the Court's issuance of the Preliminary Approval Order, SPE shall provide the Settlement
10 Class Information to the Settlement Administrator.

11 10.2 Notice by Mail. Within thirty (30) days after the Court's issuance of the
12 Preliminary Approval Order, the Settlement Administrator shall mail the Notice to each Class
13 Member. *See*, Exhibit 1 attached hereto.

14 10.3 Publication Notice. Within thirty (30) days after the Court's approval of the
15 Settlement, the Settlement Administrator shall also cause the Publication Notice, substantially in
16 the form attached hereto as Exhibit 2, to appear once in the *Variety* (in one-half page size) and
17 once in *The Hollywood Reporter* (in one-third page size). The Settlement Administrator shall
18 cause the Publication Notice, substantially in the form attached hereto as Exhibit 2, in the format
19 of an E-Newsletter, to be disseminated to subscribers of *Variety*, *The Hollywood Reporter* and *The*
20 *Wrap*. The Settlement Administrator may also cause online advertising in Facebook, Twitter and
21 LinkedIn. The Settlement Administrator shall issue a press release in the form of the Publication
22 Notice to be disseminated through the major media outlets. Nothing in this Agreement shall
23 prohibit Plaintiffs and Class Counsel from performing their duties and/or taking additional steps to
24 maximize notice to the Class.

25 10.4 Settlement Website. The Settlement Administrator shall create a website
26 ("Settlement Website") with information about the Settlement. The Settlement Website shall
27 include copies of the relevant pleadings and provide updates to the Class Members regarding the
28 status of the Action.

1 10.5 Costs and Fees. All costs and fees associated with Notice shall be deducted
2 from the Settlement Fund.

3 **REQUESTS FOR EXCLUSION AND OPT-OUT TERMINATION RIGHT**

4 11. Requests for Exclusion. Class Members who do not wish to participate in the
5 Settlement shall submit a Request for Exclusion within the deadline established by the Court.

6 12. Termination Option. SPE may terminate the Settlement if, ten (10) days after the
7 deadline for receiving Requests for Exclusion, it determines that either the number of Class
8 Members who have submitted Requests for Exclusion or the total Profit Participation paid to Class
9 Members who have submitted Requests for Exclusion exceeds levels set forth in the Confidential
10 Supplemental Agreement (the “Opt Out Threshold”). Requests for Exclusion from persons or
11 entities who do not meet the Settlement Class definition do not count toward the Opt-Out
12 Threshold. The Parties shall seek to keep the Opt-Out Threshold confidential. In the event that
13 the Court directs that the Confidential Supplemental Agreement be filed prior to the deadline for
14 submitting Requests for Exclusion, no party shall have any right to any relief by reason of such
15 disclosure. In the event of a termination of this Settlement pursuant to the Confidential
16 Supplemental Agreement: (1) the provisions set forth in Paragraph 16 apply; and (2) SPE shall pay
17 all costs incurred by the Settlement Administrator arising out of the Stipulation.

18 **CONFIRMATORY DISCOVERY**

19 13. Confirmatory Discovery. Class Counsel may, at their own expense, conduct
20 confirmatory discovery as outlined in the Parties’ Confidential Supplemental Agreement.

21 **EFFECTIVE DATE OF SETTLEMENT, WAIVER, AND TERMINATION**

22 14. Effective Date of Settlement. The Effective Date of Settlement shall be the date
23 when all the following have occurred:

- 24 (a) entry of the Preliminary Approval Order by the Court;
25 (b) final approval by the Court of the Settlement, following notice to the
26 Settlement Class and a hearing;
27 (c) entry of judgment; and
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1 (d) the expiration of any time for appeal or review, or, if any appeal is filed and
2 not dismissed, after the final approval order is upheld on appeal in all material respects and is no
3 longer subject to review upon appeal or by writ of certiorari.

4 15. Termination after Court Disapproval or Modification. In addition to SPE's rights
5 under Paragraph 12, SPE or Plaintiffs shall have the right to terminate the Settlement and this
6 Stipulation by providing written notice of their election to do so ("Termination Notice") to counsel
7 for the other party hereto within thirty days of the Court's (a) declining to enter the Preliminary
8 Approval Order; or (b) declining to approve the Settlement embodied in this Stipulation, or any
9 material part of it.

10 16. No Prejudice in Event of Termination. If the Effective Date fails to occur for any
11 reason, (i) the Settlement shall be without prejudice and none of its terms shall be effective or
12 enforceable; (ii) the certification of the Settlement Class shall be deemed null and void; (iii) each
13 Party shall retain all of its respective rights, positions, and defenses as they existed prior to
14 execution of this Stipulation; (iii) any findings or stipulations regarding certification of the
15 Settlement Class will be automatically vacated upon notice to the Court of this Stipulation's
16 termination or disapproval and the Action may proceed as though no certification of the
17 Settlement Class had occurred; (iv) Plaintiffs shall not raise or rely upon any such findings,
18 stipulations, or certification relating to the Settlement Class in connection with any subsequent
19 request for class certification; (v) neither this Stipulation, nor any of its accompanying exhibits or
20 any orders entered by the Court in connection with this Stipulation, shall be admissible or used for
21 any purpose; and (vi) no materials shared between the parties solely for settlement discussions or
22 settlement purposes shall be admissible or used for any purpose in the Action.

23 **ADMINISTRATION OF THE SETTLEMENT**

24 17. Settlement Administrator. The Parties shall engage a third party Settlement
25 Administrator to carry out the terms of the Settlement as provided herein after careful vetting and
26 assurance of the company's security measures and insurance coverage relating to errors and
27 omissions as well as theft of settlement funds by third parties. Any fees or expenses incurred
28 through the use of a third party Settlement Administrator will be deducted from the Settlement

1 Fund as administrative expenses. Prior to the final approval hearing, the Settlement Administrator
2 shall provide a sworn declaration attesting to its administration of the notice plan approved by the
3 Court. The Settlement Administrator shall prepare a sworn declaration 250 days after issuance of
4 settlement payments, attesting to the amount of distributions made from the Settlement to the
5 Plaintiffs, to Recouped Class members, to Class Counsel, to itself, and to the *cy pres* recipient, as
6 well as the number of stale checks and the total amount of stale checks.

7 18. Deposit of Settlement Fund. Within ten (10) business days after the Effective Date,
8 SPE shall pay the Settlement Fund to the Settlement Administrator for disbursement as provided
9 herein.

10 **ATTORNEYS' FEES, EXPENSES, AND ENHANCEMENT AWARD**

11 19. Attorneys' Fees. Class Counsel will apply to the Court for an award of attorneys'
12 fees in an amount not to exceed one-third of the \$5 million Settlement Fund (i.e. up to
13 \$1,666,666.67) plus expenses and verified costs in an amount not to exceed \$105,000. SPE agrees
14 not to oppose or to submit any evidence or argument challenging or undermining such application
15 for attorneys' fees, costs, or expenses.

16 20. Disapproval of Fee Award. Notwithstanding anything contained herein to the
17 contrary, in the event that the Court does not approve the award of attorneys' fees and expenses
18 requested by Class Counsel, or the Court awards attorneys' fees and expenses in an amount less
19 than that requested by Class Counsel, such decision shall not affect the validity and enforceability
20 of the Settlement and shall not be a basis for anyone to seek to terminate or void the Settlement or
21 for rendering the entire Settlement null, void, or unenforceable. Class Counsel retain their right to
22 appeal any decision by the Court regarding the Court's award of attorneys' fees and costs.

23 21. Payment of Attorneys' Fees. The amount awarded by the Court shall be payable by
24 the Settlement Administrator to Class Counsel by delivery of check(s) or other negotiable
25 instrument(s) or by wire transfer(s) within fourteen (14) days after the Effective Date.

26 22. Deduction of Fee Award from Settlement Fund. Any attorneys' fees and expenses
27 awarded by the Court will be deducted from the Settlement Fund. In no event shall the payment
28 of attorneys' fees, costs, and expenses awarded by the Court alter or increase SPE's obligation

1 under the Settlement, which in no event shall be more than the amount of the Settlement Fund.

2 23. Enhancement Awards to Named Plaintiffs. Plaintiffs will apply to the Court for an
3 award of \$10,000.00 for each of the Named Plaintiffs for their services as class representatives, for
4 a total of \$20,000.00. The enhancement award is payable by the Settlement Administrator to
5 Class Counsel by delivery of check(s) or other negotiable instrument(s) or by wire transfer(s)
6 within fourteen (14) days after the Effective Date. Any enhancement awards ordered by the Court
7 will be deducted from the Settlement Fund.

8 **MISCELLANEOUS PROVISIONS**

9 24. Exhibits Incorporated by Reference. All of the exhibits attached hereto are hereby
10 incorporated by reference as though fully set forth herein.

11 25. Final and Complete Resolution. The Parties to this Stipulation intend the
12 Settlement to be a final and complete resolution of all disputes asserted or that could be or could
13 have been asserted by the Plaintiffs, the Settlement Class, and/or any of the Class Members
14 against the Released Parties with respect to the Released Claims and the Action. SPE agrees not
15 to assert that the Action was brought in bad faith or without a reasonable basis. The Parties hereto
16 shall assert no claims for costs or sanctions relating to the prosecution, defense, or settlement of
17 the Action.

18 26. Settlement Fairly Negotiated. The Parties agree that the amount paid and the other
19 terms of the Settlement were negotiated at arm's length in good faith by the Parties, and reflect a
20 settlement that was reached voluntarily by the Parties after consultation with their respective
21 experienced legal counsel.

22 27. No Oral Modifications. This Stipulation may not be modified or amended, nor may
23 any of its provisions be waived except by a writing signed by counsel for all Parties hereto or their
24 successors-in-interest.

25 28. Headings Have No Legal Effect. The headings herein are used for the purpose of
26 convenience only and are not meant to have legal effect.

27 29. Court Retains Jurisdiction. The administration and consummation of the
28 Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court

1 shall retain jurisdiction for the purpose of entering orders providing for award of attorneys' fees
2 and expenses to Class Counsel, and enforcing the terms of this Stipulation.

3 30. Warrant of Authority. All counsel and any other person executing this Stipulation
4 and any of the exhibits hereto, or any related settlement documents, warrant and represent that
5 they have the full authority to do so and that they have the authority to take appropriate action
6 required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

7 31. Successors and Assigns. This Stipulation shall be binding upon, and inure to the
8 benefit of, the successors and assigns of the Parties hereto.

9 32. Choice of Law. The construction, interpretation, operation, effect and validity of
10 this Stipulation, and all documents necessary to effectuate it, shall be governed by the internal
11 laws of the State of California without regard to conflicts of laws, except to the extent that
12 preemption by federal law requires that federal law govern.

13 33. Stipulation Jointly Drafted. This Stipulation shall not be construed more strictly
14 against one party than another merely by virtue of the fact that it, or any part of it, may have been
15 prepared by counsel for one of the Parties, it being recognized by the Parties that this Stipulation is
16 the result of arm's length negotiations between the Parties and that all Parties have contributed
17 substantially and materially to the preparation of this Stipulation.

18 34. Effect of Waiver. The waiver by one party of any breach of this Stipulation by any
19 other party shall not be deemed a waiver of any other prior or subsequent breach of this
20 Stipulation. The waiver by one party of any breach of this Stipulation by any other party shall not
21 be deemed a waiver of any other prior or subsequent breach of this Stipulation.

22 35. Integration. This Stipulation and its exhibits and the Confidential Supplemental
23 Agreement constitute the entire agreement among the Parties hereto concerning the Settlement of
24 the Action, and no representations, warranties, or inducements have been made by any party
25 hereto other than those contained and memorialized in such documents.

26 36. Execution in Counterparts. This Stipulation may be executed in one or more
27 counterparts. All executed counterparts and each of them shall be deemed to be one and the same
28 instrument. A fax, electronic and/or scanned PDF signature or other copy of a signed counterpart

1 shall be deemed an original and shall have the same force and effect as a signed original.

2 37. No Representations About Tax Consequences. No opinion or advice concerning
3 the tax consequences of the proposed Settlement to individual Class Members is being given or
4 will be given by Class Counsel or counsel for SPE nor is any representation or warranty in this
5 regard made by virtue of this Stipulation. Each Class Member's tax obligations, and the
6 determination thereof, are the sole responsibility of the Class Member, and it is understood that the
7 tax consequences may vary depending on the particular circumstances of each individual Class
8 Member.

9 38. Intent of Parties. The Parties hereto: (a) acknowledge that it is their intent to
10 consummate this Stipulation; and (b) agree to cooperate to the extent necessary to effectuate and
11 implement all terms and conditions of this Stipulation and to exercise their best efforts and to act
12 in good faith to accomplish the foregoing terms and conditions of the Stipulation.

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17 Dated: July 13, 2017

SONY PICTURES ENTERTAINMENT INC.

18 By: Michael J. Nazitto

19 Title: MICHAEL J. NAZITTO

ASSISTANT SECRETARY

DIANA TAILLEUR, in her capacity as Trustee of
the Bronson Survivors' Trust

20
21 Dated: _____, 2017

22 By: _____

23
24 Dated: _____, 2017

CONCOURSE PRODUCTIONS, INC.

25 By: _____

26 Title: _____

27
28

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Dated: _____, 2017

SONY PICTURES ENTERTAINMENT INC.

By: _____

Title: _____

Dated: July 14, 2017

DIANA TAILLEUR, in her capacity as Trustee of the Bronson Survivors' Trust

By: Diana Tailleu

Dated: _____, 2017

CONCOURSE PRODUCTIONS, INC.

By: _____

Title: _____

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Dated: _____, 2017

SONY PICTURES ENTERTAINMENT INC.

By: _____

Title: _____

Dated: _____, 2017

DIANA TAILLEUR, in her capacity as Trustee of
the Bronson Survivors' Trust

By: _____

Dated: July 13th, 2017

CONCOURSE PRODUCTIONS, INC.

By: [Signature]

Title: president

1 APPROVED AS TO FORM:

2

3

Dated: July 13, 2017

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PEARSON, SIMON & WARSHAW LLP
CLIFFORD H. PEARSON
DANIEL L. WARSHAW
BOBBY POUYA

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JOHNSON & JOHNSON LLP
NEVILLE L. JOHNSON
DOUGLAS L. JOHNSON
JAMES T. RYAN

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8

KIESEL LAW LLP
PAUL R. KIESEL
JEFFREY A. KONCIUS
NICOLE RAMIREZ

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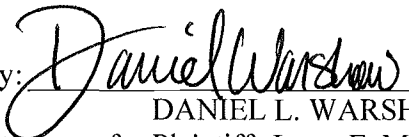
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BOUCHER, LLP
RAYMOND P. BOUCHER
SHEHNAZ M. BHUJWALA
MARIA L. WEITZ

12

13

By: 
DANIEL L. WARSHAW
Attorneys for Plaintiffs Larry E. Martindale and
Concourse Productions, Inc., on behalf of themselves
and others similarly situated

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Dated: _____, 2017

MUNGER, TOLLES & OLSON LLP
GLENN D POMERANTZ
TAMERLIN J. GODLEY
JORDAN D. SEGALL

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By: _____
TAMERLIN J. GODLEY
Attorneys for Defendant Sony Pictures Entertainment
Inc.

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DOUGLAS L. JOHNSON
JAMES T. RYAN

8

9

KIESEL LAW LLP

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JEFFREY A. KONCIUS
NICOLE RAMIREZ

10

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Concourse Productions, Inc., on behalf of themselves
and others similarly situated

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JORDAN D. SEGALL

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By: 

TAMERLIN J. GODLEY

Attorneys for Defendant Sony Pictures Entertainment
Inc.

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