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Attorneys for Defendant MICHAEL NICHOLAS DESIGNS, INC.

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF ORANGE**

JOSE A. LUGO, individually and on behalf of
other individuals similarly situated,

Plaintiff,

v.

MICHAEL NICHOLAS DESIGNS, INC., a
California corporation; and DOES 1-100
inclusive,

Defendants.

CASE NO.: 30-2020-01150039-CU-OE-CXC
[Assigned to Hon. Randall Sherman
Department CX105]

CLASS ACTION

**AMENDMENT TO CLASS ACTION
SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

Complaint filed July 21, 2020
FAC filed October 5, 2020
SAC filed January 26, 2021

1 This amendment ("Amendment") to the Class Action Settlement Agreement and Release of
2 Claims ("Settlement Agreement") is entered into by and between Plaintiff Jose A. Lugo
3 ("Plaintiff"), on behalf of himself and all other similarly situated members of the "Settlement Class
4 Members" (as defined in the Settlement Agreement), on the one hand, and Defendant Michael
5 Nicholas Designs ("Defendant"), on the other hand.

6 This Amendment incorporates by reference all terms and conditions of the Settlement
7 Agreement. Except for those specific terms and conditions that this Amendment modifies, all
8 Settlement Agreement terms and conditions will remain effective and enforceable. Any
9 inconsistencies or differences between this Amendment and the Settlement Agreement will be
10 interpreted and construed in favor of this Amendment.

11 AMENDED TERMS AND CONDITIONS

12 1. Section 1.17 of the Agreement is amended to state:

13 **"Final Approval Hearing"** refers to the hearing at which the Court decides whether the
14 terms of the Agreement are "fair, reasonable, and adequate for the Class Members and meet all
15 requirements for final approval."

16 2. Section 1.20 of the Agreement is amended to state:

17 **"Judgment"** refers to the final judgment entered by the Court in this Class Action
18 following the Final Approval Hearing and issuance of the Final Approval Order."

19 3. Section 3.1 of the Agreement is amended to state:

20 **"Content of Class Notice.** The Class Notice shall be substantially in the form attached as
21 Exhibit A and include the amount of the Settlement, a calculation of the Class Members' anticipated
22 share of the Net Settlement Amount and the full amounts of the Class Counsel Payment, Class
23 Representative Service Awards, and Administrative Costs to be awarded, the terms of the release,
24 the procedure to opt out of the Settlement through the Request for Exclusion Form, the procedure to
25 Object to the Settlement through the Objection Form, and the date of the Final Approval Hearing.
26 No claim form will be required to participate in the Settlement. The Objection Form shall be
27 substantially in the form attached as Exhibit B, and the Request for Exclusion Form shall be

1 substantially in the form attached as Exhibit C. Class Notices and the accompanying Request for
2 Exclusion and Objection Forms will be sent out by the Settlement Administrator 45 days after the
3 Preliminary Approval Order, and no earlier than January 18, 2022.”

4 4. Section 3.2 of the Agreement is amended to state:

5 “**Settlement Administrator.** The Parties select ILYM Group, Inc., as the Settlement
6 Administrator. The duties of the Settlement Administrator shall include, without limitation, mailing
7 and re-mailing notices to Class Members, establishing a QSF, obtaining appropriate tax
8 identification number(s), calculating individual Distribution of Class Settlement Fund amounts and
9 individual Distribution of PAGA Settlement Fund amounts (including all required tax withholdings
10 and payments), mailing individual Settlement Payments and tax forms to Settlement Class Members,
11 remitting all tax payments and requisite reporting documentation to taxing authorities, filing any
12 required reports with the Court, and the other duties associated with settlement administration,
13 including specified in this Agreement. Any dispute relating to the settlement administration will,
14 after good-faith efforts by the Parties to resolve the dispute, be referred to the Court. The Settlement
15 Administrator and the Parties will also attempt to resolve any workweek dispute, but the Court will
16 ultimately decide any unresolved dispute.”

17 5. Section 4.3.1 of the Agreement is amended to state:

18 “**Objection Procedures.** Any Objection to this Agreement must contain (1) the name and
19 case number of this Action (or reasonable portion thereof), (2) the full name, last four digits of their
20 social security number, and current address of the Class Member making the Objection, (3) the
21 specific reason(s) for the Objection, and (4) all evidence and supporting papers (including, without
22 limitation, all briefs, written evidence, and declarations) for the Court to consider. Either an
23 objection may be in writing, or a Class Member may orally object or otherwise offer comments at
24 the Final Approval Hearing. Class Members who submit an Objection either in writing, orally, or
25 otherwise offers comments at the Final Approval Hearing remain bound by this Agreement if it is
26 approved by the Court. All written Objections are to be mailed to the Settlement Administrator who
27 will forward any objections to all counsel. An attorney who intends to represent an individual

1 objecting to the settlement need not file a notice of appearance. Class Counsel shall file any and all
2 Objections with the Court."

3 6. Section 6.3 of the Agreement is amended to state:

4 "Settlement is Contingent upon Release of Claims. This Agreement is conditioned upon
5 the releases by the Settlement Class Members and Class Representative(s) as described in section
6 6.1 of the Agreement and approved by the Court."

7 Dated: NOV 2 2021

Jose Angel Lugo
Plaintiff Jose Lugo

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9
10 Dated: _____ 2021

Michael Nicholas Designs, Inc.

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12 Approval as To Form and Content by Counsel:

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15 Dated: 11/2 2021

BRADLEY/GROMBACHER, LLP

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18 Marcus J. Bradley
Attorney for Plaintiff Jose A. Lugo

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20 Dated: _____ 2021

BARTKO, ZANKEL, BUNZEL & MILLER

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22 _____
23 An Ruda
Attorney for Defendant Michael Nicholas Designs, Inc.

1 objecting to the settlement need not file a notice of appearance. Class Counsel shall file any and all
2 Objections with the Court.”

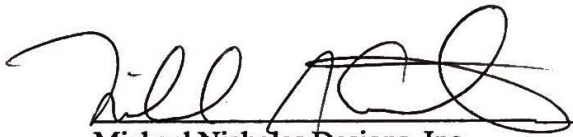
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7 Dated: _____ 2021

Plaintiff Jose Lugo

10 Dated: November 3, 2021



Michael Nicholas Designs, Inc.

12 Approval as To Form and Content by Counsel:

15 Dated: _____ 2021

BRADLEY/GROMBACHER, LLP

Marcus J. Bradley
Attorney for Plaintiff Jose A. Lugo

20 Dated: November 3 2021

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Attorney for Defendant Michael Nicholas Designs, Inc.