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7 Attorneys for Plaintiff BLAKE MILIATE and the Class

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10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF SAN DIEGO
12

13 BLAKE MILIATE, individually and on
behalf of all others similarly situated,

14 Plaintiffs,

15 vs.

16 SAN DIEGO HOUSE OF
17 MOTORCYCLES, INC. dba NORTH
COUNTYS HOUSE OF
18 MOTORCYCLES; and DOES 1 through
50, inclusive,

19 Defendants

Case No. 37-2018-00035131-CU-BT-CTL

CLASS ACTION

**NOTICE OF ENTRY OF ORDER
GRANTING MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Unlimited Civil Case

Assigned for all purposes to Hon. Carolyn
Caietti – Dept. C-70

20 /
21 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

22 PLEASE TAKE NOTICE that, pursuant to the attached Minute Order and Order, this
23 Court has GRANTED the Motion for Preliminary Approval of Class Action Settlement.

24 Dated: January 16, 2025

KEMNITZER, BARRON & KRIEG, LLP

25 By:



26 ADAM J. MCNEILE
KRISTIN KEMNITZER
MALACHI J. HASWELL
27 Attorneys for Plaintiff BLAKE MILIATE and the
28 Class

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 01/10/2025

TIME: 10:30 AM

DEPT: C-70

JUDICIAL OFFICER: CAROLYN M. CAIETTI

CLERK: Anthony Shirley

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2018-00035131-CU-BT-CTL** CASE INIT.DATE: 07/13/2018

CASE TITLE: **Miliate vs San Diego House of Motorcycles Inc [E-FILE]**

CASE CATEGORY: Civil CASE TYPE: (U)Business Tort/Unfair Business Practice

HEARING TYPE: Motion Hearing

MOVING PARTY:

NO APPEARANCES

The Court CONFIRMS the tentative ruling as follows:

Plaintiff Blake Milate's unopposed Motion for Preliminary Approval of Class Action Settlement is **GRANTED**.

The motion for final approval will be heard on April 11, 2025, at 10:30 a.m. in Department 70. Please provide a courtesy copy of the motion papers to Department 70.

The Court reviewed the moving papers, supporting declarations, and settlement, and finds the proposed settlement to be fair, adequate and reasonable for purposes of preliminary approval. (See e.g., *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800–1801; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) Notable settlement provisions include that the settlement is non-reversionary and class members do not need to submit a claim to receive their share of the settlement funds. Defendants did not file an opposition to the motion.

For final approval, the Court expects to be informed of the final hours worked and hourly rates billed by Plaintiff's counsel, the total attorney fees and costs sought, as well as the total amount of time expended, and tasks completed by the Class Representatives on the case.

The Court will: (i) modify the proposed order to reflect the date of the final approval hearing; and (ii) sign the proposed order. (ROA 193.) That order will be the Court's final order on the motion.

Carolyn M. Caietti

Judge Carolyn M. Caietti

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12 Attorneys for Plaintiff BLAKE MILIATE and the Proposed Class

FILED
San Diego Superior Court

JAN 13 2025

Clerk of the Superior Court
By: A. Shirley, Deputy

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

BLAKE MILIATE, individually and on
behalf of all others similarly situated,
Plaintiffs,

v.

SAN DIEGO HOUSE OF MOTORCYCLES,
INC. dba NORTH COUNTY'S HOUSE OF
MOTORCYCLES; and DOES 1 through 50,
inclusive,
Defendants.

Case No. 37-2018-00035131-CU-BT-CTL

CLASS ACTION

~~[PROPOSED]~~ ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT (C.R.C. Rule 3.769)

Unlimited Civil Case

Date: January 10, 2025
Time: 10:30 a.m.
Dept: C-70
Hon. Carolyn Caietti

HEARING DATE SET PER JULY 3,
2024 MINUTE ORDER

Assigned for all purposes to Hon. Carolyn
Caietti – Dept. C-70

THIS MATTER HAVING come before this Court for an Order preliminarily approving
a settlement between Plaintiff BLAKE MILIATE (“Plaintiff”), individually and on behalf of the
Class, and Defendant SAN DIEGO HOUSE OF MOTORCYCLES, LLC fka SAN DIEGO
HOUSE OF MOTORCYCLES, INC. (“SDHM”) and this Court having reviewed the Settlement
Agreement and attachments thereto, executed by the parties, and submitted to the Court with the

1 Motion for Preliminary Approval of Class Action Settlement, and the parties having consented to
2 the entry of this Order;

3 **IT IS HEREBY ORDERED** as follows:

4 1. This Order incorporates the Settlement Agreement, and the terms used in this
5 Order shall have the meanings and/or definitions given to them in the Settlement Agreement, as
6 submitted to the Court with the Motion for Preliminary Approval of Class Action Settlement and
7 as attached hereto as **Exhibit A**.

8 **PRELIMINARY APPROVAL OF SETTLEMENT AND CERTIFICATION OF**
9 **SETTLEMENT CLASS**

10 2. Without prejudice to Final Approval, the Settlement, on the terms and conditions
11 stated therein, is preliminarily approved by this Court as being fair, reasonable and adequate, free
12 of collusion or indicia of unfairness, within the range of possible final judicial approval, and in
13 the best interest of the Class.

14 3. For the purpose of Settlement, the Court hereby certifies the Class defined as
15 follows:

- 16 (a) all California consumers who purchased motor vehicles from
17 SDHM;
18 (b) for which SDHM arranged or assisted the consumer with financing
19 for the purchase of the motor vehicle through a lender issuing a credit
20 card;
21 (c) and for which SDHM listed the lender issuing the credit card as the
22 "LIENHOLDER OR LEGAL OWNER" on an Application for
23 Registration of New Vehicle or "NEW LIENHOLDER" on an Application
24 for Transfer by New Owner that SDHM sent to the California DMV; and
25 (d) from July 13, 2014 (four years prior to the filing of the original
26 complaint) to December 31, 2023.

27 Excluded from this class are (a) all persons whose claims are subject to an
28 agreement to arbitrate and (b) all persons whose purchase transactions
with SDHM were financed through the Yamaha/WebBank credit card
program.

29 **FINAL APPROVAL HEARING**

30 4. A Final Approval Hearing shall be held on 4/11/, 2025, at 10:30 a.m./p.m.
31 before the Hon. Carolyn Caietti in Department C-70 of the Superior Court of the State of California,
32 County of San Diego, Hall of Justice located at 330 West Broadway, San Diego, CA 92101, to

1 consider: (i) final approval of the Settlement; (ii) Class Counsel’s application for payment of fees
2 and costs; (iii) approval of the distribution of residual funds; and (iv) such other matters as this
3 Court may deem proper and necessary.

4 **OBJECTIONS TO SETTLEMENT**

5 5. Any Class Member who intends to object (“Objector”) to the fairness,
6 reasonableness, or adequacy of the Settlement (“Objections”) must mail a written Objection to the
7 Class Administrator at the addresses set forth below, postmarked no later than sixty (60) days
8 after the date the Settlement Notice is mailed to the Class. Any Objector must provide (i) the
9 name of the lawsuit, captioned *Blake Miliate v. San Diego House of Motorcycles, Inc. dba North*
10 *Countys House of Motorcycles, et al.*, SDSC Case No. 37-2018-00035131-CU-BT-CTL; (ii) the
11 Objector’s full name, current address, and current telephone number; (iii) a statement of the
12 position(s) the Objector wishes to assert, including the factual and legal grounds for the position;
13 (iv) copies of any other documents that the Objector wishes to submit in support of his/her
14 position; and (v) the Objector’s signature and the date of the signature. The objection must also
15 contain a statement as to whether the Objector intends to appear at the Final Approval Hearing.
16 Objections must be mailed to Class Administrator at:

17 **Apex Class Action, LLC**
18 P.O. Box 54668
19 Irvine, CA 92619
20 claims@apexclassaction.com
Telephone: (800) 355-0700
Facsimile: (949) 878-3536

21 6. No Objector shall be entitled to be heard at the Final Approval Hearing, and no
22 written objections or briefs submitted by an Objector shall be received or considered by this Court
23 at the Final Approval Hearing, unless the Objector has fully complied with all terms and conditions
24 set forth in the Settlement Notice, and as set forth in the Settlement Agreement. If an Objection is
25 overruled, the Objector will be bound by the terms of the Settlement. Members of the Class who
26 fail to file and serve timely written objections in the manner specified above shall be deemed to
27 have waived any objections and shall be foreclosed from making any objection (whether by appeal
28 or otherwise) to the Settlement Agreement.

1 **NOTICE OF SETTLEMENT**

2 7. The Settlement Notice attached to the Settlement Agreement as Exhibit B is
3 hereby approved for the purpose of notifying the Class as to the proposed Settlement, the Final
4 Approval Hearing, and the rights of Class Members.

5 8. SDHM is responsible for the costs of giving notice to the Class.

6 9. The Settlement Notice shall be sent to the respective members of the Class via first
7 class postage pre-paid U.S. Mail on or before 30 days after the issuance of this Order of
8 Preliminary Approval.

9 10. Sixteen (16) court days prior to the Final Approval Hearing, the Class
10 Administrator shall provide a declaration to the Court, with a copy to Class Counsel and
11 Defendant's Counsel, (i) informing the Court of Class Members who objected to the Settlement
12 and or/plan on attending the Final Approval Hearing, along with a copy of the objection to the
13 settlement and/or plan to attend and (ii) attesting to the measures undertaken to provide the
14 Settlement Notice to the Class Members.

15 11. The Settlement Notice is the best notice practicable, and is reasonably calculated,
16 under the circumstances, to apprise the Class of the Settlement of the Action and their right to
17 object to the Settlement. This Court further finds that the Settlement Notice provides sufficient
18 notice of the Final Approval Hearing, the Settlement, the application for attorneys' fees and costs,
19 the service award, and other matters set forth therein, and that the Settlement Notice satisfies the
20 California Rules of Court and due process of law, as to all persons entitled thereto.

21 **APPOINTMENT OF CLASS COUNSEL AND CLASS REPRESENTATIVE**

22 12. Having found that Kemnitzer, Barron & Krieg, LLP is qualified to represent the
23 Class, said firm is hereby jointly appointed as Class Counsel.

24 13. Having found that Plaintiff adequately represents the Class, Blake Miliate is
25 hereby appointed Class Representative.

26 **FURTHER PROCEEDINGS; COURT JURISDICTION**

27 14. All discovery and other pretrial proceedings in this action are stayed and
28 suspended until further order of this Court, except such actions as may be necessary to implement

1 the Settlement Agreement and this Order.

2 15. For the benefit of the Class and to protect this Court's jurisdiction, this Court
3 retains continuing jurisdiction over the Settlement proceedings to ensure the effectuation thereof
4 in accordance with the Settlement preliminarily approved herein and the related orders of this
5 Court.

6 16. The Parties are directed to carry out their obligations under the Settlement
7 Agreement.

8 **RETURN TO STATUS QUO IF NOT APPROVED**

9 17. In the event that (a) this Court does not finally approve the Settlement as provided
10 in the Settlement Agreement; (b) this Court does not enter the Final Approval Order and
11 Judgment as provided in all material respects and substantial form set forth in the Settlement
12 Agreement; or (c) the Settlement does not become final for any other reason, the Settlement
13 Agreement shall be null and void and any order or judgment entered by this Court in furtherance
14 of this settlement shall be vacated *nunc pro tunc*. In such a case, the Parties shall proceed in all
15 respects as if the Settlement Agreement had not been executed and the Parties shall in no way be
16 prejudiced in proceeding with or defending this litigation.

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SUMMARY OF APPLICABLE DATES

	Item	Proposed Dates
1.	Preliminary Approval by the Court	January 10, 2025
2.	Settlement Notice to be mailed by Class Administrator (SA ¶7.1) (Preliminary Approval Order +30 days); Class Administrator will re-mail Settlement Notices returned by the Postal Service within 5 days after receipt of any returned Settlement Notice (SA ¶¶7.2-7.3)	February 10, 2025
3.	Class Member Objection and Opt-Out Deadline (SA ¶¶8.1, 8.2) (Mailing of Class Notice +60 days)	April 11, 2025
4.	Deadline for Plaintiff to File Motion for Final Approval and Attorneys' Fees and Costs (SA ¶9.1; CCP §1005) (Hearing -16 Court days)	
5.	Deadline for Class Administrator to File (i) Declaration re Notice and (ii) Class Members' Objections to Settlement (SA ¶6.1(l)) (Hearing - 16 Court days)	
6.	Final Approval Hearing (SA ¶9.1)	

18. Class Counsel shall serve a copy of this Order on all named parties or their counsel within seven (7) days of receipt.

SO ORDERED.

IT IS FURTHER ORDERED that _____

_____.

Dated: January 13, 2025


HON. CAROLYN CAIETTI

EXHIBIT A

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

Plaintiff BLAKE MILIATE (“Plaintiff” or “Class Representative”), on behalf of himself and all others similarly situated, and Defendant SAN DIEGO HOUSE OF MOTORCYCLES, LLC fka SAN DIEGO HOUSE OF MOTORCYCLES, INC. (“SDHM” or “Defendant”), hereby enter into this Settlement Agreement and Release (“Settlement Agreement”), subject to the approval of the Court. Plaintiff and SDHM may often collectively be referred to herein as the “Parties” and individually as a “Party”. The Parties, in consideration of the mutual promises, agreements, and covenants contained herein, the sufficiency and receipt of which are hereby acknowledged, stipulate and agree as follows:

I. RECITALS

WHEREAS, on July 13, 2018, Plaintiff filed his original class action Complaint in this matter in the San Diego County Superior Court, captioned *Blake Miliate v. San Diego House of Motorcycles, Inc. dba North Countys House of Motorcycles, et al.*, SDSC Case No. 37-2018-00035131-CU-BT-CTL (the “Action”), alleging that Defendant engaged in conduct that violated the provisions of the Rees-Levering Motor Vehicle Sales Finance Act (“Rees-Levering Act”), asserting various causes of action against Defendant arising out of his purchase of two motorcycles from SDHM: (1) his purchase of a Honda motorcycle in July 2017, wherein he utilized a new Citibank issued Honda program credit card to purchase the Honda motorcycle (the “Citibank Transaction”); and (2) his purchase of a Yamaha motorcycle in February 2018, wherein he utilized a new Yamaha Motors Finance Corp./WebBank credit card to purchase the Yamaha (the “YMFC Transaction”).

WHEREAS, during the pendency of the action, San Diego House of Motorcycles, Inc. converted its name and entity type to San Diego House of Motorcycles, LLC.

WHEREAS, thereafter, the Action was stayed pending the completion of the arbitration of Plaintiff’s individual claim involving the YMFC Transaction.

WHEREAS, on July 7, 2022, the Arbitrator in JAMS Arbitration Case No. 1240023856 issued the Final Arbitration Award in Plaintiff’s favor with respect to his individual claim

involving the YMFC Transaction.

WHEREAS, on April 6, 2023, the JAMS Arbitration Appellate Panel in Appellate Case No. 12400025244 reversed the Arbitrator's Final Arbitration Award and issued its final opinion in favor of SDHM (the "Appellate Arbitration Award").

WHEREAS, on August 18, 2023, the Superior Court granted SDHM's Petition to Confirm the Appellate Arbitration Award in the Action.

WHEREAS, on October 19, 2023, Plaintiff filed his operative First Amended Complaint (the "FAC") in the Action, asserting one cause of action against SDHM for Violation of Business and Professions Code §§ 17200, *et seq.*, claiming violations of the Rees-Levering Act by SDHM relative to SDHM's sale of motorcycles financed by open-ended credit cards allegedly arranged by SDHM;

WHEREAS, Plaintiff and SDHM recognize that the outcome of the Action is uncertain, and that pursuing the Action to judgment would entail significant cost, risk, and delay;

WHEREAS, the Parties have explored and discussed at length the factual and legal issues in the Action and have participated in a mediation session with Michael Ornstil of JAMS. Prior to and during mediation, the Parties extensively negotiated resolution for the Class;

WHEREAS, only after resolution of all terms concerning the Class did the Parties negotiate Plaintiff's service award and attorneys' fees and costs;

WHEREAS, the Parties recognize that the settlement of this Action presented herein is subject to Court approval;

WHEREAS, the Parties desire to compromise and settle all issues, claims, and/or facts asserted in the Action or that could have been reasonably asserted based upon the facts alleged in the Action by Plaintiff on his own behalf and on behalf of members of the Class, including all claims addressed in Plaintiff's operative FAC;

WHEREAS, Plaintiff, by and through Class Counsel, has: (a) made a thorough investigation of the facts and circumstances surrounding the allegations asserted in the Action; (b) engaged in investigation of the claims asserted, and (c) evaluated and considered the law

applicable to the claims asserted in the Action, including the defenses that SDHM asserted and likely would assert;

WHEREAS, SDHM, by and through its counsel, has denied and continues to deny any and all claims alleged by Plaintiff, and has denied and continues to deny that its past or current conduct violates any law or that it is legally liable to Plaintiff or any Class Member for any of the matters asserted in this Action, but has concluded that settlement is desirable to avoid the time, expense, and inherent uncertainties of defending protracted litigation and to resolve, finally and completely, all pending and potential claims of Plaintiff and all Class Members relating to claims which were or could have been asserted by Plaintiff and the Class in this Action relating to the alleged conduct at issue;

WHEREAS, Plaintiff's counsel are experienced in this type of class litigation, recognize the costs and risks of prosecution of this Action, and believe that it is in Plaintiff's interest, and the interest of all Class Members, to resolve this Action, and any and all claims against SDHM arising from the conduct alleged in the Action, and that the proposed settlement is fair, adequate, and reasonable, and provides significant benefits and is in the best interests of the Class;

WHEREAS, significant arm's length settlement negotiations have taken place between the Parties and, as a result, this Settlement Agreement has been reached in good faith by the Parties, without collusion, and subject to the Court approval process set forth herein;

NOW, THEREFORE, it is hereby stipulated and agreed, by and between the undersigned Parties, as follows:

II. DEFINITIONS

As used in this Settlement Agreement, the following terms shall have the meaning set forth below. Where appropriate, terms used in the singular shall be deemed to include the plural and vice versa.

2.1. "**Action**" shall mean the case captioned *Blake Miliate v. San Diego House of Motorcycles, Inc. dba North Countys House of Motorcycles, et al.*, San Diego County Superior

Court, Case No. 37-2018-00035131-CU-BT-CTL, pending in the San Diego County Superior Court, and the claims asserted therein.

2.2. **“SDHM”** shall mean San Diego House of Motorcycles, LLC fka San Diego House of Motorcycles, Inc., the Defendant in the Action.

2.3. **“Class”** shall mean:

- (a) all California consumers who purchased motor vehicles from SDHM;
- (b) for which SDHM arranged or assisted the consumer with financing for the purchase of the motor vehicle through a lender issuing a credit card;
- (c) and for which SDHM listed the lender issuing the credit card as the **“LIENHOLDER OR LEGAL OWNER”** on an Application for Registration of New Vehicle or **“NEW LIENHOLDER”** on an Application for Transfer by New Owner that SDHM sent to the California DMV; and
- (d) from July 13, 2014 (four years prior to the filing of the original complaint) to December 31, 2023.

Excluded from this class are (a) all persons whose claims are subject to an agreement to arbitrate and (b) all persons whose purchase transactions with SDHM were financed through the Yamaha/WebBank credit card program.

2.4. **“Class Administrator”** shall mean Apex Class Action LLC.

2.5. **“Class Counsel”** shall mean Kemnitzer, Barron & Krieg, LLP.

2.6. **“Class Counsels’ Fees and Expenses”** shall mean Class Counsel’s reasonable attorneys’ fees and expenses, as set forth herein, subject to approval of the Court.

2.7. **“Class Members”** shall have the same meaning as **“Class.”**

2.8. **“Class Action Notice”** shall mean the notice that is to be approved by the Court and mailed to the Class as directed upon preliminary approval of this settlement.

2.9. **“Class Representative”** shall mean Plaintiff Blake Miliate.

2.10. “**Court**” shall mean the Superior Court of San Diego County, Hon. Carolyn Caietti, Dept. C-70, or such other judge as may be assigned to hear matters in the Action.

2.11. “**Defendant**” shall mean SDHM, as defined above.

2.12. “**Defendant’s Counsel**” shall mean Chapman Glucksman.

2.13. “**Effective Date**” shall mean the date the Court’s Order approving the settlement and judgment thereon (“**Judgment**”) becomes final. For purposes of the Settlement Agreement, the Court’s Judgment “becomes final” upon the later of:

(1) Sixty (60) days after entry by the Court of a final approval Order and Judgment finally certifying the Settlement Class and approving the Settlement if no notice of appeal, writ petition, or other appellate proceedings are filed with that time; or

(2) if any appeal, writ petition, or other appellate proceeding has been filed, five (5) business days after any appeal, writ petition, or other appellate proceedings challenging the Stipulation of Settlement have been finally and conclusively dismissed with the Judgment being affirmed.

2.14. “**Final Approval Hearing**” shall mean the hearing at which the Court will consider and finally decide whether to enter the Final Approval Order and/or Final Approval Order on Fees.

2.15. “**Final Approval Order**” shall mean the order of the Court that approves this Settlement Agreement and makes such other final rulings as are contemplated by this Settlement Agreement, which include approving payment of Service Award and Class Counsels’ Fees and Expenses, in substantially similar form to the proposed order attached hereto as **Exhibit C**.

2.16. “**Final Approval Order on Fees**” shall mean any order of the Court awarding Class Counsels’ Fees and Expenses (or any amount less than Class Counsels’ Fees and Expenses).

2.17. “**Notice Procedure**” shall mean the process to be followed per Article VII.

2.18. “**Objection Date**” shall mean sixty (60) days from the date of the mailing of the Settlement Notice, or as otherwise ordered by the Court, for Class Members to object to the Settlement Agreement’s terms or Class Counsels’ Fees and Expenses, and to submit any required statements, proof, or other materials and/or argument.

2.19. “**Operative Complaint**” means the First Amended Complaint filed by Plaintiff on October 19, 2023.

2.20. “**Parties**” shall mean the Plaintiff and Defendant.

2.21. “**Plaintiff**” shall mean Blake Miliate, the Class Representative as defined above.

2.22. “**Preliminary Approval Motion**” shall mean the motion filed by Plaintiff seeking preliminary approval from the Court of this Settlement Agreement.

2.23. “**Preliminary Approval Order**” shall mean the order of the Court preliminarily approving this Settlement Agreement in substantially similar form to the proposed order attached hereto as **Exhibit A**.

2.24. “**Released Claims**” refers to the claims released by this Settlement Agreement, as set forth in Article XIII.

2.25. “**Released Parties**” shall mean SDHM, its parent entities, and their respective past, present and future affiliates, officers, directors, shareholders, employees, agents, contractors, representatives, subsidiaries, related entities, vehicle manufacturers, predecessors and successors in interests, agents, employees, insurers, reinsurers, attorneys, owners, predecessors, successors and assigns.

2.26. “**Residual**” shall mean any uncashed Settlement Benefit checks distributed to the Class Members.

2.27. “**Service Award**” shall mean the amount to be paid to the Class Representative to compensate him for his time and efforts on behalf of the Class, subject to approval of the Court.

2.28. “**Settlement**” and “**Settlement Agreement**” shall mean the agreement by the Parties to resolve this Action, the terms of which have been memorialized herein.

2.29. “**Settlement Benefit**” shall mean the monetary consideration to be distributed to the Class Members.

2.30. “**Settlement Funds**” shall mean the total settlement amount as set forth in Section IV.

2.31. “**Settlement Notice**” shall mean the Notice of Proposed Class Action Settlement in the form approved by the Court following the Preliminary Approval Motion in the form attached hereto as **Exhibit B**.

III. PRELIMINARY APPROVAL OF SETTLEMENT

3.1. **Preliminary Approval Motion**. Promptly upon execution of this Settlement Agreement, Plaintiff, acting as Class Representative, through Class Counsel, shall file a Preliminary Approval Motion. The Preliminary Approval Motion shall request that this Court enter a Preliminary Approval Order:

- a. Certifying a Class for the purpose of effectuating this Settlement;
- b. Appointing Plaintiff as Class Representative;
- c. Appointing Class Counsel as counsel for the Class;
- d. Granting preliminary approval to this Settlement by order substantially in the form attached as **Exhibit A** (the Preliminary Approval Order);
- e. Approving a Notice of Class Action Settlement substantially in the form attached hereto as **Exhibit B**; a Spanish-language version of Exhibit B will be prepared by the Class Administrator;
- f. Approving the Class Administrator and settlement procedures;
- g. Setting the time date and place of the final approval hearing; and
- h. Any other matters deemed necessary for settlement of the Action.

3.2. **Corporate Declarations**. Within ten (10) days of execution of this Settlement Agreement, SDHM shall provide Class Counsel, for filing with the Court, a declaration from a SDHM designated representative stating the total number of Class Members and the total amount of money that Class Members financed using open-ended financing.

3.3. **Best Efforts to Obtain Approval of Settlement**. In the event that the Court declines to issue the Preliminary Approval Order or declines to issue the Final Approval Order, the Parties agree to use their best efforts, consistent with this Settlement Agreement, to cure any defect(s) identified by the Court, including but not limited to returning to mediation. If, despite their best

efforts, the Parties cannot cure said defects, the Settlement Agreement is voidable with each Party returning to their respective pre-settlement posture and without prejudice or waiver to any Party's pre-settlement position on any legal or factual issue.

The Parties acknowledge that prompt approval, consummation, and implementation of the Settlement set forth in this Settlement Agreement are essential. The Parties shall cooperate with each other in good faith to carry out the purposes of and effectuate this Settlement Agreement, shall promptly perform their respective obligations hereunder, and shall promptly take any and all actions and execute and deliver any and all additional documents and all other materials and/or information reasonably necessary or appropriate to carry out the terms of this Settlement Agreement and the transactions contemplated hereby.

3.4. Compliance With Rules of Court. The Parties acknowledge that Court approval of Settlement shall be undertaken in accordance with Rule 3.769 of the California Rules of Court.

IV. SETTLEMENT FUNDS

4.1. The Parties agree that the total settlement amounts are set forth in 4.1.a-c. below as full and final monetary consideration for resolution of the Action (the "Settlement Funds"). The Settlement Funds shall be deposited with the Class Administrator within twenty-one (21) days after the Effective Date, and shall be distributed as follows, subject to the approval and direction of the Court:

- a. Settlement Benefit: Two Hundred Thousand Six Hundred and Forty-Seven Dollars and Fifty-Nine Cents (\$200,647.94) shall be distributed to Class Members (the "Settlement Benefit"). The amount paid to each Class Member shall be calculated based on the pro-rata amount of money the Class Member financed using open-end financing, and payment shall be made in the form of a check that must be cashed within one hundred eighty (180) days from the date of issuance, as stated on the face of the check.
- b. Attorneys' Fees and Costs: SDHM will not oppose a request of Two Hundred Thousand Dollars (\$200,000.00) in total for Class Counsel's Fees and Expenses. SDHM shall pay the attorneys' fees and litigation expenses awarded by the Court to Class Counsel, so

long as they are consistent with the terms set forth herein and do not exceed \$200,000.00. Such attorneys' fees and litigation expenses shall be paid in the amount approved by the Court within twenty-one (21) days of the later of: (a) the Effective Date; (b) the date the Court enters its order awarding such attorneys' fees and litigation expenses; or (c) the date on which Class Counsel provides SDHM with all information and documentation reasonably necessary for SDHM to process the payment, including but not limited to wire or other payment instructions, tax identification number(s), and completed Form(s) W-9. Class Counsel's Fees and Expenses shall be distributed among Class Counsel based upon their mutual agreement.

- c. Service Award: The sum of Three Thousand Five Hundred (\$3,500.00) (or such other amount as may be determined by the Court to be fair and reasonable) shall be paid to Plaintiff as the Service Award. SDHM shall pay the Court approved Service Award and send a check for the full amount to Class Counsel within twenty-one (21) days of the later of: (a) the Effective Date, or (b) the date on which the Court approves the Service Enhancement, and (c) the date on which the Settlement Class Representative and/or Class Counsel provided SDHM with all information and documentation reasonably necessary for SDHM to process the payment, including but not limited to tax identification number, and a completed Form W-9.
- d. No Reversion; Unclaimed Property: SDHM will receive no reversion from the Settlement Benefit. The proceeds of any uncashed checks after 180 days following the issuance of settlement checks will be sent in the corresponding Class Member's name to the California State Controller's Office's Unclaimed Property Fund. Class Administrator will be responsible for submitting the necessary paperwork to the California State Controller's Office - Unclaimed Property Fund. Class Administrator will continue to hold these unclaimed funds until such time it is required to transfer said funds to the State Controller's Office.

V. NO ADMISSION OF LIABILITY OR FAULT

5.1. This Settlement Agreement is not to be used in evidence or for any other purpose in any other proceeding, and shall not at any time be construed or deemed to be any admission or concession by SDHM with respect to any alleged liability, fault, omission or wrongdoing of any kind whatsoever, regardless of whether or not this Settlement Agreement results in entry of a Final Approval Order and Judgment as contemplated herein. SDHM specifically denies the allegations of wrongdoing made in connection with the Action, and denies that its alleged conduct violated any State or Federal law. SDHM maintains that it has meritorious defenses to all claims alleged in the Action and enters into this Agreement subject to and without waiving any personal jurisdiction defenses asserted in the Action. Neither the Settlement nor any of the terms of this Agreement shall constitute an admission or finding of any fault, liability, wrongdoing, or damage whatsoever or any infirmity in the defenses that SDHM has, or could have, asserted. SDHM is entering into this Agreement solely to eliminate the burden and expense of further litigation. SDHM has determined that it is desirable and beneficial to them that the Action be settled in the manner and upon the terms and conditions set forth in this Agreement. This provision shall survive the expiration or voiding of the Settlement Agreement.

VI. OBLIGATION OF CLASS ADMINISTRATOR

6.1. SDHM shall retain the Class Administrator and shall pay for the costs and expenses of the Class Administrator. The Class Administrator shall be responsible for all of the following:

- a. Preparing, printing, and disseminating to the Class Members the Settlement Notice and otherwise administering the settlement;
- b. Keeping track of opt-outs and objections to the Settlement, including maintaining the original mailing envelope in which they were mailed, and within seven (7) business days after the close of the Objection Date, informing Class Counsel and Defendant's Counsel in writing of the total number of such opt-outs and objections received in response to the Settlement Notice and forwarding information about all opt-outs and all objections and, supporting papers to Class Counsel and Defendant's Counsel;

- c. Holding settlement funds and preparing and mailing checks in accordance with this Agreement and direction of the Court;
- d. Ascertaining the current address, telephone number, and addressee information for each Class Member prior to disseminating the Settlement Notice in the manner and under the circumstances described in Article VII;
- e. Remitting unclaimed funds to the State Controller's Unclaimed Property Fund and performing all reporting duties associated therewith;
- f. Performing any tax reporting duties required by federal, state, or local law;
- g. Referring to Class Counsel and Defendant's Counsel all inquiries by the Class regarding matters not specified herein;
- h. Maintaining adequate records of all its activities, including the dates of each mailing of Class Notices, returned mail, and other communications and attempted written or electronic communications with the Class;
- i. Confirming in writing its completion of the administration of the settlement;
- j. Preparing a final report summarizing the objections and disputes filed;
- k. Settlement Website. No later than ten (10) business days after entry of the Preliminary Approval Order, the Class Administrator will create and operate a publicly accessible website solely for the purposes of providing notice to the Class Members. The settlement website will contain a copy of the Settlement Notice in English and Spanish, "Frequently Asked Questions" regarding the Settlement Agreement and approval process, the Operative Complaint, the Preliminary Approval Order, and other documents agreed upon by the Parties. The Parties will jointly provide the Class Administrator with the content required for the settlement website. Additionally, any change of the date, time, or location of the Final Approval Hearing will be posted on the website.
- l. Sixteen (16) court days prior to the Final Approval Hearing, filing a declaration with the Court informing the Court of Class Members who objected to the Settlement and/or

plan on attending the Final Approval Hearing, along with a copy of the objection to the settlement, and/or plan to attend and attesting to the measures undertaken to provide the Settlement Notice to the Class Members; and

- m. Such other tasks as the Class Counsel and Defendant's Counsel mutually agree, or as required by the Court.

VII. NOTICE OF SETTLEMENT

7.1. Initial Mailing. Within thirty (30) days after the Court's entry of the Preliminary Approval Order, or on such other time as may be directed by the Court, the Class Administrator shall mail the Settlement Notice by first class mail to Class Members via a single mailing (rather than on a rolling basis).

7.2. Re-Mailing if Postal Service Provides Additional Address Information. If any Settlement Notices are returned to the Class Administrator within thirty (30) days following the initial date of mailing the Settlement Notice, they will be re-mailed within five (5) days of receipt if additional address information is provided by the Postal Service.

7.3. Re-Mailing if Postal Service Does Not Provide Additional Address Information. If any Settlement Notice comes back undeliverable within thirty (30) days following the initial date of mailing the Settlement Notice, and no additional address information is provided by the Postal Service, the Class Administrator shall run the Class Member's name, last known address, and social security number, if available, through the LexisNexis best address search and, within five (5) days, re-mail the notice if an updated address can be found. If the LexisNexis search does not show an updated address for the Class Member, the Settlement Notice will not be re-mailed. Settlement Notices that are returned as undeliverable following the LexisNexis search will not be re-mailed again.

VIII. OPT OUT AND OBJECTIONS BY CLASS MEMBERS

8.1. The Parties will also request that the Court enter a Preliminary Approval Order requiring any Class Member who wishes to exclude ("opt out") him or herself from this Action and from this Settlement to submit a written request to the Class Administrator, including full

name and address, the name of the lawsuit captioned *Blake Miliate v. San Diego House of Motorcycles, Inc. dba North Countys House of Motorcycles, et al.*, San Diego County Superior Court, Case No. 37-2018-00035131-CU-BT-CTL and request to be excluded from the Class in this Action (a "Request for Exclusion"). Said Request for Exclusion shall be made within sixty (60) days from the date of the mailing of the Settlement Notice, or as otherwise ordered by the Court.

8.2. The Parties will also request that the Court enter a Preliminary Approval Order requiring any Class Member who wishes to be heard orally at the Final Approval Hearing, or who wishes any objection to be considered, to provide to the Class Administrator a written objection, by the Objection Date. To state a valid objection to the Settlement, an objecting Class Member must provide to the Class Administrator the following information in his or her written objection: (i) the name of the lawsuit, captioned *Blake Miliate v. San Diego House of Motorcycles, Inc. dba North Countys House of Motorcycles, et al.*, San Diego County Superior Court, Case No. 37-2018-00035131-CU-BT-CTL; (ii) full name, current address, and current telephone number; (iii) a statement of the position(s) the objector wishes to assert, including the factual and legal grounds for the position; (iv) provide copies of any other documents that the objector wishes to submit in support of his/her position; and (v) the objector's signature and the date of the signature. The Class Member shall also state in the objection whether the Class Member intends to attend the Final Approval Hearing. Within seven (7) business days after the close of the Objection Date, the Class Administrator shall provide a copy of all objections and supporting papers to Class Counsel and Defendant's Counsel, and Class Administrator shall file any objections and supporting papers with the Court no later than sixteen (16) days prior to the Final Approval Hearing.

8.3. Subject to approval of the Court, any objecting Class Member may appear, in person or by counsel, at the Final Approval Hearing held by the Court, to (a) show cause why the Settlement should not be approved as fair, adequate, and reasonable, or (b) object to any petitions for Class Counsels' Fees and Expenses, and Service Award.

8.4. The agreed-upon procedures and requirements for filing objections in connection with the Final Approval Hearing are intended to ensure the efficient administration of justice and the orderly presentation of any Class Member's objection to the Settlement, in accordance with the due process rights of all Class Members.

IX. FINAL APPROVAL

9.1. The Parties shall request a date for the Final Approval Hearing at the time of the hearing for Preliminary Approval. At least sixteen (16) court days before the Final Approval Hearing, Class Counsel shall file a motion for final approval of the Settlement, for an award of Class Counsels' Fees and Expenses, and for a Service Award to the Class Representative. The motion will request the Court grant Final Approval of the Settlement and to enter a final judgment in accordance with this Agreement, including approving this Agreement as final, fair, reasonable, adequate, and binding on the Class, awarding Class Counsels' Fees and Expenses, awarding the Service Award, and approving the plan for distribution of Residual funds, if any, to the State Controller's Unclaimed Property Fund. To the extent it is to be filed as an unopposed motion, it will be sent to Defendant's Counsel for approval within five (5) business days of filing for review and consent.

9.2. SDHM may, at its discretion, withdraw or terminate the Settlement Agreement prior to the Final Approval Hearing if more than two percent (2 %) of Class Members submit valid and timely Requests for Exclusion. SDHM shall have five (5) business days following the delivery by the Class Administrator to Defendant's Counsel and Class Counsel a complete report listing all valid Requests for Exclusion to exercise this option. If SDHM exercises this option and withdraws from the Settlement Agreement in accordance with the terms of this Paragraph, the Settlement Agreement shall become null and void and of no further force and effect, and the Parties will be restored to their positions prior to their execution of the Settlement Agreement. In the event exercises this option, SDHM will remain responsible for the Settlement Administrator's expenses incurred.

X. CLASS DATA

10.1. After diligent investigation of its records, SDHM affirms that there are 712 members of the Class, whose total amount of money financed using open-ended financing was \$6,688,264.59.

XI. DISTRIBUTION OF SETTLEMENT FUNDS TO CLASS MEMBERS

11.1. Records Search. SDHM shall determine by diligent investigation from its records, for each Class Member, the last known addresses of each Class Member and the amount of money the Class Member financed using open-ended financing. SDHM shall transmit this information to the Class Administrator, which shall be maintained in confidence.

11.2. Settlement Benefit Transfer. Ten (10) business days after the Effective Date of Settlement Benefits, SDHM agrees that it or its representative shall electronically transfer to an account held by the Class Administrator the full amount of the Settlement Benefit as set forth in Section 4.1.a.

11.3. Settlement Benefit Distribution. On the Distribution Date, Class Administrator shall issue settlement checks to Class Members on a pro-rata basis based on the amount of money the Class Member financed to purchase a motor vehicle from SDHM using open-ended credit financing allegedly arranged by SDHM (the "Class Member Payment"). The Class Member Payment checks shall become stale one hundred eighty (180) days following issuance.

11.4. Uncashed Settlement Checks. The funds from the uncashed Class Member Payment checks shall be distributed by the Class Administrator to the State Controller's Unclaimed Property Fund. No later than ten (10) calendar days after the requisite waiting period after the check-cashing deadline, the Settlement Administrator shall deposit the total amounts contained in the uncashed Class Member Payment checks, and all interest that has accrued, to the State Controller's Unclaimed Property Fund. The Settlement Administrator shall provide a declaration of deposit with the State Controller's Unclaimed Property Fund, which will be served on the Parties' counsel within ten (10) calendar days of payment of the Residual.

11.5. Dispute Resolution. Any disputes regarding payments to the Class, such as a dispute about a payment amount or the proper recipient of a Class Member Payment, will be resolved in the following manner: (1) Class Counsel and Defendant's Counsel will first meet and confer in a good faith attempt to resolve the dispute; and (2) in the event the dispute cannot be resolved informally between Class Counsel and Defendant's Counsel, the Parties will submit the dispute to the Court for a binding determination.

XII. TAX TREATMENT

12.1. The Parties make no representations as to the tax treatment or legal effect of the payments called for or amounts required to be reported under the terms of this Agreement and/or the Settlement.

XIII. RELEASE AND JURISDICTION OF COURT

13.1. Release by Class Members: All Class Members hereby release any and all claims, liens, demands, actions, and causes of action of any nature that they have, had or may have against SDHM and Released Parties, arising out of the allegations of the Action, and hereby expressly waive and relinquish any and all claims they may have arising out of the allegations of the Action.

13.2. Releases by Class Representative. The Class Representative hereby releases any and all claims, liens, demands, actions, and causes of action of any nature which he has, had, or may have against SDHM and Released Parties. This release is intended to be a general one covering all existing claims or demands of any nature whatsoever. The Parties expressly understand and acknowledge that it is possible that unknown losses or claims exist or that present losses may have been underestimated in amount or severity. The Parties explicitly took that possibility into account in entering into this Agreement. A portion of the consideration has been bargained for between the Parties to this Agreement with the knowledge of the possibility of such unknown losses or claims and was given in exchange for a full accord, satisfaction, and discharge of all such losses or claims.

13.3. Plaintiff and the Class Members recognize that, even if they later discover facts in addition to or different from those which they now know or believe to be true, they nevertheless

agree that, upon entry of the Final Approval Order and accompanying Judgment, Plaintiff and the Class Members fully, finally, and forever settle and release any and all of the Released Claims. The Parties acknowledge that the foregoing waiver and release was bargained for and is a material element of the Settlement Agreement.

13.4. Upon issuance of the Final Approval Order: (i) the Settlement Agreement shall be the exclusive remedy for any and all Class Members; (ii) SDHM and Released Parties shall not be subject to liability or expense of any kind to any Class Member(s) for reasons related to the Action except as set forth herein; and (iii) Class Members shall be permanently barred from initiating, asserting, or prosecuting any and all of the Released Claims against Defendant and Released Parties.

13.5. Without affecting the finality of the Final Approval Order or Final Judgment in any way, the Court shall retain jurisdiction over:

- a. any other action necessary to implement the terms of the Final Approval Order and/or this Agreement; and
- b. the construction, interpretation, implementation, and enforcement of the Final Approval Order, until each and every act agreed to be performed by the Parties thereunder has in fact been fully performed.

XIV. ADMINISTRATION, ATTORNEYS' FEES, AND SERVICE AWARDS

14.1. All expenses incurred in administering this Settlement Agreement, including, without limitation, the cost of the Class Notice, and the cost of distributing and administering the benefits of the Settlement Agreement, shall be paid as described herein, subject to approval of the Court.

14.2. Subject to approval by the Court and pursuant to Section 6.1, SDHM shall retain the Class Administrator and shall pay for the costs and expenses of the Class Administrator.

14.3. Subject to approval by the Court, the Parties agree that Class Counsel may request that Class Counsel be paid attorneys' fees and costs awarded by the Court up to an amount that does not exceed Two Hundred Thousand Dollars (\$200,000.00). Class Counsel agrees that they

shall not be entitled to and will not seek – either from SDHM or from any other party, person, or entity – attorneys’ fees and costs or other compensation for attorneys’ services and expenses in the Action exceeding the amount stated above, subject to Court approval. Class Counsel agrees that such an award shall compensate them for all legal work in the Action up to and including the date of the Final Judgment, as well as for all legal work and costs that may be incurred in the Action after the date of the Final Judgment. A single check payable to “Kemnitzer, Barron & Krieg LLP”, for such fees and costs as approved by the Court, will be issued pursuant to the terms of 4.1.b above.

14.4. The Parties agree that Class Counsel may apply to the Court for the payment of a Service Award to the Class Representative Blake Miliate that does not exceed Three Thousand Five Hundred Dollars (\$3,500.00). The Service Award shall be made in the form of a check to the Class Representative, and issued pursuant to the terms of 4.1.c above.

XV. REPRESENTATIONS, WARRANTIES, AND COVENANTS

15.1. Class Representative Blake Miliate and Class Counsel, who are signatories hereto, represent and warrant that they have the authority, on behalf of Plaintiff and the Class, to execute, deliver, and perform this Settlement Agreement and to consummate all of the transactions contemplated hereby. This Settlement Agreement has been duly and validly executed and delivered by Class Counsel and Plaintiff and constitutes their legal, valid, and binding obligation.

15.2. SDHM represents, and warrants that it has the authority to execute, deliver, and perform this Settlement Agreement and to consummate the transactions contemplated hereby. The execution, delivery, and performance by SDHM of this Settlement Agreement and the consummation by it of the actions contemplated hereby have been duly authorized by all necessary corporate action on the part of SDHM. This Settlement Agreement has been duly and validly executed and delivered by SDHM and constitutes its legal, valid, and binding obligation.

XVI. MISCELLANEOUS PROVISIONS

16.1. Each Party is Represented by Counsel. The Parties acknowledge to each other that each has been advised and is represented by legal counsel of their own choice throughout all of

the negotiations which preceded the execution of this Settlement Agreement and that they have executed this Settlement Agreement after being so advised and without reliance upon any promise or representation of any person or persons acting for or on behalf of the other, except as expressly set forth in this Agreement. The Parties further acknowledge that they and their counsel have had an adequate opportunity to make whatever investigation or inquiry they may deem necessary or desirable in connection with the subject matter of this Agreement prior to the execution of this Agreement. Each Party has read and approved the language of this Agreement, with the assistance of counsel.

16.2. Entire Agreement/Construction and Interpretation. This Settlement Agreement is entered into only for purposes of Settlement. In the event that the Final Approval Order is not entered or a Final Approval Order is subsequently reversed by an appeal, the Parties agree to use their best efforts to cure any defect(s) identified by the Court. If, despite their best efforts, the Parties cannot cure said defects, this Settlement Agreement, including any releases or dismissals hereunder, is canceled, and no term or condition of this Settlement Agreement, or any draft thereof, or of the discussion, negotiation, documentation or other part or aspect of the Parties' settlement discussions, shall have any effect, nor shall any such matter be admissible in evidence for any purpose, or used for any purposes whatsoever in the Action or any other proceeding. Parties shall be restored to their prior rights and positions as if the Settlement Agreement had not been entered into.

16.3. Headings and Sections. The headings of the sections and paragraphs of this Settlement Agreement are included for convenience only and shall not be deemed to constitute part of this Settlement Agreement or to affect its construction.

16.4. Modification Only in Writing. This Settlement Agreement may not be modified or amended except in writing and signed by all of the Parties. This Settlement Agreement constitutes the entire, fully integrated agreement among the Parties and cancels and supersedes all prior written and unwritten agreements and understandings pertaining to the Settlement of the Action.

16.5. Counterpart Originals. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

16.6. Parties to Bear Costs. Except as otherwise provided in this Settlement Agreement, each party to this Settlement Agreement shall bear his, her, or its own costs of the Action.

16.7. Reasonable Extensions of Time. The Parties to this Settlement Agreement reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement, as well as to correct any inadvertent, non-substantive mistakes or typographical errors contained in any of the Settlement papers.

16.8. Communications Regarding Settlement. The Parties agree that any communications by the Parties regarding this Settlement will be consistent with the Settlement Agreement, Preliminary Approval Order, Class Notice, and Final Approval Order. Nothing in this paragraph shall limit (1) Class Counsel's ability to communicate with the Class Representative, Class Members upon Final Approval, or the Court, and (2) SDHM's ability to communicate with its dealers, customers, or the Court.

16.9. Administration of the Settlement. The administration of the Settlement as embodied in this Settlement Agreement shall be under the authority of the Court. The Court shall retain jurisdiction to protect, preserve, and implement the Settlement Agreement, including, but not limited to, the Release, as provided herein. The Court expressly retains jurisdiction to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Settlement Agreement, including, but not limited to, orders enjoining Class Members from prosecuting claims that are released pursuant to the Settlement Agreement, ensuring compliance with the reimbursement and replacements as provided herein, and allowing for discovery related to objectors, if any.

16.10. Drafting of Settlement Agreement. The determination of the terms of, and the drafting of, this Settlement Agreement has been by mutual agreement after negotiation, with

consideration by and participation of all Parties and their counsel. Since this Settlement Agreement was drafted with the participation of all Parties and their counsel, the presumption that ambiguities shall be construed against the drafter does not apply. The Parties were represented by competent and effective counsel throughout the course of settlement negotiations and in the drafting and execution of this Settlement Agreement, and there was no disparity in bargaining power among the Parties to this Settlement Agreement.

16.11. Disputes Regarding Settlement Agreement. The Parties agree that any disputes regarding the meaning of the terms and conditions of this Settlement Agreement, the Parties' rights and obligations under this Settlement Agreement, and/or any disagreement regarding the manner in which any issue or dispute arising under this Settlement Agreement shall be submitted to the Court for resolution.

16.12. Enforcement; Attorneys' Fees. Without affecting the finality of the judgment in any way, the Court shall retain jurisdiction pursuant to *Code of Civil Procedure* § 664.6, over (a) any other action necessary to implement the terms of the Final Approval Order and Judgment and/or this Agreement, including any further amendments to the Final Approval Order and Judgment to provide relief to additional members of the Class who may be identified after entry of the Final Approval Order and Judgment; and (b) the construction, interpretation, implementation, and enforcement of the Final Approval Order and Judgment, until each and every act agreed to be performed by the Parties there under has in fact been fully performed. The prevailing party in any action or proceeding to enforce the terms of this Agreement shall be entitled to their reasonable attorneys' fees and costs.

16.13. Governing Law. This Agreement shall be governed and interpreted under California law.

16.14. Performance of Provisions. Any failure by any of the Parties to insist upon the strict performance by any of the other Parties of any of the provisions of this agreement shall not be deemed a waiver of any provision of this agreement, and such Party, notwithstanding such failure,

shall have the right thereafter to insist upon the specific performance of any and all of the provisions herein.

16.15. Notices in Writing. All notices to the Parties or counsel required by this Settlement Agreement shall be made in writing and communicated by electronic and regular mail to the following addresses (unless one of the Parties subsequently designates one or more other designees):

For Plaintiff Blake Miliate individually and as Class Representative:

Adam McNeile
Kristin Kemnitzer
KEMNITZER, BARRON & KRIEG LLP
1120 Mar West St., Suite C-2
Tiburon, CA 94941
(800) 520-4525
adam@kbklegal.com
kristin@kbklegal.com

For Defendant SDHM:

Gregory K. Sabo
Chelsea L. Zwart
CHAPMAN GLUCKSMAN
11900 W. Olympic Blvd., Suite 800
Los Angeles, CA 90024
(310) 207-7722
gsabo@cgdrlaw.com
czwart@cgdrlaw.com

IN WITNESS WHEREOF, Plaintiff BLAKE MILIATE and Defendant SAN DIEGO HOUSE OF MOTORCYCLES, LLC fka SAN DIEGO HOUSE OF MOTORCYCLES, INC. have executed this Settlement Agreement on the date(s) indicated below.

Dated: 12/12/2024



BLAKE MILIATE
Individually and as Class Representative

Dated: _____

BRANDY TREADWAY
As the Authorized Representative of
SAN DIEGO HOUSE OF MOTORCYCLES, LLC fka SAN
DIEGO HOUSE OF MOTORCYCLES, INC.

APPROVED AS TO FORM:

shall have the right thereafter to insist upon the specific performance of any and all of the provisions herein.

16.15. Notices in Writing. All notices to the Parties or counsel required by this Settlement Agreement shall be made in writing and communicated by electronic and regular mail to the following addresses (unless one of the Parties subsequently designates one or more other designees):

For Plaintiff Blake Miliate individually and as Class Representative: For Defendant SDHM:

Adam McNeile
Kristin Kemnitzer
KEMNITZER, BARRON & KRIEG LLP
1120 Mar West St., Suite C-2
Tiburon, CA 94941
(800) 520-4525
adam@kpklegal.com
kristin@kpklegal.com


Gregory K. Sabo
Chelsea L. Zwart
CHAPMAN GLUCKSMAN
11900 W. Olympic Blvd., Suite 800
Los Angeles, CA 90024
(310) 207-7722
gsabo@cgdrlaw.com
czwart@cgdrlaw.com

IN WITNESS WHEREOF, Plaintiff BLAKE MILIATE and Defendant SAN DIEGO HOUSE OF MOTORCYCLES, LLC fka SAN DIEGO HOUSE OF MOTORCYCLES, INC. have executed this Settlement Agreement on the date(s) indicated below.

Dated: _____

BLAKE MILIATE
Individually and as Class Representative

Dated: 12-13-24



BRANDY TREADWAY
As the Authorized Representative of
SAN DIEGO HOUSE OF MOTORCYCLES, LLC fka SAN
DIEGO HOUSE OF MOTORCYCLES, INC.

APPROVED AS TO FORM:

Dated: December 12, 2024



Adam McNeile
Kristin Kemnitzer
KEMNITZER BARRON & KRIEG
Attorneys for Plaintiff
BLAKE MILIATE INDIVIDUALLY AND AS CLASS
REPRESENTATIVE

Dated: December 13, 2024



Gregory K. Sabo
Chelsea L. Zwart
CHAPMAN GLUCKSMAN
Attorneys for Defendant
SAN DIEGO HOUSE OF MOTORCYCLES, LLC fka SAN
DIEGO HOUSE OF MOTORCYCLES, INC.

EXHIBIT A

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

BLAKE MILIATE, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

SAN DIEGO HOUSE OF MOTORCYCLES, INC. dba NORTH COUNTY'S HOUSE OF MOTORCYCLES; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 37-2018-00035131-CU-BT-CTL

Complaint Filed: July 13, 2018

Assigned for All Purposes to:
Hon. Carolyn Caietti
Dept. C-70

CLASS ACTION

[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT (C.R.C. Rule 3.769)

**Date: January 10, 2025
Time: 10:30 a.m.
Dept.: C-70**

THIS MATTER HAVING come before this Court for an Order preliminarily approving a settlement between Plaintiff BLAKE MILIATE (“Plaintiff”), individually and on behalf of the Class, and Defendant SAN DIEGO HOUSE OF MOTORCYCLES, LLC fka SAN DIEGO HOUSE OF MOTORCYCLES, INC. (“SDHM”) and this Court having reviewed the Settlement Agreement and attachments thereto, executed by the parties, and submitted to the Court with the Motion for Preliminary Approval of Class Action Settlement, and the parties having consented to the entry of this Order;

IT IS HEREBY ORDERED as follows:

1. This Order incorporates the Settlement Agreement, and the terms used in this Order shall have the meanings and/or definitions given to them in the Settlement Agreement, as submitted to the Court with the Motion for Preliminary Approval of Class Action Settlement and as attached

1 hereto as **Exhibit A**.

2 **PRELIMINARY APPROVAL OF SETTLEMENT AND CERTIFICATION OF**
3 **SETTLEMENT CLASS**

4 2. Without prejudice to Final Approval, the Settlement, on the terms and conditions
5 stated therein, is preliminarily approved by this Court as being fair, reasonable and adequate, free
6 of collusion or indicia of unfairness, within the range of possible final judicial approval, and in the
7 best interest of the Class.

8 3. For the purpose of Settlement, the Court hereby certifies the Class defined as
9 follows:

- 10 (a) all California consumers who purchased motor vehicles from SDHM;
11 (b) for which SDHM arranged or assisted the consumer with financing for the
12 purchase of the motor vehicle through a lender issuing a credit card;
13 (c) and for which SDHM listed the lender issuing the credit card as the
14 “LIENHOLDER OR LEGAL OWNER” on an Application for Registration of New
15 Vehicle or “NEW LIENHOLDER” on an Application for Transfer by New Owner
16 that SDHM sent to the California DMV; and
17 (d) from July 13, 2014 (four years prior to the filing of the original complaint)
18 to December 31, 2023.

19 Excluded from this class are (a) all persons whose claims are subject to an agreement
20 to arbitrate and (b) all persons whose purchase transactions with SDHM were
21 financed through the Yamaha/WebBank credit card program.

22 **FINAL APPROVAL HEARING**

23 4. A Final Approval Hearing shall be held on _____, 2025, at
24 [_____] a.m./p.m. before the Hon. Carolyn Caietti in Department C-70 of the Superior Court
25 of the State of California, County of San Diego, Hall of Justice located at 330 West Broadway, San
26 Diego, CA 92101, to consider: (i) final approval of the Settlement; (ii) Class Counsel’s application
27 for payment of fees and costs; (iii) approval of the distribution of residual funds; and (iv) such other
28 matters as this Court may deem proper and necessary.

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OBJECTIONS TO SETTLEMENT

5. Any Class Member who intends to object (“Objector”) to the fairness, reasonableness, or adequacy of the Settlement (“Objections”) must mail a written Objection to the Class Administrator at the addresses set forth below, postmarked no later than sixty (60) days after the date the Settlement Notice is mailed to the Class. Any Objector must provide (i) the name of the lawsuit, captioned *Blake Miliate v. San Diego House of Motorcycles, Inc. dba North Countys House of Motorcycles, et al.*, SDSC Case No. 37-2018-00035131-CU-BT-CTL; (ii) the Objector’s full name, current address, and current telephone number; (iii) a statement of the position(s) the Objector wishes to assert, including the factual and legal grounds for the position; (iv) copies of any other documents that the Objector wishes to submit in support of his/her position; and (v) the Objector’s signature and the date of the signature. The objection must also contain a statement as to whether the Objector intends to appear at the Final Approval Hearing. Objections must be mailed to Class Administrator at:

Apex Class Action, LLC
P.O. Box 54668
Irvine, CA 92619
claims@apexclassaction.com
Telephone: (800) 355-0700
Facsimile: (949) 878-3536

6. No Objector shall be entitled to be heard at the Final Approval Hearing, and no written objections or briefs submitted by an Objector shall be received or considered by this Court at the Final Approval Hearing, unless the Objector has fully complied with all terms and conditions set forth in the Settlement Notice, and as set forth in the Settlement Agreement. If an Objection is overruled, the Objector will be bound by the terms of the Settlement. Members of the Class who fail to file and serve timely written objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement Agreement.

NOTICE OF SETTLEMENT

7. The Settlement Notice attached to the Settlement Agreement as **Exhibit B** is hereby approved for the purpose of notifying the Class as to the proposed Settlement, the Final Approval

1 Hearing, and the rights of Class Members.

2 8. SDHM is responsible for the costs of giving notice to the Class.

3 9. The Settlement Notice shall be sent to the respective members of the Class via first
4 class postage pre-paid U.S. Mail on or before 30 days after the issuance of this Order of Preliminary
5 Approval.

6 10. Sixteen (16) court days prior to the Final Approval Hearing, the Class Administrator
7 shall provide a declaration to the Court, with a copy to Class Counsel and Defendant's Counsel,
8 (i) informing the Court of Class Members who objected to the Settlement and or/plan on attending
9 the Final Approval Hearing, along with a copy of the objection to the settlement and/or plan to
10 attend and (ii) attesting to the measures undertaken to provide the Settlement Notice to the Class
11 Members.

12 11. The Settlement Notice is the best notice practicable, and is reasonably calculated,
13 under the circumstances, to apprise the Class of the Settlement of the Action and their right to object
14 to the Settlement. This Court further finds that the Settlement Notice provides sufficient notice of
15 the Final Approval Hearing, the Settlement, the application for attorneys' fees and costs, the service
16 award, and other matters set forth therein, and that the Settlement Notice satisfies the California
17 Rules of Court and due process of law, as to all persons entitled thereto.

18 **APPOINTMENT OF CLASS COUNSEL AND CLASS REPRESENTATIVE**

19 12. Having found that Kemnitzer, Barron & Krieg, LLP is qualified to represent the
20 Class, said firm is hereby jointly appointed as Class Counsel.

21 13. Having found that Plaintiff adequately represents the Class, Blake Miliate is hereby
22 appointed Class Representative.

23 **FURTHER PROCEEDINGS; COURT JURISDICTION**

24 14. All discovery and other pretrial proceedings in this action are stayed and suspended
25 until further order of this Court, except such actions as may be necessary to implement the
26 Settlement Agreement and this Order.

27 15. For the benefit of the Class and to protect this Court's jurisdiction, this Court retains
28 continuing jurisdiction over the Settlement proceedings to ensure the effectuation thereof in

1 accordance with the Settlement preliminarily approved herein and the related orders of this Court.

2 16. The Parties are directed to carry out their obligations under the Settlement
3 Agreement.

4 **RETURN TO STATUS QUO IF NOT APPROVED**

5 17. In the event that (a) this Court does not finally approve the Settlement as provided
6 in the Settlement Agreement; (b) this Court does not enter the Final Approval Order and Judgment
7 as provided in all material respects and substantial form set forth in the Settlement Agreement; or
8 (c) the Settlement does not become final for any other reason, the Settlement Agreement shall be
9 null and void and any order or judgment entered by this Court in furtherance of this settlement shall
10 be vacated *nunc pro tunc*. In such a case, the Parties shall proceed in all respects as if the Settlement
11 Agreement had not been executed and the Parties shall in no way be prejudiced in proceeding with
12 or defending this litigation.

13 **SUMMARY OF APPLICABLE DATES**

14

	Item	Proposed Dates
15		
16	1. Preliminary Approval by the Court	January 10, 2025
17	2. Settlement Notice to be mailed by Class Administrator (¶7.1) (Preliminary Approval Order +30 days)	February 10, 2025
18	3. Class Administrator to Re-Mail Settlement Notice (¶7.2) (5 days after receipt of any returned Settlement Notice)	
19	4. Deadline for Plaintiff to File Motion for Attorneys' Fees (Objection Date -10 Days)	
20	5. Class Member Objection Deadline (¶2.19) (Mailing of Class Notice +60 days)	April 11, 2025
21	6. Deadline for Plaintiff to File Motion for Final Approval ((¶9.1); CCP §1005) (Hearing -16 Court Days)	
22	7. Deadline for Class Administrator to File (i) Declaration re Notice and (ii) Class Members' Objections to Settlement (¶6.1(j)) (Hearing -16 Court Days)	
23	8. Final Approval Hearing (¶9.1)	
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18. Class Counsel shall serve a copy of this Order on all named parties or their counsel within seven (7) days of receipt.

SO ORDERED.

IT IS FURTHER ORDERED that _____

_____.

Dated: _____, 2025

HON. CAROLYN CAIETTI

EXHIBIT B

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

*Blake Miliate v. San Diego House of Motorcycles, Inc. dba North Countys House of Motorcycles, et al.
San Diego County Superior Court, Case No. 37-2018-00035131-CU-BT-CTL*

DATE OF NOTICE: _____, 2024

THIS NOTICE IS BEING PROVIDED TO:

All California consumers who purchased motor vehicles from San Diego House of Motorcycles, LLC fka San Diego House of Motorcycles, Inc. (“SDHM”) for which SDHM arranged or assisted the consumer with financing for the purchase of the motor vehicle through a lender issuing a credit card and for which SDHM listed the lender issuing the credit card as the “LIENHOLDER OR LEGAL OWNER” on an Application for Registration of New Vehicle or “NEW LIENHOLDER” on an Application for Transfer by New Owner that SDHM sent to the California DMV from July 13, 2014 to December 31, 2023.

Puede obtener una versión en español de este aviso en [website].

What Is the Purpose of this Notice?

The purpose of this notice is to inform you of the settlement of this class action lawsuit that was filed against Defendant San Diego House of Motorcycles, LLC fka San Diego House of Motorcycles, Inc. (“SDHM”) in the San Diego County Superior Court. The case is entitled *Blake Miliate v. San Diego House of Motorcycles, Inc. dba North Countys House of Motorcycles, et al.*, San Diego County Superior Court, Case No. 37-2018-00035131-CU-BT-CTL. You are receiving this Notice because you are a member of the “Class.” Mr. Blake Miliate is acting as the class representative.

The parties have agreed to settle this class action lawsuit, which involves 712 class members. This notice is being sent to you because you have a right to know about the proposed settlement, and about your legal rights and options, before the Court decides whether to finally approve the settlement. If the Court approves the settlement, you will be entitled to recover your share of the settlement benefit. Your legal rights are affected whether you act or don’t act.

Please read this notice carefully. Your rights and options, and the deadlines to exercise them, are more fully explained in this notice. The Court still has to decide whether to approve the settlement. The benefits of the settlement, including monetary relief for class members, will occur after the Court approves the settlement and any appeals are resolved. Please be patient.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:		
Opt Out of the Class Action	You may exclude yourself from this class action lawsuit and from this settlement (“opt out”). If you opt out, you will not remain as a member of the Class and you will not participate in the settlement.	To opt out, you must send a written request to the Settlement Administrator no later than 60 days from the date of this notice . If you opt out, the information you must provide to the Settlement Administrator is described below.
Object to the Settlement	You may tell the Court about why you don’t like this settlement. However, whether you object to the settlement or not, you will remain in the Class, and you will be bound by any final approval of the settlement and judgment entered by the Court.	To object to the settlement, you must send your written objection to the Settlement Administrator no later than 60 days from the date of this notice . If you object, the information you must provide to the Settlement Administrator is described below.
Do Nothing	If you do nothing, you will receive your share of the settlement proceeds, and will be bound by any final approval of the settlement and judgment entered by the Court.	

What Is this Lawsuit About?

This lawsuit concerns the sale of motorcycles by Defendant **SDHM** using sales forms that Plaintiff Blake Miliate (“Plaintiff”) contends do not comply with California consumer protection laws. Plaintiff claims that **SDHM** sold motorcycles financed through open-ended credit card agreements without making all disclosures required under California’s Rees-Levering Automobile Sales Finance Act (Civil Code §2981 et seq., the “Rees-Levering Act”), a law that governs the sale of motor vehicles under conditional sales contracts; that **SDHM** failed to provide motorcycle buyers with all documents and financial disclosures required by the Rees-Levering Act; and that **SDHM** engaged in deceptive and unfair business practices because the consumers did not receive a single document with all sales terms. Plaintiff asserts a single cause of action under the California *Business and Professions Code* §§ 17200, et seq. against **SDHM** in his operative complaint. Plaintiff, individually and on behalf of the Class, seeks recovery of damages and other forms of relief.

SDHM denies Plaintiff’s allegations and contends that it made all disclosures that were required of it by law, and did not engage in any false or deceptive business practices. **SDHM** contends that the Rees-Levering Act permits these third-party credit card transactions, and that **SDHM** has at all times complied with all applicable requirements of the Rees-Levering Act and California consumer protection laws. **SDHM** also contends that Plaintiff’s claims are preempted by Federal Law, which regulates these transactions. **SDHM** denies Plaintiff’s allegations in their entirety, denies that any violations of any law occurred, and denies that Plaintiff and Class members have experienced any injury or are entitled to any form of relief.

You may obtain additional information about this case from the San Diego Superior Court's official website. You will need to refer to the Civil "Register of Actions" page, and enter the case number (37-2018-00035131-CU-BT-CTL) to access this information.

Who Is A Class Member?

In a class action, one or more people (in this case Plaintiff Blake Miliate) sue and seek relief on behalf of a larger group of people who may have similar claims. Together, all these people form a Class and are called Class Members, and the plaintiff (or plaintiffs in some cases) acts as the Class Representative. One Court will resolve the issues for all Class Members. Once the Class has been certified, the Class Representative may settle the claims of all Class Members, subject to approval of the settlement by the Court. However, Class Members are given the opportunity to opt out of the settlement by excluding themselves from the case, or may object to the settlement, if they so choose. Class Members who opt out of the settlement do not receive settlement benefits and are not bound by the settlement and ensuing judgment. Regardless of whether a Class Member objects or not, all participating Class Members will be bound by the Court's final approval of the settlement and ensuing judgment.

The Court preliminarily certified this action as a class action for settlement purposes on January 10, 2025. Class certification means that Plaintiff may seek relief from **SDHM** on behalf of every Class Member, and that he has authority to resolve all claims raised in the Action on behalf of all Class Members. The Court defined the Class as follows:

- (a) all California consumers who purchased motor vehicles from **SDHM**;
- (b) for which **SDHM** arranged or assisted the consumer with financing for the purchase of the motor vehicle through a lender issuing a credit card;
- (c) and for which **SDHM** listed the lender issuing the credit card as the "LIENHOLDER OR LEGAL OWNER" on an Application for Registration of New Vehicle or "NEW LIENHOLDER" on an Application for Transfer by New Owner that **SDHM** sent to the California DMV; and
- (d) from July 13, 2014 (four years prior to the filing of the original complaint) to December 31, 2023.

Excluded from this class are (a) all persons whose claims are subject to an agreement to arbitrate and (b) all persons whose purchase transactions with **SDHM** were financed through the Yamaha/WebBank credit card program.

You are receiving this Notice because you are a member of this Class.

Why Is There a Settlement?

The Court has not decided who is right or wrong in this lawsuit. There has been no trial. Nevertheless, the parties (Plaintiff and **SDHM**) are willing to enter into a settlement to end the lawsuit. This way, the parties can avoid the cost of a trial, and the Class Members can obtain relief.

The settlement is a compromise and is not an admission by **SDHM** of any fault, wrongdoing, or liability. The settlement must be approved by the Court in order for Class Members to receive the benefits described below. If the settlement is not approved by the Court, the parties will go back to Court for a trial.

What Are the Benefits of the Settlement?

SDHM agrees to pay to the class the total sum of \$200,64.94 to resolve this Action in its entirety. Based on **SDHM** records, there are 712 members of the Class. Each Class Member has the opportunity to exclude him or herself (“opt-out”) from this class action or object to the settlement as described below. The settlement funds will be distributed to class members by a check, and the amount to each Class Member will be a pro rata payment determined based on the amount of money the Class Member financed to purchase a motor vehicle(s) from **SDHM** using a credit card that was allegedly arranged by **SDHM**. In addition, \$200,000.00 will be requested by Class Counsel for attorneys’ fees, costs and expenses, and \$3,500 will be requested as a service award to Mr. Miliate as class representative, subject to approval of the Court.

You do not have to do anything to receive the benefits described above.

What are the Tax Consequences of the Settlement?

Any benefits you receive may or may not be the subject of state or federal taxation, depending on your circumstances. Counsel for the parties in this lawsuit are not tax attorneys and you are advised to seek separate legal advice on matters of taxation.

Do I Give Up Anything As A Result of the Settlement?

In exchange for the benefits described above, you give up the right to sue or be part of any other lawsuit against **SDHM** about the claims based on the facts alleged in this lawsuit. In addition, you will be bound by all orders of the Court and any judgment in this case.

The settlement agreement includes a “Release of Claims” pursuant to which you would be releasing any and all claims, liens, demands, actions, and causes of action of any nature that they have, had or may have against **SDHM** and Released Parties, arising out of the allegations of the Action, and hereby expressly waive and relinquish any and all claims they may have arising out of the allegations of the Action. Specifically, the Release of Claims provides that you would be releasing **SDHM**, its parent entities, and their respective past, present and future affiliates, officers, directors, shareholders, employees, agents, contractors, representatives, subsidiaries, related entities, vehicle manufacturers, predecessors and successors in interests, agents, employees, insurers, reinsurers, attorneys, owners, predecessors, successors and assigns.

Can I Exclude Myself from the Class, and How Do I Do That?

You may exclude yourself from the Class (“opt out”) by mailing a written request to Apex Class Action LLC at the following address:

Apex Class Action, LLC
P.O. Box 54668
Irvine, CA 92619
claims@apexclassaction.com
Telephone: (800) 355-0700
Facsimile: (949) 878-3536

Please sign and date your request for exclusion, and include your full name, address, and the following statement: “I request to be excluded from the Class in *Blake Miliate v. San Diego House of Motorcycles, Inc. dba North Countys House of Motorcycles, et al.*, San Diego County Superior Court, Case No. 37-2018-00035131-CU-BT-CTL.” **To be valid, your request for exclusion must be postmarked no later than 60 days from the date of this Notice.**

If you exclude yourself from the Class, you will not receive any further communications about this lawsuit. You will not be bound by any final judgment that is entered in this case. This means you will retain any right you currently possess to file your own case about any of the issues in this lawsuit and may hire a separate attorney to do so. You will not be eligible to object to the settlement, and you will not share in any monetary relief awarded to the Class.

If you wish to remain in the Class but disagree with the settlement, you may object. The process for doing that is described below.

If you wish to remain in the Class and participate in the settlement, you do not need to do anything.

Can I Object to the Settlement, and How Do I Do That?

If you are a Class Member, you may object to the settlement if you disagree with any part of it. To object to the settlement, you must send a written objection to Apex Class Action LLC, by First Class Mail at the following address:

Apex Class Action, LLC
P.O. Box 54668
Irvine, CA 92619
claims@apexclassaction.com
Telephone: (800) 355-0700
Facsimile: (949) 878-3536

Your written objection must be postmarked no later than 60 days from the date of this Notice.

Be sure to include all of the following information in your written objection, as your objection may not be considered if necessary information is omitted: (1) the name of the lawsuit, *Blake Miliate v. San Diego House of Motorcycles, Inc. dba North Countys House of Motorcycles, et al.*, San Diego County Superior Court, Case No. 37-2018-00035131-CU-BT-CTL; (2) your full name, current address and telephone number; (3) the reasons you object to the settlement, including the factual and legal grounds for your objection; (4) any supporting evidence and briefing you wish to have considered in support of the objection; and (5) your signature and the date of your signature.

If you object, you are not required to attend the Final Approval Hearing, but you may do so if you choose. Please state in your written objection if you intend to attend the Final Approval Hearing.

What Happens If I Do Nothing?

If you do nothing at all, and the settlement is approved by the Court, you will automatically receive your share of the settlement benefits. You will also be bound by the Release of Claims and final Judgment of the Court, described above.

Do I Have a Lawyer in this Lawsuit?

The Court has approved of the law firm of Kemnitzer, Barron & Krieg, LLP as counsel on behalf of the Class. These lawyers are referred to as Class Counsel. You do not have to pay Class Counsel anything for their services in connection with this case. Instead, under the Parties' settlement agreement, Class Counsel will request that it be paid \$200,000.00 to compensate them for their attorneys' fees and expenses. The exact amount that Class Counsel will be paid will be determined by the Court at the Final Approval Hearing described below. The payment of attorneys' fees and costs will not diminish your benefits under the settlement. If you wish to hire your own separate attorney, you have the right to do so at your own expense.

When Will the Court Decide Whether to Approve the Settlement?

The Court will hold a Final Approval Hearing to decide whether to approve of the proposed settlement. The Final Approval Hearing is currently scheduled on _____, 2025 at [time] (subject to change by the Court without further notice), at the San Diego County Superior Court, Hall of Justice, located at 330 West Broadway, San Diego, CA 92101, in Department C-70 the Honorable Carolyn Caietti, Judge presiding. At this hearing, the Court will determine whether the proposed settlement is fair, reasonable and adequate. The Court will also decide the amount of attorneys' fees to be paid to Class Counsel, and the amount of any service award to the Class Representative (Plaintiff Blake Miliate), which could amount to \$3,500.

This settlement will not take effect unless the Court approves it at the Final Approval Hearing. If the Court does not approve the settlement, Class Members will not receive the benefits described in this notice, and the rights of the parties will be determined at trial. It will be as if no settlement had been reached.

How Do I Get More Information?

This Notice is only a summary of the proposed settlement. You may call the Settlement Administrator directly for updates regarding the Court hearing dates. If you have additional questions concerning this lawsuit or the settlement, you may contact Class Counsel listed below. You may also visit the following website for further information about this case: _____.

You may obtain additional information about this case from the San Diego County Superior Court's official website: <https://roa.sdccourt.ca.gov/roa/>. You will need to refer to the Civil "Register of Actions" page and enter the case number (37-2018-00035131-CU-BT-CTL) to access this information. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

Please do not contact the Judge.

Class Administrator:

Apex Class Action, LLC
P.O. Box 54668
Irvine, CA 92619
claims@apexclassaction.com
Telephone: (800) 355-0700
Facsimile: (949) 878-3536

Class Counsel:

Kemnitzer, Barron & Krieg LLP
Adam McNeile
Kristin Kemnitzer
1120 Mar West St., Suite C-2
Tiburon, CA 94920
Telephone: (800) 520-4525

EXHIBIT C

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

BLAKE MILIATE, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

SAN DIEGO HOUSE OF
MOTORCYCLES, INC. dba NORTH
COUNTY'S HOUSE OF MOTORCYCLES;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 37-2018-00035131-CU-BT-CTL

Complaint Filed: July 13, 2018

Assigned for All Purposes to:
Hon. Carolyn Caietti
Dept. C-70

CLASS ACTION

**[PROPOSED] FINAL ORDER AND
JUDGMENT**

Date:
Time:
Dept.: C-70

Plaintiff BLAKE MILIATE, individually and on behalf of the Class (“Plaintiff”), has submitted to the Court a Motion for Final Approval of Class Action Settlement (the “Final Approval Motion”) seeking final approval of the Settlement Agreement and Release entered into by and between Plaintiff, and Defendant SAN DIEGO HOUSE OF MOTORCYCLES, LLC fka SAN DIEGO HOUSE OF MOTORCYCLES, INC. (“SDHM”) (the “Settlement Agreement”). Plaintiff and SDHM are collectively referred to herein as the “Parties”.

This Court preliminarily approved the Settlement Agreement pursuant to the Preliminary Approval Order dated January 10, 2024. Notice of the Settlement was given to all members of the Class pursuant to the terms of the Preliminary Approval Order.

This Court has reviewed the papers filed in support of the Final Approval Motion, including the Settlement Agreement and exhibits thereto, memoranda, and declarations. The Court held a hearing on _____, 2025, at which time the parties and all other interested persons were

1 heard regarding the proposed Settlement.

2 Based on the papers filed with the Court and presentations made to the Court at the hearing,
3 it appears to the Court that the Settlement Agreement is fair, adequate, and reasonable.

4 **THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED** that:

5 1. This Final Order and Judgment (the “Judgment”) incorporates the Settlement Agreement,
6 and the capitalized terms used in this Judgment shall have the meanings and/or definitions given to
7 them in the Settlement Agreement.

8 2. This Court has jurisdiction over the subject matter of this action and over all Parties,
9 including all Class Members.

10 3. Notice of the Settlement, given to each Class Member pursuant to the terms of the
11 Settlement Agreement and as described in the Class Administrator’s declaration, by mailing the
12 Settlement Notice and creating a notice website, constitutes the best notice practicable and is in full
13 compliance with the requirements of California Rules of Court and due process of law.

14 4. The Settlement and the Settlement Agreement are the product of arm’s length negotiations
15 between the Parties, and the terms thereof are fair, reasonable, adequate, and in the best interests of
16 the Class, and are therefore approved and incorporated herein by the Court.

17 5. The Parties are directed to implement the terms of the Settlement and Settlement
18 Agreement. To the extent already implemented by the Parties, such implementation is hereby
19 approved and ratified by the Court.

20 6. Upon the date of this Judgment, the Class Members shall be deemed to have released any
21 and all claims, liens, demands, actions, and causes of action of any nature that they have, had, or
22 may have against SDHM and Released Parties, arising out of the allegations of the Action, and
23 waived and relinquished any and all claims they may have arising out of the allegations of the
24 Action.

25 7. Upon the date of this Judgment, the Class Representative shall be deemed to have released
26 any and all claims, liens, demands, actions, and causes of action of any nature which he has, had,
27 or may have against SDHM and Released Parties.

28 8. It is expressly determined that there is no just reason for delay and the entry of this Judgment

1 expressly is hereby directed. In the event that this Judgment is appealed, its mandate will
2 automatically be stayed until and unless the Judgment is affirmed in its entirety by the court of last
3 resort to which such appeal(s) has (have) been taken and such affirmance is no longer subject to
4 further appeal or review.

5 9. This Judgment is final for purposes of appeal and may be appealed, and the Clerk is hereby
6 directed to enter Judgment thereon.

7 10. The Court, having reviewed the declarations, exhibits, and points and authorities submitted
8 in support of Class Counsel's request for an award of attorney fees and costs as prevailing party,
9 and no oppositions having been filed, awards attorney fees and costs in the amount of \$200,000.
10 The Court finds that such an award is reasonable and appropriate under all of the circumstances
11 presented. SDHM shall pay this amount by check made payable to "Kemnitzer, Barron, & Krieg,
12 LLP" and delivered to Kemnitzer, Barron & Krieg, LLP, 1120 Mar West St., Suite C-2, Tiburon,
13 CA 94920 by within ten (10) days after the Effective Date of Settlement for Fees. Such payment of
14 attorney fees and costs shall be separate from and in addition to the payments to the Settlement
15 Class and shall not reduce the amount of those payments.

16 11. \$3,500 shall be paid to Plaintiff Blake Miliate, as a service award;

17 12. The Class Administrator is directed to distribute any unclaimed settlement funds no later
18 than ten (10) days after the check stale date, which is one hundred eighty (180) days from the date
19 of distribution of the Settlement Funds to the State Controller's Unclaimed Property Fund.

20 13. Any and all objections to the Settlement and the Settlement Agreement are overruled as
21 being without merit.

22 14. Jurisdiction is hereby reserved by this Court to assure compliance with all terms of this
23 Settlement, in accordance with the Settlement Agreement and this Judgment.

24 15. Class Counsel shall serve a copy of this Judgment on all named parties or their counsel
25 within seven (7) days of receipt.

26 **SO ORDERED.**

27 **IT IS FURTHER ORDERED** that _____
28 _____

1 PROOF OF SERVICE

2 **Re: *Miliate v. SDHM, et al.***
3 **San Diego County Superior Court Case No. 37-2018-00035131-CU-BT-CTL**

4 I, Sean R. Barry, certify that I am not a party to the proceeding herein, that I am and was
5 at the time of service over the age of 18 years old, and a resident of the State of California. My
6 business address is 580 California St., Ste. 1211, San Francisco, CA 94104.

7 On December 13, 2024, I served the following:

8 **NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS
9 ACTION SETTLEMENT**

10 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR
11 PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

12 **DECLARATION OF ADAM MCNEILE IN SUPPORT OF MOTION FOR
13 PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

14 **[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF
15 CLASS ACTION SETTLEMENT (C.R.C. Rule 3.769)**

16 by ELECTRONIC SERVICE, pursuant to stipulation of the parties, to the person(s) and
17 electronic mail address(es) shown below.

18 **Gregory K. Sabo**
19 **Chelsea L. Zwart**
20 **CHAPMAN, GLUCKSMAN, DEAN, ROEB & BARGER**
21 **11900 W. Olympic Blvd., Ste. 800**
22 **Los Angeles, CA 90064-0704**
23 gsabo@cgdrblaw.com
24 czwart@cgdrblaw.com
25 **Attorneys for Defendant SAN DIEGO HOUSE OF MOTORCYCLES, INC. dba NORTH**
26 **COUNTYS HOUSE OF MOTORCYCLES**

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John B. Sullivan
Mary Kate Sullivan
Erik Kemp
SEVERSON & WERSON
595 Market St., Ste. 2600
San Francisco, CA 94105
jbs@severson.com
mks@severson.com
ek@severson.com
Attorneys for Defendant SAN DIEGO HOUSE OF MOTORCYCLES, INC. dba NORTH COUNTY'S HOUSE OF MOTORCYCLES

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 13, 2024



Sean R. Barry

1 PROOF OF SERVICE

2 **Re: *Miliate v. SDHM, et al.***
3 **San Diego County Superior Court Case No. 37-2018-00035131-CU-BT-CTL**

4 I, Sean R. Barry, certify that I am not a party to the proceeding herein, that I am and was
5 at the time of service over the age of 18 years old, and a resident of the State of California. My
6 business address is 580 California St., Ste. 1211, San Francisco, CA 94104.

7 On January 16, 2025, I served the following:

8 **NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR PRELIMINARY**
9 **APPROVAL OF CLASS ACTION SETTLEMENT**

10 by ELECTRONIC SERVICE, pursuant to stipulation of the parties, to the person(s) and
11 electronic mail address(es) shown below.

12 **Gregory K. Sabo**
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I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 16, 2025



Sean R. Barry