

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**JASON HALL, SAMUEL KECK,
and PAUL EISENHOWER, on behalf
of themselves and all other similarly
situated individuals,**

Plaintiffs,

v.

**BEST BUY CO., INC., BBC
INVESTMENT CO., BBC PROPERTY CO.,
AND BEST BUY STORES, L.P.,**

Defendants.

Civil Action No. 07-4724

JOINT STIPULATION AND SETTLEMENT AGREEMENT

IT IS HEREBY STIPULATED AND AGREED by and between JASON HALL (“Hall”), SAMUEL KECK (“Keck”), and PAUL EISENHOWER (“Eisenhower”) (collectively the “Class Representatives”), on behalf of themselves and others similarly situated, on the one hand, and BEST BUY CO., INC., BBC INVESTMENT CO., BBC PROPERTY CO., and BEST BUY STORES, L.P. (collectively, “Best Buy”), on the other hand, as set forth below:

I. THE CONDITIONAL NATURE OF THIS STIPULATION

This Joint Stipulation and Settlement Agreement, together with all associated exhibits and attachments (the “Stipulation”), is made for the sole purpose of settling the Litigation on a class-wide basis. This Stipulation and the Settlement it evidences is made in compromise of disputed claims. Because the Litigation was pled as a class action, this Settlement must receive preliminary and final approval by the Court. Accordingly, the Parties enter into this Stipulation and associated Settlement on a conditional basis. In the event that the Court does not enter the Order Granting Final Approval of Settlement, or in the event that the associated Judgment does not become a Final Judgment for any reason, this Stipulation (except for those provisions

relating to the termination of the Settlement set forth in Sections 2.6.2 and 2.13 (and its subsections) below, and those provisions relating to the conditional nature and confidentiality of this Settlement, non-admissibility and non-admission of wrongdoing or liability, and costs of the Claims Administrator as set forth in Sections I, IV, 2.1.2, 2.13.4 (and its subsections), 2.14.6, 2.14.7, 2.14.20, 2.14.22, and 2.13.4.5): shall be deemed null and void *ab initio*; shall be of no force or effect whatsoever; and shall not be referred to or utilized for any purpose whatsoever. The negotiation, terms and entry of the Stipulation shall remain subject to the provisions of Federal Rule of Evidence 408 and any similar or analogous federal or state laws or rules.

II. THE PARTIES TO THIS STIPULATION

This Stipulation (with the associated exhibits and attachments) is made and entered into by and among the following Settling Parties (each with the assistance of their counsel of choice): (i) the Class Representatives (on behalf of themselves and each of the Settlement Class Members); and (ii) Best Buy. The Stipulation is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Released State Law Claims and the Released Federal Law Claims upon and subject to the terms and conditions hereof, including all definitions set forth below.

III. THE LITIGATION

On October 17, 2007, Plaintiff Hall commenced a putative class action against Best Buy Co., Inc. in the Pennsylvania Court of Common Pleas, Philadelphia County. This case was removed to the United States District Court for the Eastern District of Pennsylvania pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1332(d), 1441, and 1453 (“CAFA”). On December 5, 2007, Plaintiffs Keck and Eisenhower joined the Litigation as named Plaintiffs, and all three Plaintiffs (a/k/a the Class Representatives) filed an Amended Class Action Complaint against Best Buy Co., Inc., BBC Investment Co., BBC Property Co., and Best Buy Stores, L.P. In the Amended Class Action Complaint, the Class Representatives allege that Best Buy violated the Pennsylvania Minimum Wage Act of 1968, as amended, 43 Pa. C.S.C. § 333.101 *et seq.*, and

the Pennsylvania Wage Payment and Collection Law, 43 Pa. C.S.A. § 260.1 *et seq.* The Class Representatives also allege Pennsylvania common law claims against Best Buy for breach of contract and unjust enrichment. On February 26, 2009, after months of discussions, both formal and informal exchange of information, and negotiations through counsel experienced in these types of cases, the Settling Parties reached a proposed conditional settlement of the Litigation, which is memorialized in this Stipulation.

IV. THE PARTIES' RESPECTIVE POSITIONS

The Class Representatives and Class Counsel believe that the Litigation is meritorious based on alleged violations of the applicable state wage and hour laws and state common law claims and that the Litigation is appropriate for class action treatment. The Class Representatives and Class Counsel contend that Best Buy retail store employees in Pennsylvania were subjected to uncompensated security checks and time waiting for security checks, interrupted meal and/or rest periods and/or were required to perform off-the-clock work for which they were not compensated, and that, in the absence of settlement, the Litigation is suitable and appropriate for class treatment pursuant to Federal Rule of Civil Procedure 23. Best Buy specifically and generally denies all of the claims asserted in the Litigation, denies any and all liability or wrongdoing of any kind whatsoever associated with any of the facts or claims alleged in the Litigation, and makes no concessions or admissions of wrongdoing or liability of any kind whatsoever. Best Buy maintains that all of its retail store employees are, and always have been, properly paid for all hours worked in accordance with applicable laws, that no reimbursement of any type is owed, and that, for any purpose other than settlement, the Litigation is not suitable or appropriate for class treatment pursuant to Federal Rule of Civil Procedure 23. The Parties understand and agree that this Settlement represents a compromise of disputed claims, and have agreed to enter into this Stipulation to avoid the risks, costs, and delays associated with further proceedings. Nothing contained in this Stipulation, nor the fact of the Settlement or this Stipulation itself, nor the exhibits thereto, nor any act performed or

document executed pursuant to or in furtherance of the Settlement or this Stipulation may be construed or be used in this action or in any other proceeding of any kind whatsoever as an admission or evidence of the validity of any claim or allegation asserted by the Class Representatives or of any act, omission, liability or wrongdoing on the part of Best Buy. Pursuant to Federal Rule of Evidence 408, and any other analogous rules of evidence that are applicable, this Stipulation, and the exhibits and attachments hereto, shall be inadmissible in any proceeding, except as necessary to effectuate or enforce the Parties' Settlement.

V. THE BENEFITS OF SETTLEMENT

The Class Representatives and Class Counsel have taken into account the uncertain outcome, the expense, the risk and the difficulties and delays inherent in all litigation. Based upon their evaluation, the Class Representatives and Class Counsel have determined that the Settlement set forth in the Stipulation is in the best interests of the Settlement Class Members. Class Counsel believes the Settlement confers substantial benefits upon the Settlement Class and each of the Settlement Class Members.

VI. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY FURTHER STIPULATED AND AGREED by and between the Class Representatives (for themselves and the Settlement Class Members) and Best Buy, with the assistance of their respective counsel or attorneys of record, that, as among the Settling Parties, including all Settlement Class Members, the Litigation and the Released State Law Claims and Released Federal Law Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice, as to all Settling Parties, upon and subject to the terms and conditions of the Stipulation and the Judgment.

1. Definitions.

As used in all parts of this Stipulation, above and below, and in all documents attached to this Stipulation, the following terms have the meanings specified below:

1.1 “Payments to Class Counsel and Class Representatives” means, subject to Court approval: (a) the maximum amount of \$300,000 available to be paid to Class Counsel for attorneys’ fees and litigation costs; and (b) the maximum amount of \$5,000.00 available to be paid as individual Enhancements to each of the Class Representatives (\$15,000.00 in total), less applicable payroll tax withholding.

1.2 “Claim Certification Form Deadline” shall be the date ninety (90) days after the Class Notice is mailed to the Class Members by the Claims Administrator.

1.3 “Claims Administrator” means the third-party claims administration firm selected by the Parties and approved by the Court. The Parties have agreed to propose The Garden City Group as the Claims Administrator for this Court’s consideration and approval.

1.4 “Class” means the group of Persons employed by Best Buy in a Covered Position at least one day during the applicable Class Period, or the estates or other judicially appointed representatives of such Persons. The Class does not include any Persons who were never employed by Best Buy in a Covered Position during the Class Period.

1.5 “Class Counsel” means, collectively, the law firm of Lowey Dannenberg Cohen & Hart, P.C., the law firm of Kenney Egan McCafferty & Young, P.C., the law firm of Caldwell Law Office LLC. “Lead Class Counsel” means, for settlement purposes, the law firm of Lowey Dannenberg Cohen & Hart, P.C.

1.6 “Class Member” or “Member of the Class” means a Person who is a member of the Class.

1.7 “Class Notice” means a notice (and associated response forms) entitled “Notice To Class Members Regarding Pendency of a Class and Collective Action and Notice of Hearing On Proposed Settlement” to be approved by the Court, substantially in the form attached hereto as Exhibit 2.

1.8 “Class Period” means the period October 17, 2003 through the final execution date of this Stipulation.

1.9 “Class Representatives” and “Collective Action Representatives” mean Hall, Keck and Eisenhower, the named Plaintiffs in the Litigation.

1.10 “Class Representatives’ Released Claims” collectively means any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against the Best Buy Releasees, of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, whether known or unknown, and whether anticipated or unanticipated, including Unknown Claims as defined in Section 1.49 hereof, by a Class Representative arising, for each Class Representative, during the period beginning on that Class Representative’s first date of employment at Best Buy and ending on the date on which the Court enters the Order Granting Final Approval of Settlement, for any type of relief, including without limitation, claims for wages, damages, reimbursement of expenses, costs, premium pay, penalties (including late payment penalties), liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief. The Class Representatives’ Released Claims include, but are not limited to, claims arising from or dependent upon any and all applicable state and local laws and regulations including, but not limited to the Pennsylvania Human Relations Act, 43 Pa. Cons. Stat. Ann. §§ 951 to 963; Pennsylvania’s Equal Pay Law, 43 Pa. Cons. Stat. Ann. § 336; the Pennsylvania Wage Payment and Collection Law, 43 P.S. §§ 260.1 *et seq.*; the Pennsylvania Minimum Wage Act of 1968, 43 Pa. Stat. Ann. § 333.101 *et seq.* (“PMWA”); 34 Pa. Code §§ 231.1 *et seq.*; the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”); the Portal to Portal Act; the Equal Pay Act, 29 U.S.C. § 206(d) *et seq.*; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*; the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*; all of their implementing regulations; and any other federal, state and local statutes, regulations and/or common law theories. Nothing in the foregoing shall affect the pending workers’ compensation claims of Plaintiff Eisenhower.

1.11 “Closing Shift(s)” means a shift worked at Best Buy by a Class Member where the Class Member’s timecard punch-in or punch-out occurs after the last customer transaction of that calendar day. For purposes of this Settlement, the last customer transaction time was truncated to the nearest hour and the most frequent hour occurrence for all retail stores in the Commonwealth of Pennsylvania was used to determine Closing Shift.

1.12 “Consent to Join Settlement and Claim Certification Form” means the form attached as Exhibit C to the Notice To Class Members Regarding Pendency of a Class and Collective Action and Notice of Hearing On Proposed Settlement, substantially in the form attached hereto, which a Class Member must submit in order to become a Participating Claimant and recover a payment pursuant to Section 2.3.

1.13 “Court” means the United States District Court for the Eastern District of Pennsylvania.

1.14 Employment in a “Covered Position” means employment in a non-exempt position, as that is coded in Best Buy’s electronic human resources personnel database, at a Best Buy retail store in Pennsylvania.

1.15 “Current Employee” means a Class Member who is actively employed by Best Buy on the final execution date of this Stipulation.

1.16 “Effective Date” means the date on which the Judgment becomes a Final Judgment.

1.17 “Enhancement” means an amount approved by the Court to be paid to the Class Representatives identified in Section 1.9, in addition to their awards as Participating Claimants for the claims identified in Section 1.10, in recognition of their efforts in coming forward and serving as Class Representatives.

1.18 “Federal Law Release Period” for each applicable Class Member who properly and timely submits a Consent to Join Settlement Form and shall mean the period

beginning on the first day on which the Class Member was employed by Best Buy and ending on the Final Approval Date.

1.19 “Final Approval Date” means the date upon which the Judgment is entered.

1.20 “Final Judgment Date” means the later of the following dates upon which the Judgment shall become final (the “Final Judgment”): (1) the expiration of the period for filing a notice of appeal of the Judgment; or (2) if a notice of appeal is filed, the date the appeal is dismissed or denied and the Judgment is no longer subject to appeal or other appellate review. Notwithstanding the foregoing, any proceeding or order, or any appeal or petition for a writ pertaining solely to the award of attorneys’ fees or litigation costs pursuant to Section 2.11.1 shall not, by itself, in any way delay or preclude the Judgment from becoming a Final Judgment, provided the total attorneys’ fees and litigation costs at issue do not exceed \$300,000.

1.21 “Former Employee” means a Class Member who is not actively employed by Best Buy on the final execution date of this Stipulation.

1.22 “Best Buy” means Best Buy Co., Inc., BBC Investment Co., BBC Property Co., and Best Buy Stores, L.P., the Defendants in the Litigation, and their successors and assigns.

1.23 “Best Buy Releasees” means Best Buy Co., Inc., each of its subsidiaries (whether or not wholly-owned), affiliates (including each such affiliate’s parents and subsidiaries), divisions, subdivisions, joint ventures, related companies, predecessors, successors and assigns; BBC Investment Co., and each of its parents, subsidiaries (whether or not wholly-owned), affiliates (including each such affiliate’s parents and subsidiaries), divisions, subdivisions, joint ventures, related companies, predecessors, successors and assigns; BBC Property Co., and each of its parents, subsidiaries (whether or not wholly-owned), affiliates (including each such affiliate’s parents and subsidiaries), divisions, subdivisions, joint ventures, related companies, predecessors, successors and assigns; Best Buy Stores, L.P., and each of its parents, subsidiaries (whether or not wholly-owned), affiliates (including each such affiliate’s

parents and subsidiaries), divisions, subdivisions, joint ventures, related companies, predecessors, successors and assigns; and each of each such entities' past or present directors, officers, employees, partners, members, principals, agents, insurers, co-insurers, re-insurers, shareholders, attorneys, and personal or legal representatives.

1.24 "Judgment" means the judgment proposed to be entered by the Court pursuant to this Stipulation, substantially in the form attached hereto as Exhibit 4.

1.25 "Last Known Address" or "Last Known Addresses" means the most recently recorded mailing address(es) for a Class Member as such information is contained in Best Buy's electronic human resources personnel database.

1.26 The "Litigation" or the "Lawsuit" means the civil action filed by the Class Representatives against Best Buy, now pending in the United States District Court for the Eastern District of Pennsylvania (Case No. 07-4724).

1.27 "Maximum Settlement Amount" or "Settlement Consideration" means the maximum amount that Best Buy shall pay under the terms of this Stipulation, which is the gross sum of \$907,566, and does not include the administrative costs of the settlement, which Best Buy shall also pay.

1.28 "Net Settlement Amount" means the Maximum Settlement Amount less the Payments to Class Counsel and Class Representatives.

1.29 "Notice to Class," "Class Notice," "Notice Regarding Pendency of a Class Action," and "Notice to Class Members Regarding Pendency of a Class Action and Notice of Hearing On Proposed Settlement" shall all mean the Class Notice (and associated response forms) entitled "Notice To Class Members Regarding Pendency of a Class and Collective Action and Notice of Hearing On Proposed Settlement" to be approved by the Court, substantially in the form attached hereto as Exhibit 2.

1.30 The "Notice Mailing Deadline" shall be thirty (30) days after the Preliminary Approval Date, or as may be set by the Court.

1.31 The “Notice Response Deadline” shall be the date ninety (90) days after the Class Notice is mailed to the Class Members by the Claims Administrator.

1.32 “Opt Out” or “Opt Outs” or “Opt Out Forms” or “Election to Opt Out of Settlement and Class Action Forms” means the valid and timely signed requests by Class Members to be excluded from the Settlement Class, which are submitted on Form B to the Notice Regarding Pendency of Class Action, substantially in the form attached hereto as Exhibit 2, which a Class Member must submit in the manner, and within the time frame, set forth in the Class Notice.

1.33 “Order of Final Approval” or “Order Granting Final Approval of Settlement” shall mean an order to be entered and filed by the Court entitled “Order Granting Final Approval of Settlement” setting forth the terms and other provisions of the Settlement, substantially in the form attached hereto as Exhibit 3.

1.34 “Participating Claimant” or “Participating Claimants” means each Member of the Settlement Class who properly and timely submits a Consent to Join Settlement and Claim Certification Form in response to the Notice Regarding Pendency of Class Action.

1.35 “Person” means a natural person.

1.36 “Plaintiffs’ Class Counsel” means, collectively, the law firm of Lowey Dannenberg Cohen & Hart, P.C., the law firm of Kenney Egan McCafferty & Young, P.C., and the law firm of Caldwell Law Office LLC. “Lead Class Counsel” means the law firm of Lowey Dannenberg Cohen & Hart, P.C.

1.37 “Preliminary Approval Date” means the date on which the Court enters the Preliminary Approval Order.

1.38 “Preliminary Approval Order” or “Order Granting Preliminary Approval of Settlement” means an order to be executed and entered by the Court entitled “Order Granting Preliminary Approval of Settlement,” substantially in the form attached hereto as Exhibit 1, preliminarily approving the Settlement and this Stipulation, conditionally certifying for

settlement purposes only a class and collective action as provided in Section 2.1.1, and appointing for settlement purposes only the Class Representatives, Class Counsel Plaintiffs' Class Counsel and the Claims Administrator.

1.39 A "Qualifying Consent to Join Settlement and Claim Certification Form" shall mean a Consent to Join Settlement and Claim Certification Form that, as determined by the requirements set forth below, is completed in full, properly executed, and timely returned to the Claims Administrator.

1.40 "Released Federal Law Claims" shall collectively mean any and all federal law claims, obligations, demands, actions, rights, causes of action, and liabilities against the Best Buy Releasees, of whatever kind and nature, character and description, whether known or unknown, and whether anticipated or unanticipated, including Unknown Claims as defined in Section 1.49 hereof, by a Participating Claimant based on any and all claims arising under the FLSA relating in any way to the acts and practices alleged in this litigation, including but not limited to claims related to security checks, meal and rest breaks and/or alleged "off-the-clock" work for Class Members in Covered Positions that accrued during the Federal Release Period, for any type of relief, including without limitation, claims for wages, damages, unpaid costs, penalties (including late payment penalties), premium pay, liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief.

1.41 "Released State Law Claims" shall collectively mean any and all applicable state and local law claims, obligations, demands, actions, rights, causes of action, and liabilities against the Best Buy Releasees, of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, statute, or other applicable law, whether known or unknown, and whether anticipated or unanticipated, including Unknown Claims as defined in Section 1.49 hereof, by a Class Member relating in any way to the acts and practices alleged in this litigation, including but not limited to claims related to security checks, meal and rest breaks and/or alleged "off-the-clock" work based on employment in a Covered Position with

Best Buy that accrued during the State Law Release Period, including without limitation claims for wages, damages, premium pay, unpaid costs, penalties (including late payment penalties), liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief, to the extent that such claims are based on one or more of the following categories of allegations: (a) all claims asserted or which could have been asserted in the Litigation (as defined above and in the Class Notice) that arose under the facts alleged therein and/or under applicable state and local wage and hour laws and regulations; (b) all claims under applicable state and local laws and regulations for the failure to pay any type of premium pay or other compensation or wages to Class Members in Covered Positions; (c) all claims under applicable state and local laws and regulations for the failure to provide or pay for meal, break, and/or rest periods for Class Members in Covered Positions; (d) all claims under applicable state and local laws and regulations for the failure to provide pay for security checks or time waiting for security checks for Class Members in Covered Positions; (e) all claims asserted in the Litigation; and (f) all claims for penalties or additional damages which allegedly arise from the claims described in (a) through (e) above under any applicable law or regulation. The Released State Law Claims are the claims meeting the above definition under any and all applicable statutes, regulations or common law. The parties stipulate and agree that for purposes of this Settlement only that the Court has jurisdiction over all applicable state and local law claims pursuant to 28 U.S.C. 1332(d).

1.42 "Settlement" means the settlement of all claims which were brought and which could have been brought in this action and as memorialized in this Stipulation.

1.43 "Settlement Class" means all of the Class Members who do not opt out of the Settlement by timely submitting Opt Out forms pursuant to Section 2.8.2, and thus means all of the Class Members who will become bound by the Released State Law Claim portions of the Judgment if the Effective Date occurs.

1.44 “Settlement Class Member” or “Member of the Settlement Class” means any Person who is a member of the Settlement Class.

1.45 “Settlement Hearing” or “Fairness Hearing” means a hearing set by the Court to take place on or about the date which is thirty (30) days after the Notice Response Deadline (or such date as the Court may otherwise establish) for the purpose of finally (i) determining the fairness, adequacy, and reasonableness of the Stipulation terms and associated Settlement pursuant to class action procedures and requirements; (ii) determining the good faith of the Stipulation and associated Settlement; and (iii) entering Judgment.

1.46 “Settling Parties” or “Parties” means Best Buy and the Class Representatives on behalf of themselves and all Settlement Class Members.

1.47 “State Law Release Period” for each applicable Class Member shall mean the period beginning on the earlier of the first day on which the Class Member was employed by Best Buy or October 17, 2003 and ending on the Final Approval Date.

1.48 “Stipulation” means this agreement, *i.e.*, this Joint Stipulation and Settlement Agreement together with all of its exhibits and attachments, which the Settling Parties understand and agree sets forth all material terms and conditions of the Settlement between them, and which is subject to Court approval. It is understood and agreed that Best Buy’s obligations for payment under this Stipulation are conditioned on the occurrence of the Effective Date and subject to the terms of Section 2.13 and the other terms of the Stipulation.

1.49 “Unknown Claims” means any Released State Law Claims and/or Released Federal Law Claims arising out of and/or relating to the payment of wages by Best Buy, and/or alleged deductions therefrom which any Class Representative or any Settlement Class Member (including all Participating Claimants) or any Participating Claimant does not know or suspect to exist in his or her favor on the date of entry of the Order of Final Approval, and which, if known by him or her might have affected his or her decision to settle with and release Best Buy and the Best Buy Releasees, or might have affected his or her decision to opt out of the Class or to object

to this Settlement. With respect to any and all Released State Law Claims and Released Federal Law Claims, the Settling Parties stipulate and agree that, upon the Effective Date, the Class Representatives shall have expressly, knowingly, and intentionally waived for themselves the benefits and rights of any federal or state statute, rule, doctrine, or common law principle that provides that a general release does not extend to unknown claims. The Class Representatives, each Settlement Class Member, and each Participating Claimant may hereafter discover facts in addition to or different from those which he or she now knows or believes to be true with respect to the subject matter of the Released State Law Claims and Released Federal Law Claims, but they shall, upon the Effective Date, be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released State Law Claims and Released Federal Law Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which then exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Class Representatives acknowledge the significance and consequence of this waiver, and the Settlement Class Members (including Participating Claimants) shall be deemed by operation of the Judgment to have acknowledged the consequence and significance and assume full responsibility for any loss that may be incurred by reason of such waiver. The Class Representatives further acknowledge, and the Settlement Class Members (including Participating Claimants) shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and is a key element of the Settlement of which this release is a part.

1.50 "Updated Address" means a mailing address that was updated via an updated mailing address provided by the United States Postal Service or a Class Member, or any other source.

2. The Settlement.

2.1 *Certification of a Class Action for Settlement Purposes Only.*

2.1.1 The Parties stipulate, for settlement purposes only, to the certification by the Court of a class as to all claims asserted in the Litigation pursuant to Pennsylvania law, and to the certification by the Court of a collective action as to all claims asserted in the Litigation pursuant to the FLSA.

2.1.2 If for any reason the Court does not approve this Stipulation, fails to enter the Order of Final Approval, or fails to enter the Judgment, or if this Settlement Agreement and Stipulation is lawfully terminated for any other reason, the Parties' stipulation to the certification of a class and collective action shall be deemed null and void *ab initio*, the Parties shall retain the absolute right to resume the litigation as though this Stipulation had never been entered into, and Best Buy shall retain the absolute right to dispute the propriety of class certification and collective action certification and the merits of the claims in the Litigation on all applicable grounds.

2.2 *Settlement Consideration.*

2.2.1 The maximum amount that Best Buy shall pay under the terms of this Stipulation is the Maximum Settlement Amount, which is also referred to as the "Settlement Consideration," and does not include the administrative costs of the settlement, which Best Buy shall also pay.

2.2.2 The Settlement Consideration will be used to pay:

2.2.2.1 The attorneys' fees and litigation costs of Class Counsel, as approved by the Court;

2.2.2.2 The individual Enhancements of the Class Representatives, as approved by the Court;

2.2.2.3 All employee payroll taxes associated with payments made to the Class Representatives and Participating Claimants; and

2.2.2.4 The timely and valid claims of Participating Claimants, subject to the terms, conditions and procedures set forth herein.

2.2.3 The Parties understand and agree that any portion of the requested attorneys' fees and costs and/or Class Representative Enhancement payments not approved and awarded by the Court shall revert back to Best Buy, but if the Court approves settlement funds (as described in Sections 2.3.1 and 2.3.2) in an amount that is higher or lower than the amounts set forth in Sections 2.3.1 and 2.3.2, the Settlement set forth in the Stipulation may be declared void by any Settling Party.

2.3 Consideration to Settlement Class Members.

2.3.1 Best Buy will create a fund from the Net Settlement Amount for all Current Employee Participating Claimants in the amount of \$241,757. Each Current Employee Participating Claimant shall receive \$0.50 per Closing Shift that he/she worked during the Class Period, less applicable payroll tax withholdings. If a Current Employee Participating Claimant has worked fewer than five (5) Closing Shifts, he/she shall be treated as if he/she worked five (5) Closing Shifts for purposes of this Stipulation. In the event that this process would result in a cumulative total amount greater than \$241,757, each Current Employee Participating Claimant shall then share in the fund's monies on a pro rata basis accounting for the number of Closing Shifts each Current Employee Participating Claimant worked during the Class Period. In the event that this process results in a cumulative total amount less than \$241,757, then the remaining fund monies shall revert to Best Buy.

2.3.2 Best Buy will create a fund from the Net Settlement Amount for all Former Employee Participating Claimants in the amount of \$350,809. Each Former Employee Participating Claimant shall receive \$0.50 per Closing Shift that he/she worked during the Class Period, less applicable payroll tax withholding. If a Former Employee Participating Claimant has worked fewer than five (5) Closing Shifts, he/she shall be treated as if he/she worked five (5) Closing Shifts for purposes of this Stipulation. In the event that this process would result in a

cumulative total amount greater than \$350,809, each Former Employee Participating Claimant shall then share in the fund's monies on a pro rata basis accounting for the number of Closing Shifts each Former Employee Participating Claimant worked during the Class Period. In the event that this process results in a cumulative total amount less than \$350,809, then the remaining fund monies shall revert to Best Buy.

2.3.3 Within 15 days of Final Approval, Best Buy shall provide the applicable monies for the funds described in sections 2.3.1 and 2.3.1 above to the Claims Administrator for distribution to the Class Members.

2.3.4 Best Buy has modified its Standard Operating Procedure Manual to include language substantially similar to the following and agrees to retain this language for no less than two (2) years:

“Only Managers, Key-Holding Supervisors, or Inventory/LP Team Members are authorized to unlock the front doors for exiting employees when the store is closed. Observe the following:

- Employees must wait for the Manager, Key-Holding Supervisor, or Inventory/LP Team Member at the Loss Prevention desk.
- Employees must remain punched in until the Manager, Key-Holding Supervisor, or Inventory/LP Team Member is available.
Note: At no time should an employee punch out and wait to be let out of the store. All employee-waiting time must be on the clock.”

2.3.5 To the extent administratively convenient, the payment to each Participating Claimant shall be made via a single check.

2.3.6 As further detailed in Section 2.4.1, and for each payment made pursuant to Sections 2.3, 2.9 and 2.11 (and the subparts thereto), the Claims Administrator will report each payment to government authorities including the Internal Revenue Service as payment for wages, and it shall make all deductions, withholdings, and/or payroll tax payments.

2.3.7 Any amount paid to Participating Claimants shall not create any credit or otherwise affect the calculation of benefits provided under any pension, retirement, retirement

savings, excess or supplemental retirement or retirement savings, any deferred compensation, bonus, equity, incentive, severance, displacement, supplemental unemployment, health, life, or disability plan, or any other benefit, pension, or other compensation or benefit plan, policy, program or arrangement provided by Best Buy (collectively, the “Best Buy Benefit Plans”), and no payment made pursuant to this Settlement will be considered as “Compensation,” “Earnings,” “Salary,” or any similar definition under the Best Buy’s Employees’ Retirement Savings Plan, or under any other Best Buy Benefit Plan, or otherwise require any contribution or award under any Best Buy Benefit Plan, or otherwise modify benefits, contributions or coverage under any Best Buy Benefit Plan.

2.4 Taxes.

2.4.1 For income and payroll tax purposes, the Parties agree that the settlement payment shall be deemed payment in settlement of claims for unpaid wages, which (a) shall be subject to required withholdings and deductions, and so the net amounts payable will be less than the gross amounts; and (b) shall be reported in the year of payment as wage income to Participating Claimants on a Form W-2 and such other state or local tax reporting forms as may be required by law. Other than as set forth above, Best Buy will not make any deductions, withholdings, or additional payments, including without limitation, medical or other insurance payments or premiums, employee 401(k) contributions or matching employer contributions, wage garnishments, or charity withholdings, from or with respect to the payments to Participating Claimants, and entry of the Order of Final Approval by the Court shall be deemed authority not to make any such deductions, withholdings, or additional payments.

2.4.2 Other than the withholding and reporting requirements set forth above, Participating Claimants shall be solely responsible for the reporting and payment of the employee’s share of any federal, state and/or local income or other taxes, or any other withholdings, if any, on payments made pursuant to this Stipulation.

2.4.3 Best Buy makes no representations and it is understood and agreed that Best Buy has made no representations as to the taxability of any payments pursuant to this Stipulation, including payments to Participating Claimants, payments to Class Counsel, and payments to the Class Representative. Similarly, Class Counsel makes no representations and it is understood and agreed that Class Counsel has made no representations as to the taxability of any payments pursuant to this Stipulation, including payments to Participating Claimants, and payments to the Class Representative. The Notice Regarding Pendency of Class Action will advise each Class Member to seek his or her own personal tax advice prior to acting in response to that notice, and Best Buy, the Class Representative and Class Counsel agree that each Class Member will have an adequate opportunity to seek tax advice prior to acting in response to the Class Notice.

2.5 Duties of the Parties Prior to Court Approval.

The Parties shall move the Court for the entry of an Order Granting Preliminary Approval of the Settlement and Notice substantially through the following process:

- (a) Scheduling a fairness hearing on the question whether the proposed Settlement should be finally approved as fair, reasonable and adequate as to the Class;
- (b) Approving as to form and content the proposed Notice;
- (c) Approving as to form and content the proposed Claim and Exclusion Forms;
- (d) Approving the manner and method of distributing notice of this Settlement to the Class;
- (e) Directing the mailing of the Notice, Claim Form, and the Exclusion Form by first class mail to the Class Members;
- (f) Preliminarily approving the Settlement;
- (g) Preliminarily certifying the Class for purposes of Settlement only;

- (h) Approving Lowey Dannenberg Cohen & Hart, P.C., Kenney Egan McCafferty & Young, P.C., and Caldwell Law Office LLC to serve as Plaintiffs' Class Counsel, with Lowey Dannenberg Cohen & Hart, P.C. serving as Lead Class Counsel;
- (i) Approving the Named Plaintiffs as Class Representatives;
- (j) Approving the Parties' mutually agreed upon Claims Administrator; and
- (k) Declaring the date on which the Court grants preliminary approval of the Settlement as the date that the Settlement is deemed filed for purposes of providing CAFA notice to the appropriate state and federal officials.

2.6 Court Approval of Notice to the Class and Settlement Hearing.

2.6.1 The Class Representatives and Best Buy, through their counsel of record in the Litigation, shall file this Stipulation with the Court and jointly move for preliminary approval of this Stipulation. Via this submission, and a supporting motion, the Settling Parties, through their counsel of record, will request that the Court enter the Preliminary Approval Order approving the terms of this Stipulation, conditionally certifying a class and collective action for settlement purposes only as provided in Section 2.1.1 and scheduling the Settlement Hearing for the purposes of determining the fairness of the Settlement, granting final approval of the Settlement and this Stipulation, and entering Judgment, substantially in the form attached hereto.

2.6.2 Subject to Court availability, the Class Representatives and Best Buy shall endeavor to notice the joint motion for entry of the Preliminary Approval Order for a hearing before the Court on the earliest possible mutually convenient date. In the event the Court decides not to enter the Parties' proposed Preliminary Approval Order in its entirety, or to enter the Preliminary Approval Order with modifications (other than modifications reducing or concerning the amount of any attorneys' fees and costs to be paid to Class Counsel or the amount of any Enhancements to be paid to the Class Representative) that either party determines in its reasonable and good faith judgment to be material, that party shall have the absolute discretionary right to terminate the Settlement and this Stipulation by providing written notice to

the Court, Class Counsel and the Claims Administrator, provided such notice is given within twenty-one (21) days of receipt of the Court's decision, in which event any administrative costs incurred by the Claims Administrator shall be paid jointly by the Parties. The above notwithstanding, the Parties agree that should the Court modify the Preliminary Approval Order in such a way that would otherwise cause either party to terminate the Settlement, the Parties will, within the above indicated twenty-one (21) day period, meet and confer in a good faith attempt to reach agreement and thereby preserve the Settlement.

2.6.3 Once the Court enters the Preliminary Approval Order, Plaintiffs' Lead Class Counsel and counsel for Best Buy shall meet and confer to reach agreement on any necessary revisions of the deadlines and timetables set forth in this Stipulation, if necessary. In the event that the Settling Parties fail to reach such agreement, any of the Settling Parties may apply to the Court via a noticed motion for modification of the dates and deadlines in this Stipulation, provided that such a request to the Court may seek only reasonable modifications of the dates and deadlines contained in this Stipulation and no other changes.

2.6.4 If the Court enters the Preliminary Approval Order, then at the resulting Settlement Hearing, the Class Representatives and Best Buy, through their counsel of record, shall address any timely written objections from Class Members and any concerns of the Court, if any, and shall and hereby do, unless provided otherwise in this Stipulation (such as in paragraph 2.6.2 above), stipulate to final approval of this Stipulation and entry of the Judgment by the Court.

2.7 Notice to Class Members.

2.7.1 If, by entering the Preliminary Approval Order, the Court provides authorization to send the Class Notice to Class Members, Best Buy, through the Claims Administrator, will facilitate the mailing of the Class Notice to all Class Members at their Last Known Addresses. The Class Notice shall be mailed via first class mail through the United States Postal Service, postage pre-paid.

2.7.2 The Class Notice and its envelope or covering shall be marked to denote the return address of the Claims Administrator.

2.7.3 Within fourteen (14) days after the Court enters the Preliminary Approval Order, Best Buy shall provide the name and Last Known Address and the number of Closing Shifts worked for each Class Member to the Claims Administrator so that the Claims Administrator can process and mail the Class Notices.

2.7.4 Unless the Court orders otherwise in writing, each of the Notices shall be mailed to the Last Known Addresses of the Class Members no later than the Notice Mailing Deadline.

2.7.5 Part of the fees paid to the Claims Administrator shall include all costs of the mailing described in this Section 2.7, which shall be the fees charged by the Claims Administrator, the cost of the envelopes in which the Class Notice will be mailed, the cost of reproducing the Class Notice, and the cost of postage to send the Class Notice. The following Forms will be included with the Class Notice in this mailing: Change of Name and/or Address Information (Form A), Election to Opt Out of Settlement and Class Action (Form B), and Consent to Join Settlement and Claim Certification Form (C), all substantially in the form attached hereto. No other materials will be included in this mailing.

2.7.6 Unless the Claims Administrator receives a Class Notice returned from the United States Postal Service for reasons discussed below in this Section, that Class Notice shall be deemed mailed and received by the Class Member to whom it was sent five days (5) days after mailing.

2.8 Responses to the Notice Regarding Pendency of Class Action.

2.8.1 Class Members have the option to retain their own attorney(s) in connection with this Lawsuit at their own expense. Class Members who choose this option will be responsible for any attorneys' fees or costs incurred as a result of this election. The Class Notice will advise Class Members of this option.

2.8.2 Class Members may elect to “opt out” of the Settlement Class and thus exclude themselves from the Lawsuit, the Settlement and the Settlement Class. Class Members who wish to exercise this option must fully complete, properly execute, and timely mail, per the instructions therein, the form entitled “Election to Opt Out of Settlement and Class Action” attached to the Class Notice as Form B. If a fully completed and properly executed Opt Out form is not received by the Court from a Class Member postmarked on or before the Notice Response Deadline, then that Class Member will be deemed to have forever waived his or her right to opt out of the Settlement Class. Class Members who do not timely submit fully completed and properly executed Opt Out forms shall be deemed Members of the Settlement Class. Class Members who do timely submit fully completed and properly executed Opt Out forms shall have no further role in the Litigation, and for all purposes they shall be regarded as if they never were either a party to the Litigation or a Class Member, and thus they shall not be entitled to any benefit as a result of the Litigation, this Settlement or this Stipulation, nor will they have released any claims they may have against Best Buy.

2.8.3 Class Members who do not opt out of the Settlement Class pursuant to Section 2.8.2 may object to the Stipulation by simultaneously submitting written objections to the Court and mailing copies of their written objection to Class Counsel, counsel for Best Buy, and the Claims Administrator no later than the Notice Response Deadline. The Class Notice shall advise Class Members of this option. Any objections must be in writing and timely submitted as required in this Section 2.8.3 or else they will be waived. The Claims Administrator shall immediately provide copies of any such objections to counsel of record.

2.8.4 Class Members who do not opt out of the Settlement Class pursuant to Section 2.8.2 may elect to become Participating Claimants. Class Members who wish to exercise this option and certify their entitlement to payment under the Settlement must fully and timely complete, execute, and mail, per the instructions therein, the Consent to Join Settlement and Claim Certification Form (Form C). This Form must be postmarked no later than the Claim

Certification Form Deadline, unless another deadline is ordered by the Court. If a completed and properly executed Consent To Join Settlement and Claim Certification Form is not received by the Claims Administrator from a Class Member and timely postmarked on or before the Claim Certification Form Deadline, then that Class Member will be deemed to have forever waived his or her right to be a Participating Claimant and receive payment under this settlement. However, as long as they do not properly submit an Opt Out form, Class Members shall be deemed Members of the Settlement Class and shall be subject to the Judgment even if they do not submit a Qualifying Consent To Join Settlement and Claim Certification Form in a timely and proper fashion. Only Class Members who timely and properly complete, execute and submit the Consent to Join Settlement and Claim Certification Form shall be Participating Claimants entitled to payment pursuant to the Settlement and this Stipulation. In no event may the Claims Administrator disregard or vary the terms of this Stipulation.

2.8.5 Any Class Members who, before the Notice Response Deadline, submits both a timely, fully completed and properly executed Opt Out Form and a fully completed and properly executed Consent to Join Settlement and Claim Certification Form, shall be treated as if they have opted out of the Litigation, shall have no further role in the Litigation, and for all purposes shall be regarded as if they never were either a party to the Litigation or a Class Member, and thus they shall not be entitled to any benefit as a result of the Litigation, this Settlement or this Stipulation, nor will they have released any claims they may have against Best Buy.

2.8.6 Any Class Member who submits an Opt Out Form or does not submit a timely and properly executed Consent to Join Settlement and Claim Certification Form to the Claim Administer shall not be considered a Participating Claimant and his or her Settlement share shall revert to Best Buy to the extent consistent with the allocation formula described above in Section 2.3 (and its subsections).

2.9 Order of Final Approval and Timing of Payment to Participating Claimants.

2.9.1 Prior to the Settlement Hearing and consistent with the rules imposed by the Court, the Class Representative and Best Buy shall jointly move the Court for entry of the Order of Final Approval (and the associated entry of Judgment). The Settling Parties shall make all reasonable efforts to secure entry of the Order of Final Approval.

2.9.2 Within thirty (30) calendar days of and only after the Final Order or as soon as practicable, the Claims Administrator shall mail to each Participating Claimant at his or her Last Known Address, or Updated Address if obtained, his or her individual payment pursuant to and in accordance with the terms and conditions of Section 2.3, less tax deductions and withholdings.

2.9.3 Following the mailing of the payments to Participating Claimants discussed in Section 2.9.2, the Claims Administrator shall provide counsel for the Parties with a written confirmation of this mailing. Upon receipt of this confirmation, Class Counsel will file a notice or acknowledgement of satisfaction of judgment with the Court in the Litigation on behalf of the Settlement Class.

2.10 *Release of Claims.*

2.10.1 Upon the Effective Date, the Class Representatives and each of the Settlement Class Members, including all Participating Claimants, on behalf of themselves, and each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, dismissed with prejudice, relinquished, and discharged all Released State Law Claims as defined in Section 1.41.

2.10.2 In addition, upon the Effective Date, the Class Representatives and each of the Participating Claimants, on behalf of themselves, and each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, dismissed with prejudice, relinquished, and

discharged all Released Federal Law Claims as defined in Section 1.40 and all claims identified in Section 1.10.

2.11 *Payment of Costs and Attorneys' Fees, and Enhancement to the Class Representative.*

2.11.1 No more than ten (10) calendar days after the Effective Date, subject to Court approval, and only in the event that the Effective Date occurs, the Claims Administrator will pay Lead Class Counsel from the Settlement Consideration an amount approved by the Court, not to exceed \$300,000 as payment in full for all attorneys' fees and allowable litigation costs and expenses.

2.11.2 Not more than thirty (30) calendar days after the Effective Date, and only in the event that the Effective Date occurs, the Claims Administrator will forward three separate checks, one to each Class Representative which shall be payable to each Class Representative in his personal capacity only and sent via his counsel of record. The check for each Class Representative shall be his or her individual payment as an Enhancement payment for the effort of the Class Representative in the Litigation, as well as his share of the settlement fund as a Participating Claimant. Each Class Representative shall be required to sign a full release of the Class Representatives' Released Claims set forth in Section 1.10. Through this agreement, Plaintiffs Hall, Keck and Eisenhower each agree to be a Member of the Settlement Class and a Participating Claimant subject to the Judgment, and in light of this agreement, it shall not be necessary for them to be sent a Class Notice or for them to complete a Consent to Join Settlement and Claim Certification Form. The Settling Parties agree that the Claims Administrator shall report the Enhancement pursuant to Sections 2.3 and 2.9 according to the terms of this Agreement, and with the understanding that each Class Representative will be deemed to have submitted a timely and valid claim. Other than the reporting and withholding set forth in this Section, and with the exception of the employer's share of any federal, state and local taxes, each Class Representative shall be responsible for the reporting and payment of any

federal, state, and/or local income or other form of tax on any payment made to him pursuant to this Section.

2.11.3 Best Buy shall have no responsibility for, and no liability whatsoever with respect to, the allocation of the Settlement Consideration among the Class Representatives, Class Counsel, and/or any other Person or entity who may assert some claim thereto, or with respect to any award or payment of the Settlement Consideration issued or made in the Litigation or pursuant to this Stipulation, including, but not limited to, any award or payment pursuant to this Section 2.11.

2.12 *Claims Administrator.*

2.12.1 The Parties have agreed to propose The Garden City Group as the Claims Administrator for this Court's consideration and approval. The Claims Administrator will be responsible for mailing the Class Notice to Class Members, collecting the claim forms, responding to Class Member inquiries, distributing the payments provided for herein, reporting the taxes and withholdings pursuant to such payments, and performing such other duties as the Parties may mutually direct or as are specified herein.

2.12.2 The fees and expenses reasonably incurred by the Claims Administrator as a result of the procedures and processes expressly required by this Stipulation shall be incurred and paid by Best Buy.

2.12.3 The actions of the Claims Administrator shall be governed by the terms of this Stipulation. Counsel for either Party may engage in communications with the Claims Administrator concerning routine administrative matters without notice or copies to opposing counsel, Class Representatives, Class Members or the Court. Class Counsel and Best Buy may provide relevant information needed by the Claims Administrator per this Stipulation and engage in related communications with the Claims Administrator with notice and copies to one another.

2.12.4 In the event that either Best Buy or Class Counsel takes the position that the Claims Administrator is not acting in accordance with the terms of the Stipulation, such party

shall meet and confer with opposing counsel prior to raising any such issue with the Claims Administrator or the Court. In the event that one or more Class Members inform the Claims Administrator or Class Counsel that they believe the Claims Administrator is not acting in accordance with the terms of the Stipulation or has any complaints about the Claims Administrator or any decision by the Claims Administrator, the issue shall be promptly brought to the attention of the Parties, who shall meet and confer in a good faith effort to resolve the issue.

2.13 *Termination of the Settlement.*

2.13.1 In the event that the Stipulation is not approved in its entirety as is by the Court, excluding modifications that the Parties determine in their reasonable and good faith judgment to not be material modifications, or in the event that the Settlement set forth in the Stipulation is terminated, cancelled, declared void, or fails to become effective in accordance with its terms, or if the Judgment does not become a Final Judgment, or if the Effective Date does not occur, no payments shall be made to anyone in accordance with the terms of this Stipulation, the Settling Parties will bear their own costs and fees with regard to the efforts to obtain Court approval, and this Stipulation (except for those provisions relating to the termination of the Settlement set forth in Sections 2.6.2 and 2.13, and those provisions relating to the conditional nature and confidentiality of this Settlement, non-admissibility and non-admission of wrongdoing or liability, and costs of the Claims Administrator set forth in Sections I, IV, 2.1.2, 2.13.4 (and its subsections), 2.14.6, 2.14.7, 2.14.20, 2.14.22 and 2.13.4.5) shall be deemed null and void *ab initio*, its terms and provisions shall have no further force or effect and shall not be referred to or utilized in this Litigation or any other proceeding for any purpose whatsoever, the negotiation, terms and entry of the Stipulation shall remain subject to the provisions of Federal Rule of Evidence 408 and any similar or analogous federal or state laws or rules, any Judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*, and all other terms and provisions of Section 2.13.4

shall apply. Notwithstanding any other provision of this Stipulation, no order of the Court, or modification or reversal on appeal of any order of the Court, reducing the amount of any attorneys' fees or costs to be paid by Best Buy to Class Counsel or reducing the amount of any Enhancement to be paid to the Class Representative shall constitute grounds for cancellation or termination of the Stipulation or grounds for limiting any other provision of the Judgment.

2.13.2 Best Buy shall have the absolute discretionary right to terminate this Settlement Agreement and Stipulation through written notice to Plaintiffs' Lead Class Counsel and the Claims Administrator within twenty-one (21) days of its receipt of notice that any of the following events have occurred:

(a) One hundred (100) or more of Class Members opt out of the Settlement Class by submitting Opt Out Forms pursuant to Section 2.8.2.

(b) The Stipulation is construed in such a fashion that would require Best Buy to pay more than the Maximum Settlement Amount.

(c) The Court does not certify, for settlement purposes, a class action and a collective action consistent with Section 2.1.1, or otherwise makes an order materially inconsistent with any of the terms of this Stipulation.

(d) The Court decides not to enter the Preliminary Approval Order in its entirety, or decides to enter the Preliminary Approval Order with modifications that Best Buy determines in its reasonable and good faith judgment to be material.

(e) Any finding or ruling by this Court or an appellate court in the Litigation, that directly or indirectly (i) reduces or limits the extent or scope of the Released State Law Claims and/or the Released Federal Law Claims provided for in this Stipulation; or (ii) increases the Maximum Settlement Amount to be paid by Best Buy pursuant to the Settlement.

(f) Any pending litigation or other litigation that is filed prior to the Court's Final Approval that, by operation of law or order of Court, prevents the material terms of the Settlement, including the release provisions thereof, from being implemented.

2.13.3 To the extent Best Buy chooses to exercise the option established in Section 2.13.2, it must do so through written notice to the Court, Plaintiffs' Lead Class Counsel and the Claims Administrator prior to approval of the Order of Final Approval and only after conferring with Plaintiffs' Lead Class Counsel in an attempt to resolve Best Buy's concern(s).

2.13.4 In the event that this Stipulation or the Settlement set forth in the Stipulation is terminated, cancelled, declared void, or fails to become effective in accordance with its terms, or if the Judgment does not become a Final Judgment, or if the Effective Date does not occur, notwithstanding any of the provisions of Section 2.13:

2.13.4.1 The Stipulation, including without limitation the reservation of jurisdiction in Section 2.14.17 (except for those provisions relating to the termination of the Settlement set forth in Sections 2.6.2 and 2.13, and those provisions relating to the conditional nature and confidentiality of this Settlement, non-admissibility and non-admission of wrongdoing or liability, and costs of the Claims Administrator set forth in Sections I, IV, 2.1.2, 2.13.4 (and its subsections), 2.14.6, 2.14.7, 2.14.20, 2.14.22 and 2.13.4.5) shall be deemed null and void *ab initio* and of no further force or effect, the Stipulation and its terms and provisions shall have no further force and effect with respect to the Settling Parties and shall not be used, referred to or admissible in the Litigation or in any other action or proceeding for any purpose whatsoever, any Judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*, and the negotiation, terms and entry of the Parties' Settlement and this Stipulation shall remain subject to the provisions of Federal Rule of Evidence 408.

2.13.4.2 No payments shall be made by Best Buy to anyone under or pursuant to the terms of this Stipulation, except as provided in Section 2.13.4.5, and the Settling Parties will bear their own costs and fees with regard to the efforts to obtain Court approval.

2.13.4.3 Both Parties would be free to assert any and all claims and defenses in the Litigation as if the Settlement and this Stipulation had never occurred. Thus, Best Buy would be free to challenge any and all claims and allegations asserted by the Class Representatives in the Litigation upon all procedural and factual grounds, to contest the Class Representatives' request for class and collective action treatment on any grounds, and to assert any and all potential defenses and privileges. Likewise, the Class Representatives and Class Counsel would be free to pursue any and all claims and allegations asserted by the Class Representatives in the Litigation. Each Party agrees that both Parties retain and reserve these rights, and that they will not take a position to the contrary, and further agree that, if the Litigation were to proceed, they will not argue, and hereby waive any argument that, based upon the Parties' Settlement or this Stipulation or the exhibits thereto, or any act performed or document executed pursuant to or in furtherance of the Settlement or this Stipulation, that Best Buy should be barred from contesting class and/or collective action certification on any grounds and/or asserting any and all other potential defenses and privileges or that the Class Representatives and Class Counsel should be free to pursue any and all claims and allegations asserted in the Action.

2.13.4.4 If the Class described in Section 1.4 has already been certified for settlement purposes, any order certifying the Class will be void *ab initio* and Best Buy will move for decertification, and none of the Class Representatives or Class Counsel will oppose that request.

2.13.4.5 Litigation may proceed without prejudice as if this Settlement had not been entered into and Best Buy will not raise delay in prosecution as a defense to the prosecution of these cases or the certification of a class action therein.

2.14 *Miscellaneous Provisions.*

2.14.1 The only Class Members, other than the Class Representatives, entitled to any payment under this Stipulation and the associated Judgment are Participating Claimants, and they shall be entitled to their individual payments pursuant to Section 2.3 only.

2.14.2 Best Buy agrees not to discourage participation of Settlement Class Members in the Settlement. Best Buy further agrees it will not retaliate against Settlement Class Members for any actions taken or not taken with respect to this Settlement, including the filing of a Claim Form. Plaintiffs shall have the right to terminate the settlement if they prove that Best Buy has taken material classwide actions to discourage individuals from participating in this settlement.

2.14.3 The Settling Parties' sole obligations to each other and to the Claims Administrator are set forth in this Stipulation. Class Counsel, Plaintiffs' Lead Class Counsel and the Claims Administrator shall hold Best Buy harmless for an award of fees or costs beyond those made in accordance with the Stipulation and shall not seek to recover any fees or costs awarded in excess of the terms in this Stipulation. Class Counsel, Plaintiffs' Lead Class Counsel and the Class Representatives, on behalf of themselves and all Settlement Class Members, agree that, in the event any fees or costs of any kind beyond those expressly provided for in this Stipulation are awarded by the Court (or any appellate court), Best Buy shall have the exclusive right to terminate the settlement, subject to the terms of Section I.

2.14.4 The Settling Parties (a) acknowledge that it is their intent to consummate this agreement; and (b) agree to cooperate to the extent reasonably necessary to effect and implement all terms and conditions of the Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation, including but not limited to Class Counsel co-operating with Best Buy's counsel to a reasonable extent to obtain the dismissal of the Litigation, and the dismissal, transfer to the Court, or stay of any subsequently-filed class or collective action lawsuit that alleges any of the Released State Law Claims and/or

Released Federal Law Claims set forth in Sections 1.41 and 1.40, respectively, of this Stipulation.

2.14.5 The Stipulation compromises claims which are contested in good faith, and it shall not be deemed an admission by any of the Settling Parties as to the merits of any claim or any potential defense. The Settling Parties agree that the amounts to be paid pursuant to this Settlement and the other terms of the Settlement and this Stipulation were negotiated in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

2.14.6 Best Buy denies all claims as to liability, damages, penalties, interest, fees, restitution, injunctive relief and all other forms of relief, as well as the class action allegations asserted in the Litigation. Best Buy has agreed to resolve the Litigation via this Stipulation, but to the extent this Stipulation is deemed void or the Effective Date does not occur, Best Buy does not waive, but rather expressly reserves, all rights to challenge any and all claims and allegations asserted by the Class Representatives in the Litigation upon all procedural and substantive grounds, including without limitation the ability to challenge class and collective action treatment on any grounds and to assert any and all other potential defenses or privileges. The Class Representatives and Class Counsel agree that Best Buy retains and reserves these rights, and they agree not to take a position to the contrary. Specifically, the Class Representatives and Class Counsel agree that, if the Litigation were to proceed, they will not argue or present any argument, and hereby waive any argument that, based on the settlement or this Stipulation or any of the exhibits and attachments hereto, or any act performed or document executed pursuant to or in furtherance of the Settlement or this Stipulation, Best Buy should be barred from contesting class or collective action certification, including pursuant to Federal Rule of Civil Procedure 23, on any grounds, or from asserting any and all other potential defenses and privileges. This Stipulation shall not be deemed an admission by, or ground for estoppel against Best Buy that class or collective action treatment, including pursuant to Federal Rule of Civil Procedure 23, in

the Litigation is proper or cannot be contested on any grounds. Additionally, neither the Stipulation nor the settlement, nor any act performed or document executed pursuant to, or in furtherance of, the Stipulation or the settlement: (a) is or may be deemed to be or may be used as an admission or evidence of the validity of any Released Federal Law Claim or Released State Law Claim, or of any wrongdoing or liability of the Best Buy Releasees, or any of them; or (b) is or may be deemed to be or may be used as an admission or evidence of any fault or omission of the Best Buy Releasees, or any of them, in any civil, criminal or administrative proceeding in any court, administrative agency, or other tribunal.

2.14.7 All of the exhibits and attachments to the Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

2.14.8 The Stipulation may be amended or modified only by a written instrument signed by authorized representatives of all Settling Parties or their respective successors-in-interest.

2.14.9 The Stipulation and the exhibits and attachments hereto constitute the entire agreement among the Settling Parties, and no representations, warranties, or inducements have been made to any party concerning the Stipulation or the exhibits and attachments hereto other than the representations, warranties, and covenants contained and memorialized in such documents. Except as otherwise provided herein, each party shall bear its own costs. The Settling Parties' complete obligations are detailed herein.

2.14.10 Class Counsel, on behalf of the Class Representatives and the Class, represent that, after consultation with and approval by the Class Representatives, they are expressly authorized by the Class Representatives to enter into this Stipulation, take all appropriate action required or permitted to be taken by the Class Representatives and the Class pursuant to the Stipulation to effect its terms, and enter into any modifications or amendments to the Stipulation on behalf of the Class Representatives and the Class which they deem appropriate. Similarly, Best Buy's Counsel represents that it is expressly authorized to enter into

this Stipulation, take all appropriate action required or permitted to be taken by Best Buy pursuant to the Stipulation to effect its terms, and enter into any modifications or amendments to the Stipulation on behalf of Best Buy which they deem appropriate.

2.14.11 Each counsel or other Person executing the Stipulation or any of the exhibits or attachments hereto on behalf of any party hereby warrants that such Person has the full authority to do so.

2.14.12 The Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court.

2.14.13 Whenever this Stipulation requires or contemplates that one party, the Court or the Claims Administrator shall or may give notice to another, notice shall be provided by e-mail, facsimile and/or next-day (excluding Sundays and court holidays) express delivery service as follows:

(i) If to Best Buy, then to:

Paul C. Evans
Morgan Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103
Facsimile: (215) 963-5001
pevans@morganlewis.com

(ii) If to the Class Representatives, then to:

Gerald Lawrence
Lowey Dannenberg Cohen & Hart, P.C.
Four Tower Bridge
200 Barr Harbor Drive, Suite 400
West Conshohocken, PA 19428
Facsimile: (610) 862-9777
glawrence@lowey.com

2.14.14 The Stipulation shall be binding upon, and inure to the benefit of, the heirs, executors, successors and assigns of the parties hereto; but this Stipulation is not designed to and does not create any third party beneficiaries either express or implied.

2.14.15 The Class Representatives and Best Buy waive their right to seek any form of appellate review of any order or judgment that approves the Settlement as set forth in this Stipulation in its entirety as is, except for changes to formatting, corrections of typographical errors or other immaterial changes that do not affect a material provision of the Stipulation in a material way within the meaning of Section 2.13 above.

2.14.16 The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Stipulation, and all parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation. Any action to enforce the Settlement provided for in this Stipulation shall be commenced and maintained only in the Court. It is further expressly agreed and stipulated that the Court shall have exclusive jurisdiction and authority to consider, rule upon, and issue a final order with respect to any dispute involving any of the Settling Parties, including any suit or other action or proceeding, whether judicial, administrative or otherwise, which is subsequently instituted by any person or entity, individually or derivatively, with respect to any matter relating to a subject matter of the Settlement set forth in this Stipulation, and Best Buy and the Class Representatives, on behalf of themselves and all Settlement Class members, hereby irrevocably submit to the exclusive jurisdiction and venue of the Court with respect thereto. In the event of any such dispute, Best Buy and Class Counsel and the Class Representatives, on behalf of themselves and all Settlement Class Members, waive and agree not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the jurisdiction of said Court, or that said Court is in any manner an improper venue or an inconvenient forum. This reservation of jurisdiction does not limit any other reservation of jurisdiction in this Stipulation nor do any other such reservations limit the reservation in this Section. In the event

this Stipulation is terminated, cancelled, declared null and void, or fails to become effective in accordance with its terms, or if the Judgment does not become a Final Judgment, or if the Effective Date does not occur, then, notwithstanding any other provision in this Stipulation, this reservation of jurisdiction shall be of no force and effect, and shall not apply to any dispute concerning the claims raised in the Litigation.

2.14.17 The Stipulation and the exhibits hereto shall be considered to have been negotiated, executed, and delivered, and to have been wholly performed, in the Commonwealth of Pennsylvania, and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the substantive laws of the Commonwealth of Pennsylvania without giving effect to the Commonwealth's choice of law principles.

2.14.18 This Stipulation shall be construed as a whole according to its fair meaning and intent, and not strictly for or against any party, regardless of who drafted or who was principally responsible for drafting this Stipulation or any specific term or condition thereof. The Parties acknowledge that the terms of the Stipulation are contractual and are the product of arms-length negotiations between the parties and their counsel. Each Party and their counsel cooperated in the drafting and preparation of the Stipulation. In any construction to be made of the Stipulation, the Stipulation shall not be construed against any party and any statutory provision regarding contract interpretation to the contrary shall not be applied.

2.14.19 Other than necessary disclosures made to the Court, the fact of Settlement, the contents of this Stipulation and the attachments hereto, the Parties' settlement negotiations and all related information shall be held strictly confidential by Class Counsel, Plaintiffs' Lead Class Counsel and the Class Representatives and shall not be disclosed to any third parties (including the media). Class Counsel and the Class Representatives may communicate with Class Members for purposes of implementing, administering and enforcing the Settlement as provided herein, and Class Counsel may respond to inquiries they respectively

receive from Class Members. Class Counsel, Plaintiffs' Lead Class Counsel, and the Class Representatives shall not issue or cause to be issued any statements to the media regarding the Settlement or any of its terms; provided, however, that, Class Counsel and the Class Representatives may respond to any inquiries they receive from the media after the issuance of the Preliminary Approval Order, or to any media reports on the Settlement or its terms, by stating only that the matter has been amicably resolved and that the Maximum Settlement Amount is \$907,566. Nothing herein shall be construed to limit Class Counsel's legal right to communicate with the Class Representatives, or with Class Members who initiate communications with them. Additionally, nothing herein shall be construed to preclude (1) the Claims Administrator from communicating with Class Members in order to administer the settlement; or (2) Class Counsel from communicating with governmental authorities about the Settlement if required to do so.

2.14.20 Within thirty (30) days after payment is mailed by the Claims Administrator to the Class Members, the Class Representatives and Class Counsel shall either destroy or return to Best Buy all originals and duplicate copies of documents, data and other materials produced by, or obtained from, Best Buy during the Litigation or in connection with the implementation of the settlement to the extent that such documents, data and other materials contain Confidential Material and/or Highly Confidential Material as defined by the Protective Order in this action, excluding pleadings served by either party but including all documents and materials provided by Best Buy to the Class Representatives and/or Class Counsel by initial disclosures, formal discovery, or informal discovery including all settlement discussions, or pursuant to this Stipulation. The Class Representatives and Class Counsel shall certify within ten (10) days after the end of such thirty (30) day period that he, she or it has destroyed or returned all such documents and materials and all copies thereof. No documents or materials described in this Section 2.14.21 shall be offered for sale or distributed to any person or entity by any Class Representative or Class Counsel. All originals or reproductions of any such documents and materials given to any party, expert, consultant, or other Person or entity shall be

retrieved by Class Counsel and then destroyed or returned to Best Buy. This provision is not intended to cover work product produced by Class Counsel, but is intended to cover any documents or other materials described herein that are attached to any work product and all such documents or materials attached to work product shall be returned to Best Buy. All such documents, information or materials incorporated into any work product shall be excised. Notwithstanding the foregoing, Class Counsel may retain a file copy of all pleadings, motion papers, transcripts, legal memoranda, and correspondence even if such materials contain Confidential Material or Highly Confidential Material

2.14.21 In the event that any legal action is necessary to enforce any of the terms or provisions of this Stipulation or to address a breach or alleged breach of this Stipulation, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees and costs.

IN WITNESS WHEREOF, the undersigned have executed this Stipulation as of the dates indicated below:

Dated: February _____, 2009

Jason Hall

Dated: February _____, 2009

Samuel Keck

Dated: February _____, 2009

Paul Eisenhower

Dated: February _____, 2009

By: _____

Name

Title:

Best Buy Co., Inc.
BBC Investment Co.
BBC Property Co.
Best Buy Stores, L.P.

APPROVED AS TO FORM:

Dated: February _____, 2009

Gerald Lawrence
LOWEY DANNENBERG COHEN &
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Four Tower Bridge
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West Conshohocken, PA 19428
Telephone: 610-941-2760

Dated: February _____, 2009

Eric L. Young
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Telephone: 610-940-9099

Dated: February _____, 2009

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Philadelphia, PA 19118
Telephone: 215-248-2030

Class Counsel for Plaintiffs

Dated: February _____, 2009

MORGAN, LEWIS & BOCKIUS LLP

By: _____
Paul C. Evans
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Philadelphia, PA 19103
(215) 963-5000

*Attorneys for Defendants
Best Buy Co., Inc., BBC Investment Co.,
BBC Property Co., and Best Buy Stores, L.P.*

IN WITNESS WHEREOF, the undersigned have executed this Stipulation as of the dates indicated below:

Dated: July 13, 2009
~~Aug 13~~

Jason Hall
Jason Hall

Dated: July 8/3/09, 2009

Samuel Keck
Samuel Keck

Dated: July 8/3/09, 2009

Paul Eisenhower
Paul Eisenhower

Dated: July ~~_____~~, 2009
~~August 13, 2009~~

By: [Signature]
Name: _____
Title: _____

11/3/09

Best Buy Co., Inc.
BBC Investment Co.
BBC Property Co.
Best Buy Stores, L.P.

APPROVED AS TO FORM:

Dated: July _____, 2009
~~Nov 1, 2009~~

Gerald Lawrence
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Dated: July _____, 2009
August 13, 2009

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Dated: July 28, 2009



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Telephone: 215-248-2030

Class Counsel for Plaintiffs

Dated: July _____, 2009

MORGAN, LEWIS & BOCKIUS LLP

By: _____

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Philadelphia, PA 19103
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BBC Property Co., and Best Buy Stores, L.P.*