

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

NICK MOGENSEN, Individually and on ) No. 3:12-cv-00954-HES-JRK  
Behalf of All Others Similarly Situated, )  
 ) CLASS ACTION  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
 )  
BODY CENTRAL CORPORATION, )  
 )  
B. ALLEN WEINSTEIN, THOMAS )  
 )  
STOLTZ and BETH R. ANGELO, )  
 )  
 )  
Defendants. )  
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STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement, dated August 25, 2014 (the “Stipulation” or the “Settlement Agreement”), submitted pursuant to Rule 23 of the Federal Rules of Civil Procedure and Rule 408 of the Federal Rules of Evidence, embodies a settlement (the “Settlement”) made and entered into by and among the following Settling Parties: (i) Lead Plaintiff Nick Mogensen, on behalf of himself and each of the members of the Class, as defined in ¶¶1.3-1.4, *infra*, on the one hand, and (ii) Defendants Body Central Corporation (“Body Central” or the “Company”), B. Allen Weinstein, Thomas Stoltz and Beth R. Angelo (collectively, “Defendants”), on the other hand, by and through their counsel of record in the above-captioned litigation pending in the United States District Court for the Middle District of Florida, Jacksonville Division (the “Action”). This Stipulation is intended by the parties to fully, finally, and forever resolve, discharge, and settle the Released Claims, as defined in ¶1.19, *infra*, upon and subject to the terms and conditions hereof and subject to the approval of the Court. Throughout this Stipulation, all capitalized terms used, but not immediately defined, have the meanings given to them in Section IV.1, *infra*.

## **I. THE LITIGATION**

This case is currently pending before the Honorable Harvey E. Schlesinger in the United States District Court for the Middle District of Florida, Jacksonville Division (the “Court”) and was brought on behalf of a Class (to be certified for settlement purposes) of all persons who purchased or acquired Body Central common stock during the period from November 10, 2011, through and including June 18, 2012 (the “Class Period,” as defined at ¶1.5 herein). The initial complaint was filed on August 27, 2012, alleging violations of §§10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule

10b-5 promulgated thereunder (Dkt. No. 1), and on December 13, 2012, the Court appointed Lead Plaintiff and the firm of Robbins Geller Rudman & Dowd LLP as Lead Counsel (Dkt. No. 17). On February 26, 2013, Lead Plaintiff filed the Corrected Amended Class Action Complaint for Violations of the Federal Securities Laws (“Complaint”), which alleged that during the Class Period, Defendants engaged in a fraudulent scheme to artificially inflate the price of Body Central common stock by concealing and subsequently minimizing significant, deteriorating merchandise conditions that negatively impacted sales and Body Central’s financial outlook. Dkt. No. 25. Lead Plaintiff also alleged that Defendants failed to disclose that Body Central was suffering extensive problems, including a failure to order new merchandise, resulting in a significant decrease in sales and markdowns of products. Lead Plaintiff further alleged that Defendants’ allegedly materially false and misleading statements artificially inflated the price of Body Central common stock and when the truth was eventually disclosed, the Class suffered substantial damages.

On April 23, 2013, Defendants filed their Corrected Motion to Dismiss the Complaint, arguing that Lead Plaintiff alleged no particularized facts showing that any challenged statement was false or misleading when it was made, that all of Body Central’s forward-looking statements, and their factual assumptions, were protected by the Private Securities Litigation Reform Act of 1995’s (“PSLRA”) Safe Harbor provisions, and that the Complaint failed to plead specific facts establishing a strong inference of scienter. Dkt. No. 36. Defendants also filed a motion to take judicial notice of certain documents in connection with their motion to dismiss. Dkt. No. 34.

On June 24, 2013, Lead Plaintiff filed his opposition to Defendants' motion to dismiss and a motion to strike certain documents submitted by Defendants in support of their motion to dismiss. Dkt. Nos. 40-41. Lead Plaintiff countered each of Defendants' arguments, and argued that the Complaint adequately alleged violations of §§10(b) and 20(a) of the Exchange Act.

On July 8, 2013, Defendants filed their opposition to the motion to strike (Dkt. No. 43), and on July 19, 2013, filed their reply in support of the motion to dismiss (Dkt. No. 45). On September 19, 2013, the Court issued an Order granting in part and denying in part both Lead Plaintiff's motion to strike and Defendants' motion for judicial notice, and gave Defendants the opportunity to convert their motion to dismiss to a motion for summary judgment, or to notify the Court that they would like it to consider their motion as a motion to dismiss. *See* Dkt. No. 46.

Defendants notified the Court that they did not wish to convert their motion to dismiss into a motion for summary judgment, and on March 19, 2014, the Court issued an Order granting Defendants' motion to dismiss, dismissing the Complaint without prejudice. Dkt. No. 48. The Order also provided Lead Plaintiff the opportunity to amend his complaint.

On April 23, 2014, Lead Plaintiff filed his Second Amended Class Action Complaint for Violations of the Federal Securities Laws (the "SAC"). Dkt. No. 51. On the same day, Lead Plaintiff filed his motion to partially modify the PSLRA-mandated discovery stay, seeking the documents Defendants had produced, or will produce, in connection with the government investigations into trading in Body Central stock during the Class Period. Dkt. No. 52. On May 30, 2014, Defendants filed their motion to dismiss the SAC and their

opposition to the motion to partially lift the discovery stay. Dkt. Nos. 55-58. On June 12, 2014, the Court denied Lead Plaintiff's motion to partially lift the stay. Dkt. No. 60.

The parties then engaged in arm's-length negotiations in an effort to resolve the litigation, and on July 18, 2014, executed a Settlement Term Sheet setting forth the parties' agreement-in-principle to settle the litigation. Lead Plaintiff notified the Court of the Settlement on the same day. Dkt. No. 63.

From the outset of the litigation, Defendants have denied each and all of Lead Plaintiff's allegations, and have consistently maintained that Lead Plaintiff could not prove any element of his securities fraud claims.

Lead Plaintiff's allegations were derived from an array of sources, including: (1) U.S. Securities and Exchange Commission ("SEC") filings by Body Central; (2) regulatory filings and reports, securities analysts' reports and advisories about the Company; (3) press releases and other public statements issued by certain of the Defendants; (4) media reports about Body Central; and (5) interviews with former employees of the Company and industry participants.

## **II. CLAIMS OF LEAD PLAINTIFF AND BENEFITS OF SETTLEMENT**

Lead Plaintiff and Lead Counsel believe that the claims asserted in the Action have merit, but Lead Plaintiff and Lead Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against the Defendants through trial. Lead Plaintiff and Lead Counsel also have taken into account the uncertain outcome and risks in connection with the renewed motion to dismiss, Lead Plaintiff's anticipated motion for class certification, Defendants' anticipated summary judgment

motion, and a jury trial, especially in complex matters such as this Action, as well as the risks posed by and the difficulties and delays relating to post-trial motions, and potential appeals of the Court's determination of said motions, or the verdict of a jury. Lead Plaintiff and Lead Counsel also are aware of the risks presented by the defenses to the securities law violations asserted in the Action. Lead Plaintiff and Lead Counsel believe that the Settlement set forth in this Stipulation confers substantial benefits upon the Class in light of the circumstances present here. Based on their evaluation, Lead Plaintiff and Lead Counsel have determined that the Settlement set forth in this Stipulation is in the best interests of Lead Plaintiff and the Class.

### **III. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

Defendants have denied and continue to deny that they have violated the federal securities laws and maintain that their conduct was at all times proper and in compliance with all applicable provisions of law. Defendants have denied and continue to deny specifically each and all of the claims and contentions of wrongful conduct alleged in the Action, along with all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Action. Defendants also have denied and continue to deny, *inter alia*, the allegations that they knowingly or otherwise, made any material misstatements or omissions; that any member of the Class has suffered any damages; that the price of Body Central common stock was artificially inflated by reason of the alleged misrepresentations, omissions, or otherwise; or that the members of the Class were harmed by the conduct alleged in the Action or that

could have been alleged as part of the Action. In addition, the Defendants maintain that they have meritorious defenses to all claims alleged in the Action.

Nonetheless, taking into account the uncertainty, risks, costs and burdens inherent in any litigation, especially in complex cases such as this Action, Defendants have concluded that further conduct of the Action could be protracted and distracting. Defendants have, therefore, 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 Stipulation. As set forth in ¶¶9.2-9.3 below, this Stipulation shall in no event be construed as or deemed to be evidence of an admission or concession by Defendants or any of the Released Persons with respect to any claim of any fault or liability or wrongdoing or damage whatsoever.

#### **IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Lead Plaintiff (for himself and the members of the Class), on the one hand, and Defendants, on the other hand, by and through their respective counsel of record, that, subject to the approval of the Court, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the parties from the Settlement set forth herein, the Released Claims shall be finally and fully compromised, settled, and released, and the Action shall be dismissed with prejudice, as to Lead Plaintiff and the Defendants, upon and subject to the terms and conditions of the Stipulation, as follows.

##### **1. Definitions**

As used in this Stipulation the following terms have the meanings specified below:

1.1 “Authorized Claimant” means any member of the Class who submits a timely and valid Proof of Claim and Release form and whose claim for recovery has been allowed pursuant to the terms of the Stipulation.

1.2 “Claims Administrator” means the firm of Gilardi & Co. LLC.

1.3 “Class” means all Persons who purchased or acquired Body Central common stock during the period from November 10, 2011, through and including June 18, 2012. Excluded from the Class are the Defendants, the officers and directors of Body Central during the Class Period, members of their immediate families, and their legal representatives, heirs, successors or assigns, and any entity in which any Defendant has or had a controlling interest. Also excluded from the Class are those Persons who timely and validly exclude themselves therefrom.

1.4 “Class Member” means a Person who falls within the definition of the Class as set forth in ¶1.3 of this Stipulation.

1.5 “Class Period” means the period from November 10, 2011, through and including June 18, 2012.

1.6 “Effective Date” means the first date by which all of the events and conditions specified in ¶8.1 of the Stipulation have been met and have occurred.

1.7 “Escrow Account” means the account controlled by the Escrow Agent.

1.8 “Escrow Agent” means Robbins Geller Rudman & Dowd LLP and its successor(s).

1.9 “Final” means when the last of the following with respect to the Judgment approving the Settlement, in the form of Exhibit B attached hereto, shall occur: (i) the



expiration of the time to file a motion to alter or amend the Judgment under Federal Rule of Civil Procedure 59(e) has passed without any such motion having been filed; (ii) the expiration of the time in which to appeal the Judgment has passed without any appeal having been taken; and (iii) if a motion to alter or amend is filed or if an appeal is taken, the determination of that motion or appeal in such a manner as to permit the consummation of the Settlement, in accordance with the terms and conditions of this Stipulation. For purposes of this paragraph, an “appeal” shall include any petition for a writ of certiorari or other writ that may be filed in connection with approval or disapproval of this Settlement, but shall not include any appeal that concerns only the issue of attorneys’ fees and expenses or any Plan of Distribution of the Settlement Fund.

1.10 “Judgment” means the judgment and order of dismissal with prejudice to be rendered by the Court upon approval of the Settlement, substantially in the form attached hereto as Exhibit B.

1.11 “Lead Counsel” means Robbins Geller Rudman & Dowd LLP.

1.12 “Lead Plaintiff” means Nick Mogensen.

1.13 “Net Settlement Fund” means the Settlement Fund less: (i) Court-awarded attorneys’ fees and expenses; (ii) Class Notice and Administration Costs; (iii) Taxes and Tax Expenses; and (iv) any other fees or expenses approved by the Court.

1.14 “Notice” means the Notice of Pendency of Class Action and Proposed Settlement, Motion for Attorneys’ Fees and Settlement Fairness Hearing to be sent to Class Members, which, subject to approval of the Court, shall be substantially in the form attached hereto as Exhibit A-1.

1.15 “Person” means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and his, her or its spouses, heirs, predecessors, successors, representatives, or assignees.

1.16 “Plaintiff’s Counsel” means Lead Counsel and any counsel who appeared in the Action.

1.17 “Plan of Distribution” means a plan or formula of allocation of the Net Settlement Fund whereby the Settlement Fund shall be distributed to Authorized Claimants after payment of Class Notice and Administration Costs, Taxes and Tax Expenses and such attorneys’ fees, costs, expenses, and interest and other expenses as may be awarded by the Court. Any Plan of Distribution is not part of the Stipulation and the Released Persons shall have no responsibility or liability with respect to the Plan of Distribution.

1.18 “Related Persons” means, with respect to the Defendants, each and all of their respective present or former parents, subsidiaries, affiliates, successors and assigns, and each and all of their and Defendants’ respective present or former officers, directors, employees, employers, attorneys, accountants, financial advisors, commercial bank lenders, insurers, reinsurers, investment bankers, underwriters, representatives, general and limited partners and partnerships, heirs, executors, administrators, successors, affiliates, agents, spouses, associates, and assigns of each of them, in their capacity as such, or any trust of which any Defendant is the settlor or which is for the benefit of any Defendant and/or member(s) of his or her family and any entity in which any such Defendant has a controlling interest.

1.19 “Released Claims” means any and all claims, demands, rights, causes of action or liabilities of every nature and description whatsoever (including, but not limited to, any claims for damages, interest, attorneys’ fees, expert or consulting fees, and any other costs, expenses or liabilities whatsoever), whether based on federal, state, local, foreign, statutory or common law or any other law, rule, ordinance, administrative provision or regulation, including both known claims and unknown claims, whether class or individual in nature, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, based on, arising from or relating to (i) the purchase of the common stock of Body Central during the Class Period, and (ii) the allegations, transactions, facts, matters, events, disclosures, registration statements, public filings, acts, occurrences, representations, statements, omissions or failures to act that were or could have been alleged by Lead Plaintiff in the Action against the Released Persons. Released Claims does not include claims to enforce the Settlement; nor does it include any governmental or regulatory agency’s claims in any criminal or civil action against any of the Defendants or any claims in any related ERISA or derivative actions.

1.20 “Released Persons” means each and all of the Defendants and each and all of their Related Persons.

1.21 “Settlement Amount” means Three Million Four Hundred Twenty-Five Thousand U.S. Dollars (\$3,425,000.00).

1.22 “Settlement Fund” means Three Million Four Hundred Twenty-Five Thousand U.S. Dollars (\$3,425,000.00) in cash paid by or on behalf of Defendants pursuant to ¶3.1 of this Stipulation, together with all interest and income earned thereon after being

transferred to an account controlled by the Escrow Agent. Such amount is paid as consideration for full and complete settlement of all the Released Claims.

1.23 “Settling Parties” means Lead Plaintiff on behalf of himself and the Class Members, and Defendants.

1.24 “Summary Notice” means the Summary Notice, which, subject to approval of the Court, shall be substantially in the form attached hereto as Exhibit A-3.

1.25 “Unknown Claims” means any Released Claims which the Lead Plaintiff or any Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons, and any claims that any Released Persons does not know or suspect to exist in his, her, or its favor at the time of the release of the Lead Plaintiff, each and all of the Class Members and Plaintiff’s Counsel, which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Persons or Lead Plaintiff, each and all of the Class Members and Plaintiff’s Counsel, or might have affected his, her or its decision not to object to this Settlement or seek exclusion. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Lead Plaintiff and Defendants shall have, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Judgment shall have, expressly waived to the fullest extent permitted by law the provisions, rights, and benefits of California Civil Code §1542, which provides:

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

Lead Plaintiff and Defendants shall have, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code §1542. Lead Plaintiff, Class Members, and Released Persons may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims and the claims released by the Released Persons, but Lead Plaintiff and Defendants shall have, and each Class Member and Released Person, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, or the claims released by the Released Persons, as the case may be, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now 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 that 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, whether or not previously or currently asserted in any action. Lead Plaintiff and Defendants acknowledge, and the Class Members and Released Persons shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and an essential term of the Settlement of which this release is a part.

**2. CAFA Notice**

2.1 Pursuant to the Class Action Fairness Act (“CAFA”), no later than ten (10) calendar days after the Settlement Agreement is filed with the Court, Defendants, at their own cost, shall serve proper notice of the proposed Settlement upon those who are entitled to notice pursuant to CAFA.

**3. The Settlement**

**a. The Settlement Fund**

3.1 Defendants caused the Settlement Amount to be transferred to an account controlled by the Escrow Agent on August 5, 2014.

**b. The Escrow Agent**

3.2 The Escrow Agent shall invest the Settlement Fund deposited pursuant to ¶3.1 hereof in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. All costs and risks related to the investment of the Settlement Fund in accordance with the guidelines set forth in this paragraph shall be borne by the Settlement Fund.

3.3 The Escrow Agent shall not disburse the Settlement Fund except (a) as provided in the Stipulation, (b) by an order of the Court, or (c) with the written agreement of counsel for the Settling Parties.

3.4 Subject to further order(s) and/or directions as may be made by the Court, or as provided in the Stipulation, the Escrow Agent is authorized to execute such transactions as

are consistent with the terms of the Stipulation. The Released Persons shall have no responsibility for, interest in, or liability whatsoever with respect to, the actions of the Escrow Agent, or any transaction executed by the Escrow Agent.

3.5 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

3.6 Prior to the Effective Date, Lead Counsel, without further approval of Defendants or the Court, may pay from the Settlement Fund up to \$400,000.00 in notice and administration costs and fees associated with providing notice to the Class and the administration of the Settlement, including, without limitation, the costs and fees connected with: identifying and locating members of the Class; mailing the Notice and Proof of Claim and Release, and publishing the Summary Notice (such amounts shall include, without limitation, the actual costs of publication, printing and mailing the Notice, and reimbursement to nominee owners for forwarding notice to their beneficial owners); soliciting Class claims; assisting with the filing of claims; administering and distributing the Net Settlement Fund to Authorized Claimants; processing Proof of Claim and Release forms; and paying escrow fees and costs, if any (“Class Notice and Administration Costs”). Prior to the Effective Date, payment of any Class Notice and Administration Costs exceeding \$400,000.00 shall require notice to and agreement from the Defendants, through Defendants’ counsel, which agreement shall not be unreasonably refused. Subsequent to the Effective

Date, without further approval by Defendants or the Court, the Settlement Fund may be used by Lead Counsel to pay all reasonable and necessary Class Notice and Administration Costs.

3.7 It shall be Lead Counsel's sole responsibility to disseminate the Notice and Summary Notice to the Class in accordance with this Stipulation and as ordered by the Court. Class Members shall have no recourse as to the Released Persons with respect to any claims they may have that arise from any failure of the notice process.

**c. Taxes**

**Qualified Settlement Fund**

3.8 (a) The Settling Parties agree to treat the Settlement Fund as being at all times a "Qualified Settlement Fund" within the meaning of Treasury Regulation §1.468B-1. In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this ¶3.8, including the "relation-back election" (as defined in Treasury Regulation §1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver, or cause to be prepared and delivered, the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(b) For the purpose of §468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "administrator" shall be the Escrow Agent. The Escrow Agent shall timely and properly file, or cause to be filed, all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treasury Regulation §1.468B-



2(k)). Such returns (as well as the election described in ¶3.8(a) hereof) shall be consistent with this ¶3.8 and in all events shall reflect that all Taxes (including any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in ¶3.8(c) hereof.

(c) All (a) Taxes (including any estimated Taxes, interest, or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Persons or their counsel with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “Qualified Settlement Fund” for federal or state income tax purposes (“Taxes”), and (b) expenses and costs incurred in connection with the operation and implementation of this ¶3.8 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this ¶3.8 (“Tax Expenses”), shall be paid out of the Settlement Fund; in all events the Released Persons and their counsel shall have no liability or responsibility for the Taxes or the Tax Expenses. The Settlement Fund shall indemnify and hold each of the Released Persons and their counsel harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court or approval of Defendants, and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such

amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treasury Regulation §1.468B-2(1)(2)); neither the Released Persons nor their counsel are responsible nor shall they have any liability therefor. The Settling Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶3.8.

3.9 In the event the Settlement: (i) is not approved; (ii) is terminated, canceled, or fails to become effective for any reason, including, without limitation, in the event the Judgment is reversed or vacated following any appeal taken therefrom; or (iii) is successfully collaterally attacked, the Settlement Fund (including accrued interest) less expenses actually incurred or due and owing for Class Notice and Administration Costs, Taxes or Tax Expenses pursuant to ¶¶3.6 or 3.8, shall be refunded pursuant to written instructions from Defendants' counsel.

#### **4. Notice Order and Settlement Hearing**

4.1 Promptly after execution of the Stipulation, the Settling Parties shall submit the Stipulation together with its exhibits (the "Exhibits") to the Court and shall apply for entry of an order (the "Notice Order"), in the form of Exhibit A attached hereto, requesting, *inter alia*, the preliminary approval of the Settlement set forth in the Stipulation, certification of the Class for settlement purposes, and approval of the mailing of the Notice and publication of the Summary Notice, in the forms of Exhibits A-1 and A-3 attached hereto. The Notice shall include the general terms of the Settlement set forth in the Stipulation, the

proposed Plan of Distribution, the general terms of the Fee and Expense Application, and the date of the Settlement Hearing.

4.2 Lead Counsel shall request that after notice is given to the Class, the Court hold a hearing (the “Settlement Hearing”) and approve the Settlement of the Action as set forth herein. At or after the Settlement Hearing, Lead Counsel also shall request that the Court approve the proposed Plan of Distribution and the Fee and Expense Application.

## **5. Releases**

5.1 Upon the Effective Date, Lead Plaintiff and each of the Class Members and their predecessors, successors, agents, representatives, attorneys, and affiliates, and the heirs, executors, administrators, successors, and assigns of each of them, in their capacity as such, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged against the Released Persons (whether or not such Class Members execute and deliver the Proof of Claim and Release forms) any and all Released Claims (including, without limitation, Unknown Claims), as well as any claims arising out of, relating to, or in connection with, the defense, settlement, or resolution of the Action or the Released Claims against the Released Persons, Lead Plaintiff and/or Plaintiff’s Counsel, except for claims relating to the enforcement of the Settlement.

5.2 Upon the Effective Date, Lead Plaintiff and each of the Class Members and their predecessors, successors, agents, representatives, attorneys, and affiliates, and the heirs, executors, administrators, successors, and assigns of each of them, in their capacity as such, shall be permanently barred and enjoined from the assertion, institution, maintenance, prosecution, or enforcement against any Released Person, in any state or federal court or

arbitral forum, or in the court of any foreign jurisdiction, of any and all Released Claims (including, without limitation, Unknown Claims), as well as any claims arising out of, relating to, or in connection with, the defense, settlement, or resolution of the Action or the Released Claims against the Released Persons, Lead Plaintiff and/or Plaintiff's Counsel, except for claims relating to the enforcement of the Settlement, whether or not such Class Member executes and delivers the Proof of Claim and Release.

5.3 The Proof of Claim and Release to be executed by Class Members shall release all Released Claims against the Released Persons and shall be substantially in the form contained in Exhibit A-2 attached hereto.

5.4 Upon the Effective Date, each of the Released Persons shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiff, each and all of the Class Members, and counsel for any plaintiff in the Action from all claims (including, without limitation, Unknown Claims) arising out of, relating to, or in connection with, the institution, prosecution, assertion, settlement, or resolution of the Action or the Released Claims, except for claims relating to the enforcement of the Settlement.

**6. Administration and Calculation of Claims, Final Awards, and Supervision and Distribution of the Settlement Fund**

6.1 The Claims Administrator, subject to such supervision and direction of the Court as may be necessary or as circumstances may require, shall provide notice of the Settlement to the Class, shall administer and calculate the claims submitted by Class Members, and shall oversee distribution of the Net Settlement Fund to Authorized Claimants.

6.2 Within five (5) calendar days after execution of this Stipulation, Body Central shall provide the Claims Administrator with a list of names and addresses of record holders of Body Central common stock during the Class Period on the transfer agent's books. This information shall be provided in an electronic format acceptable to the Claims Administrator. Body Central shall be responsible for any costs or expenses related to providing this information.

6.3 In accordance with the schedule set forth in the Notice Order, Lead Counsel will cause to be mailed by the Claims Administrator to all shareholders of record, identified on the Claims Administrator's list, the Notice, substantially in the form of Exhibit A-1 attached hereto, and a Proof of Claim and Release, substantially in the form of Exhibit A-2 attached hereto. The Notice shall set forth the terms of the Stipulation, including the proposed Plan of Distribution and Lead Counsel's request for attorneys' fees, costs and expenses; the date and time of the Settlement Hearing; the right to object to the Settlement, proposed Plan of Distribution, or request for fees, costs and expenses; the right to appear at the Settlement Hearing; and the right to request exclusion from the Class. The Notice and Proof of Claim and Release form shall also be posted on the Claims Administrator's website. In accordance with the schedule set forth in the Notice Order, the Summary Notice, substantially in the form of Exhibit A-3 attached hereto, will also be published once in the national edition of *Investor's Business Daily* and once over a national newswire service. The cost of providing such notice shall be paid out of the Settlement Fund.

6.4 The Settlement Fund shall be applied as follows:

(a) to pay Plaintiff's Counsel's attorneys' fees, costs and expenses, if and to the extent allowed by the Court (the "Fee and Expense Award");

(b) to pay all Class Notice and Administration Costs;

(c) to pay the Taxes and Tax Expenses described in ¶3.8 hereof; and

(d) to distribute the Net Settlement Fund to Authorized Claimants as allowed by the Stipulation, the Plan of Distribution, or the Court.

6.5 Upon the Effective Date and thereafter, and in accordance with the terms of the Stipulation, the Plan of Distribution, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the following.

6.6 Each Person claiming to be an Authorized Claimant shall be required to submit to the Claims Administrator a completed Proof of Claim and Release, substantially in the form of Exhibit A-2 attached hereto, postmarked or submitted electronically by no later than ninety (90) calendar days after the Notice Date (as defined in Exhibit A attached hereto), or such other time as may be set by the Court (the "Bar Date"), signed under penalty of perjury and supported by such documents as are specified in the Proof of Claim and Release and as are reasonably available to such Person.

6.7 Except as otherwise ordered by the Court, all Class Members who fail to submit a Proof of Claim and Release by the Bar Date, or such other period as may be ordered by the Court, or who submit a Proof of Claim and Release that is rejected, shall be forever barred from receiving any payments pursuant to the Stipulation and the Settlement set forth herein, but will in all other respects be subject to and bound by the provisions of the

Stipulation, the releases contained herein, and the Judgment. Notwithstanding the foregoing, Lead Counsel may, in their discretion, accept for processing late-submitted claims so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed.

6.8 The Claims Administrator shall calculate the claims of Authorized Claimants in accordance with the Plan of Distribution. Following the Effective Date, the Claims Administrator shall send to each Authorized Claimant his, her, or its *pro rata* share of the Net Settlement Fund. No distributions will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00.

6.9 Defendants shall not have a reversionary interest in the Net Settlement Fund. If there is any balance remaining in the Net Settlement Fund after at least six (6) months from the date of the initial distribution of the Net Settlement Fund, Lead Counsel shall, if feasible, distribute on a *pro rata* basis such balance among Authorized Claimants who negotiated the checks sent to them in the initial distribution and who would otherwise receive a minimum of \$10.00. These redistributions shall be repeated until the balance remaining in the Net Settlement Fund is *de minimis* and such remaining balance shall then be donated to an appropriate non-profit organization designated by Lead Counsel.

6.10 The Released Persons shall have no responsibility for, interest in, or liability whatsoever with respect to the distribution of the Net Settlement Fund, the Plan of Distribution, the determination, administration, or calculation of claims, the payment or withholding of Taxes, or any losses incurred in connection therewith.

6.11 Defendants shall take no position with respect to the Plan of Distribution or any other such plan as may be approved by the Court.

6.12 It is understood and agreed by the Settling Parties that any proposed Plan of Distribution of the Net Settlement Fund, including, but not limited to, any adjustments to an Authorized Claimant's claim set forth therein, is not a part of the Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in the Stipulation, and any order or proceeding relating to the Plan of Distribution shall not operate to terminate or cancel the Stipulation or affect the finality of the Court's Judgment approving the Stipulation and the Settlement set forth therein, or any other orders entered pursuant to the Stipulation. Class Members and Defendants shall be bound by the terms of this Stipulation, irrespective of whether the Court disapproves or modifies the Plan of Distribution.

6.13 No Person shall have any claim against Lead Plaintiff, Plaintiff's Counsel, Released Persons, Defendants' counsel, or the Claims Administrator based on distributions made substantially in accordance with the Settlement, the Stipulation, and the Plan of Distribution, or otherwise as further ordered by the Court.

## **7. Lead Counsel's Attorneys' Fees, Costs, Charges and Expenses**

7.1 Lead Counsel may submit an application or applications (the "Fee and Expense Application") for distributions from the Settlement Fund for (a) an award of attorneys' fees to be paid out of the Settlement Fund plus (b) costs, charges and expenses in connection with prosecuting the Action, plus interest on both amounts. Any and all such



fees, expenses, charges and costs awarded by the Court shall be payable solely out of the Settlement Fund.

7.2 The attorneys' fees, expenses, charges and costs, as awarded by the Court, shall be paid to Lead Counsel from the Settlement Fund, as ordered, immediately following the final approval hearing and entry of an order by the Court awarding such fees and expenses. This provision shall apply notwithstanding timely objections to, potential for appeal from, or collateral attack on, the Settlement or the award of fees and expenses. Lead Counsel shall thereafter allocate the attorneys' fees amongst Plaintiff's Counsel in a manner that Lead Counsel in good faith believes reflects the contributions of such counsel to the prosecution and settlement of the Action. Any such awards shall be paid solely by the Settlement Fund. In the event that the Judgment or the order awarding such fees and expenses paid to Lead Counsel pursuant to ¶7.1 is reversed or modified by final non-appealable order, or if the Settlement is cancelled or terminated for any reason, then Lead Counsel shall, in an amount consistent with such reversal or modification, refund such fees or expenses to the Settlement Fund, plus interest earned thereon at the same rate as earned on the Settlement Fund, within twenty (20) business days from receiving notice from Defendants' counsel or from a court of competent jurisdiction. Any refunds required pursuant to this paragraph shall be the several obligation of each Plaintiff's Counsel receiving fees or expenses to make appropriate refunds or repayments to the Settlement Fund. Each Plaintiff's Counsel, as a condition of receiving such fees and/or expenses on behalf of itself and each partner and/or shareholder of it, agrees that its law firm and its

partners and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph.

7.3 The procedure for and the allowance or disallowance by the Court of the Fee and Expense Application, to be paid out of the Settlement Fund, are not part of the Settlement, and any order or proceeding relating to the Fee and Expense Application, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Settlement, or affect or delay the finality of the Judgment approving the Stipulation and the Settlement of the Action.

7.4 Neither Defendants nor Defendants' insurers shall have any responsibility for any payment of attorneys' fees and expenses to Lead Counsel or any Class Member's counsel apart from payment of the Settlement Fund pursuant to ¶3.1.

7.5 Released Persons shall have no responsibility for the allocation among Plaintiff's Counsel and/or any other Person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Action.

**8. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination**

8.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all of the following events:

(a) execution of this Stipulation and such other documents as may be required to obtain final Court approval of the Stipulation in a form satisfactory to the Settling Parties;

(b) the Settlement Amount has been deposited into the Escrow Account;

(c) Defendants have not exercised their option to terminate the Stipulation pursuant to ¶8.3 hereof;

(d) the Court has entered the Notice Order, substantially in the form of Exhibit A hereto, as required by ¶4.1 hereof;

(e) the Court has entered the Judgment that, *inter alia*, dismisses with prejudice the Action, as to Lead Plaintiff and the Defendants, as set forth above; and

(f) the Judgment has become Final, as defined in ¶1.9 hereof.

8.2 This is not a claims-made settlement. As of the Effective Date, Defendants, their insurance carriers, and/or any other such persons or entities funding the Settlement on the Defendants' behalf, shall not have any right to the return of the Settlement Fund or any portion thereof for any reason. Upon the occurrence of all of the events referenced in ¶8.1 hereof, any and all remaining interest or right of Defendants, if any, in or to the Settlement Fund shall be absolutely and forever extinguished. If all of the conditions specified in ¶8.1 hereof are not met, then the Stipulation shall be canceled and terminated subject to ¶8.4 hereof unless Lead Counsel and counsel for Defendants mutually agree in writing to proceed with the Settlement.

8.3 If, prior to the Settlement Hearing, Persons who otherwise would be members of the Class have timely requested exclusion from the Class in accordance with the provisions of the Notice Order and the Notice given pursuant thereto, and such Persons in the aggregate purchased or acquired a number of shares of Body Central common stock during the Class Period in an amount greater than the sum specified in a separate Supplemental Agreement Regarding Requests for Exclusion ("Supplemental Agreement") executed

between Lead Plaintiff and Defendants, Defendants shall have the option (which option must be exercised unanimously) to terminate this Stipulation and Settlement in accordance with the procedures set forth in the Supplemental Agreement. The Supplemental Agreement will not be filed with the Court unless and until a dispute between Lead Plaintiff and Defendants concerning its interpretation or application arises. Copies of all requests for exclusion received, together with copies of all written revocations of requests for exclusion, shall be promptly delivered to Defendants' counsel by Lead Counsel. Defendants may terminate the Stipulation and Settlement by filing a written notice of termination with the Court and providing such notice to Lead Counsel on or before five (5) business days after the receipt of all of the copies of the requests for exclusion, on or before five (5) business days after the Court grants additional time for exclusion for any reason, or on or before three (3) business days before the Settlement Hearing, whichever occurs last. In the event that the Defendants file a written notice of termination, Defendants may withdraw their written notice of termination by providing written notice of such withdrawal to Lead Counsel and to the Court by no later than 5:00 PM Eastern Time on the day prior to the Settlement Hearing, or by such later date as shall be agreed upon in writing as between Lead Counsel and Defendants' counsel.

8.4 Unless otherwise ordered by the Court, in the event the Stipulation shall terminate, or be canceled, or shall not become effective for any reason, within five (5) business days after written notification of such event is sent by counsel for Defendants or Lead Counsel to the Escrow Agent, the Settlement Fund (including accrued interest), less Class Notice and Administration Costs, Taxes, and Tax Expenses that have either been

incurred or disbursed pursuant to ¶¶3.6 or 3.8 hereof, shall be refunded pursuant to written instructions from Defendants' counsel. At the request of counsel for Defendants, the Escrow Agent or its designee shall apply for any tax refund owed on the Settlement Fund and pay the proceeds, after deduction of any expenses incurred in connection with such application(s) for refund, at the written direction of Defendants' counsel.

8.5 In the event that the Stipulation is not approved by the Court or the Settlement set forth in the Stipulation is terminated or fails to become effective in accordance with its terms, the Settling Parties shall not forfeit or waive any factual or legal defense or contention in the Action and shall be restored to their respective positions in the Action as of July 18, 2014. In such event, the terms and provisions of the Stipulation, with the exception of ¶¶1.1-1.25, 3.6-3.9, 7.2, 8.4-8.5, and 9.2-9.5 hereof, shall have no further force and effect with respect to the Settling Parties and shall not be used in this Action or in any other proceeding for any purpose, and 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 Settling Parties shall be deemed to return to their status as of July 18, 2014, and shall be required to present an amended schedule to the Court. No order of the Court or modification or reversal on appeal of any such order of the Court concerning the Plan of Distribution or the amount of any attorneys' fees, costs, and expenses, and interest awarded by the Court to Lead Counsel shall constitute grounds for cancellation or termination of the Stipulation.

8.6 Lead Plaintiff shall have the right, but not the obligation, to terminate the Settlement ten (10) calendar days after the failure of Defendants to timely pay the Settlement Amount.

## **9. Miscellaneous Provisions**

9.1 The Settling Parties (a) acknowledge that it is their intent to consummate this Stipulation; and (b) agree to cooperate to the extent reasonably necessary to effectuate 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 expeditiously.

9.2 The Settling Parties intend this Settlement to be a final and complete resolution of all disputes between them with respect to the Action. The Settlement and all negotiations, discussions, and proceedings leading up to and in connection herewith shall not be deemed to constitute a presumption, concession, or an admission by any Settling Party or any of the Released Persons of any fault, liability, or wrongdoing by it, or as to the merits of any claim or defense. The Settling Parties and their counsel agree that they shall not assert any claims of any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the prosecution, defense or settlement of the Action, and the Judgment shall contain a finding that all Settling Parties and their counsel complied with the requirements of Rule 11 with respect to the institution, prosecution, defense, and resolution of the Action. The Settling Parties agree that the amount paid to the Settlement Fund and the other terms of the Settlement were negotiated in good faith at arm's length by the Settling Parties and reflect a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum regarding the Action, including that the Action was brought or defended in bad faith or without a reasonable basis.

9.3 Neither the Stipulation nor the Settlement contained herein, nor any negotiations, discussions, proceedings or act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement may be offered or received in evidence, or otherwise used by any Person in the Action, or in any other action or proceedings, whether civil, criminal, or administrative, in any court, administrative agency, or other tribunal, except in connection with any proceeding to enforce the terms of this Stipulation. The Released Persons, Lead Plaintiff, Class Members and Plaintiff's Counsel may file the Stipulation and/or the Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

9.4 All agreements made and orders entered during the course of the Action relating to the confidentiality of documents and information shall survive this Stipulation.

9.5 All of the Exhibits to the Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

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

9.7 No waiver of any term or provision of this Settlement Agreement, or of any breach or default hereof or hereunder, shall be valid or effective unless in writing and signed by or on behalf of all Settling Parties or their respective successors-in-interest. No waiver of any term or provision of this Settlement Agreement, or of any breach or default hereof or

hereunder, shall be construed as a waiver of the same or any other term or provision or of any previous or subsequent breach thereof.

9.8 The Stipulation and the Exhibits attached hereto (together with the Supplemental Agreement referred to in ¶8.3) constitute the entire agreement among the Settling Parties and no representations, warranties, or inducements have been made to any Settling Party concerning the Stipulation or its Exhibits other than the representations, warranties, and covenants contained and memorialized in such documents. Except as otherwise provided herein, each Settling Party shall bear its own costs.

9.9 This Settlement Agreement shall be construed and interpreted to effectuate the intent of the Settling Parties, which is to resolve completely those claims and disputes, including in the Action, and as more fully described herein. If any provision of this Settlement Agreement shall be determined to be invalid, void, or illegal, such provision shall be construed and amended in a manner that would permit its enforcement, but in no event shall such provision affect, impair, or invalidate any other provision hereof.

9.10 Neither the Class Members nor Defendants shall be bound by the Stipulation if the Court modifies material terms thereof, provided, however, that it shall not be a basis for Class Members to terminate the Settlement if the Court modifies any proposed Plan of Distribution or criteria for allocation of the Net Settlement Fund amongst Class Members, or the Plan of Distribution is modified on appeal. Nor shall it be a basis to terminate the Stipulation if the Court disapproves of or modifies the terms of this Stipulation with respect to attorneys' fees or expenses or the distribution of the Net Settlement Fund. Notwithstanding any such modification of the terms or Plan of Distribution or the Stipulation



with respect to attorneys' fees or expenses, Defendants and Defendants' insurers shall be entitled to all benefits of the Settlement and shall not, under any circumstances, be called upon to contribute additional funds to the Settlement Fund.

9.11 Lead Counsel, on behalf of the Class, are expressly authorized by Lead Plaintiff to take all appropriate action required or permitted to be taken by the Class pursuant to the Stipulation to effectuate its terms and also are expressly authorized to enter into any modifications or amendments to the Stipulation on behalf of the Class which they deem appropriate.

9.12 Lead Plaintiff and Lead Counsel represent and warrant that none of the Lead Plaintiff's claims or causes of action referred to in this Action or this Stipulation has been assigned, encumbered, or in any manner transferred in whole or in part.

9.13 Each counsel or other Person executing the Stipulation or any of its Exhibits on behalf of any Settling Party hereby warrants that such Person has the full authority to do so.

9.14 All notices, requests, demands, claims, and other communications hereunder shall be in writing and shall be deemed duly given (i) when delivered personally to the recipient, (ii) one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid), or (iii) five (5) business days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

***If to Lead Plaintiff or to Lead Counsel:***

Ellen Gusikoff Stewart  
ROBBINS GELLER RUDMAN & DOWD LLP  
655 West Broadway, Suite 1900  
San Diego, CA 92101

***If to Defendants or to Defendants' counsel:***

Jerome F. Birn, Jr.  
WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation  
650 Page Mill Road  
Palo Alto, CA 94304

9.15 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 executed counterparts shall be filed with the Court. Signatures sent by facsimile or by PDF via e-mail shall be deemed originals.

9.16 The Stipulation shall be binding upon, and inure to the benefit of, the heirs, successors, and assigns of the Settling Parties hereto.

9.17 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Stipulation, and all Settling Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation.

9.18 Pending approval of the Court of the Stipulation and its Exhibits, all proceedings in this Action shall be stayed and all members of the Class shall be barred and enjoined from prosecuting any of the Released Claims against any of the Released Persons.

9.19 This Stipulation and the Exhibits hereto shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of Florida, and

the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Florida, without giving effect to that State's choice-of-law principles.

IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be executed, by their duly authorized attorneys, dated August 25, 2014.

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Attorneys for Defendants Body Central  
Corporation, Beth R. Angelo, Thomas Stoltz  
and B. Allen Weinstein

# EXHIBIT A

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

NICK MOGENSEN, Individually and on ) No. 3:12-cv-00954-HES-JRK  
Behalf of All Others Similarly Situated, )  
 ) CLASS ACTION  
Plaintiff, )  
 )  
vs. )  
 )  
BODY CENTRAL CORPORATION, )  
B. ALLEN WEINSTEIN, THOMAS )  
STOLTZ and BETH R. ANGELO, )  
 )  
Defendants. )  
 )  
\_\_\_\_\_ )

[PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT AND  
PROVIDING FOR NOTICE

EXHIBIT A

WHEREAS, an action is pending before this Court styled *Mogensen v. Body Central Corporation, et al.*, No. 3:12-cv-00954-HES-JRK (the “Action”);

WHEREAS, the Settling Parties having made a motion, pursuant to Federal Rule of Civil Procedure 23(e), for an order preliminarily approving the settlement of this Action, in accordance with a Stipulation and Agreement of Settlement dated August 25, 2014 (the “Settlement Agreement” or “Stipulation”), which, together with the Exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of the Action between the Settling Parties and for dismissal of the Action against the Defendants and the Released Persons with prejudice upon the terms and conditions set forth therein; and the Court having read and considered the Settlement Agreement and the Exhibits annexed thereto; and

WHEREAS, unless otherwise defined, all terms used herein have the same meanings as set forth in the Settlement Agreement.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Court has reviewed the Stipulation and does hereby preliminarily approve the Settlement set forth therein, subject to further consideration at the Settlement Hearing described below.

2. A hearing (the “Settlement Hearing”) shall be held before this Court on \_\_\_\_\_, 2014, at \_\_\_\_\_.m., at the Bryan Simpson U.S. Courthouse, 300 North Hogan Street, Jacksonville, Florida, to determine whether the proposed Settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate to the Class and should be approved by the Court; to determine whether a Judgment as provided in ¶1.10 of the Settlement Agreement should be entered; to determine whether

the proposed Plan of Distribution should be approved; to determine any amount of fees, costs, and expenses that should be awarded to Lead Counsel; to hear any objections by Class Members to the Settlement Agreement or Plan of Distribution or any award of fees, costs, and expenses to Lead Counsel; and to consider such other matters as the Court may deem appropriate.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court preliminarily certifies for purposes of settlement only a Class defined as all Persons who purchased or acquired Body Central Corporation (“Body Central” or the “Company”) common stock during the period from November 10, 2011, through and including June 18, 2012 (“Class Period”). Excluded from the Class are the Defendants, the officers and directors of Body Central during the Class Period, members of their immediate families, and their legal representatives, heirs, successors or assigns, and any entity in which any Defendant has or had a controlling interest. Also excluded from the Class are those Persons who timely and validly exclude themselves therefrom.

4. Solely for purposes of the Settlement, the Court preliminarily finds that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the members of the Class are so numerous that joinder of all Class Members in the Action is impracticable; (b) there are questions of law and fact common to the Class that predominate over any individual questions; (c) the claims of the Lead Plaintiff are typical of the claims of the Class; (d) Lead Plaintiff and his counsel have fairly and adequately represented and protected the interests of Class Members; and (e)



a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of this Settlement only, Lead Plaintiff Nick Mogensen is certified as the class representative and Lead Counsel Robbins Geller Rudman & Dowd LLP is certified as class counsel.

6. The Court approves the form, substance, and requirements of the Notice and Proof of Claim and Release form, substantially in the forms annexed hereto as Exhibits A-1 and A-2, respectively.

7. The Court approves the form of the Summary Notice, substantially in the form annexed hereto as Exhibit A-3.

8. The Court appoints for settlement purposes only the firm Gilardi & Co. LLC (“Claims Administrator”) to supervise and administer the notice procedure as well as the processing of claims as more fully set forth below:

(a) Not later than five (5) calendar days after the execution of the Stipulation, Body Central shall provide the Claims Administrator with a list of names and addresses of record holders of Body Central common stock during the Class Period on the transfer agent’s books, in an electronic format acceptable to the Claims Administrator;

(b) Not later than ten (10) business days after the Court signs and enters this Order (the “Notice Date”), the Claims Administrator shall cause a copy of the Notice and Proof of Claim and Release form, substantially in the forms annexed hereto, to be mailed

by First-Class Mail to all Class Members who can be identified with reasonable effort and to be posted on its website at [www.bodycentralcorporationsecuritieslitigation.com](http://www.bodycentralcorporationsecuritieslitigation.com);

(c) Not later than fourteen (14) calendar days after the Notice Date, the Claims Administrator shall cause the Summary Notice to be published once in the national edition of *Investor's Business Daily* and once over a national newswire service; and

(d) Not later than thirty-five (35) calendar days prior to the Settlement Hearing, Lead Counsel shall serve on Defendants' counsel and file with the Court proof, by affidavit or declaration, of such mailing and publishing.

9. Nominees who purchased Body Central common stock for the benefit of another Person during the Class Period shall be requested to send the Notice and Proof of Claim and Release form to such beneficial owners of Body Central common stock within ten (10) calendar days after receipt thereof, or send a list of the names and addresses of such beneficial owners to the Claims Administrator within ten (10) calendar days of receipt thereof, in which event the Claims Administrator shall promptly mail the Notice and Proof of Claim and Release form to such beneficial owners.

10. The form and content of the notice program described herein, and the methods set forth herein for notifying the Class of the Settlement and its terms and conditions, the Fee and Expense Application, and the Plan of Distribution meet the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. §78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995, and due process, constitute the best notice

practicable under the circumstances, and shall constitute due and sufficient notice to all Persons entitled thereto.

11. Other than the cost of providing the names and addresses of Persons who purchased Body Central common stock during the Class Period to Lead Counsel and/or the Claims Administrator, and the costs and expenses of providing notice pursuant to the Class Action Fairness Act, all fees, costs, and expenses incurred in identifying and notifying members of the Class shall be paid from the Settlement Fund and in no event shall any of the Released Persons bear any responsibility for such fees, costs, or expenses.

12. All members of the Class (except Persons who request exclusion pursuant to ¶16 below) shall be bound by all determinations and judgments in the Action concerning the Settlement, including, but not limited to, the releases provided for therein, whether favorable or unfavorable to the Class, regardless of whether such Persons seek or obtain by any means, including, without limitation, by submitting a Proof of Claim and Release form or any similar document, any distribution from the Settlement Fund or the Net Settlement Fund.

13. Class Members who wish to participate in the Settlement shall complete and submit the Proof of Claim and Release form in accordance with the instructions contained therein. Unless the Court orders otherwise, all Proofs of Claim and Release must be postmarked or submitted electronically no later than ninety (90) calendar days from the Notice Date. Any Class Member who does not submit a Proof of Claim and Release within the time provided shall be barred from sharing in the distribution of the proceeds of the Net Settlement Fund, unless otherwise ordered by the Court, but shall nevertheless be bound by any final judgment entered by the Court. Notwithstanding the foregoing, Lead Counsel shall

have the discretion to accept late-submitted claims for processing by the Claims Administrator so long as distribution of the Net Settlement Fund is not materially delayed thereby.

14. The Proof of Claim and Release submitted by each Class Member must satisfy the following conditions, unless otherwise ordered by the Court: (i) it must be properly completed, signed and submitted in a timely manner in accordance with the provisions of the preceding subparagraph; (ii) it must be accompanied by adequate supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by Lead Counsel; (iii) if the person executing the Proof of Claim and Release is acting in a representative capacity, a certification of her current authority to act on behalf of the Class Member must be included in the Proof of Claim and Release; and (iv) the Proof of Claim and Release must be complete and contain no material deletions or modifications of any of the printed matter contained therein and must be signed under penalty of perjury.

15. Any member of the Class may enter an appearance in the Action, at his, her, or its own expense, individually or through counsel of their own choice. If they do not enter an appearance, they will be represented by Lead Counsel.

16. Any Person falling within the definition of the Class may, upon request, be excluded or “opt out” from the Class. Any such Person must submit to the Claims Administrator a request for exclusion (“Request for Exclusion”), by First-Class Mail, or

hand-delivered such that it is received no later than twenty-one (21) calendar days before the Settlement Hearing. A Request for Exclusion must be signed and state (a) the name, address, and telephone number of the Person requesting exclusion; (b) the Person's purchases and sales of Body Central common stock between November 10, 2011 and June 18, 2012, inclusive, including the dates, the number of shares of Body Central common stock purchased or sold, and price paid or received for each such purchase or sale; and (c) that the Person wishes to be excluded from the Class. All Persons who submit valid and timely Requests for Exclusion in the manner set forth in this paragraph shall have no rights under the Settlement Agreement, shall not share in the distribution of the Net Settlement Fund, and shall not be bound by the Settlement Agreement or any final judgment.

17. Lead Counsel shall cause to be provided to Defendants' counsel copies of all Requests for Exclusion, and any written revocation of Requests for Exclusion, as expeditiously as possible and in any event not less than fourteen (14) calendar days prior to the Settlement Hearing.

18. Any member of the Class may appear and object if he, she, or it has any reason why the proposed Settlement of the Action should not be approved as fair, reasonable and adequate, or why a judgment should not be entered thereon, why the Plan of Distribution should not be approved, why attorneys' fees, costs, and expenses should not be awarded to Lead Counsel; provided, however, that no Class Member or any other Person shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement, or, if approved, the Judgment to be entered thereon approving the same, or the order approving the Plan of Distribution, or any attorneys' fees, costs, and expenses to be awarded to Lead

Counsel, unless written objections and copies of any papers and briefs are received by Robbins Geller Rudman & Dowd LLP, Ellen Gusikoff Stewart, 655 West Broadway, Suite 1900, San Diego, CA 92101; and Wilson Sonsini Goodrich & Rosati, Jerome F. Birn, Jr., 650 Page Mill Road, Palo Alto, CA 94304, no later than twenty-one (21) calendar days before the Settlement Hearing and said objections, papers, and briefs are filed with the Clerk of the United States District Court for the Middle District of Florida, Jacksonville Division, no later than twenty-one (21) calendar days before the Settlement Hearing. Any member of the Class who does not make his, her, or its objection in the manner provided shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement as incorporated in the Settlement Agreement, to the Plan of Distribution, and to the award of attorneys' fees, costs, and expenses to Lead Counsel, unless otherwise ordered by the Court. Attendance at the Settlement Hearing is not necessary. However, Persons wishing to be heard orally in opposition to the approval of the Settlement, the Plan of Distribution, and/or the application for an award of attorneys' fees, costs, and expenses are required to indicate in their written objection their intention to appear at the hearing. Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

19. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis*, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Settlement Agreement and/or further order(s) of the Court.

20. All papers in support of the Settlement, Plan of Distribution, and any application by Lead Counsel for attorneys' fees, costs, and expenses shall be filed and served no later than thirty-five (35) calendar days prior to the Settlement Hearing and any reply papers shall be filed and served no later than seven (7) calendar days prior to the Settlement Hearing.

21. The Released Persons shall have no responsibility for the Plan of Distribution or any application for attorneys' fees, costs, or expenses submitted by Lead Counsel, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Settlement.

22. At or after the Settlement Hearing, the Court shall determine whether the Plan of Distribution proposed by Lead Counsel, and any application for attorneys' fees, costs, and expenses, should be approved.

23. All reasonable expenses incurred in identifying and notifying Class Members as well as administering the Settlement Fund shall be paid as set forth in the Settlement Agreement. In the event the Court does not approve the Settlement, or it otherwise fails to become effective, neither Lead Plaintiff nor any of his counsel shall have any obligation to repay any amounts actually and properly incurred or disbursed pursuant to ¶¶3.6 or 3.7 of the Settlement Agreement.

24. Neither the Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations, discussions, proceedings connected with it, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the Settlement may be construed as an admission or concession by the Defendants or any other

Released Persons of the truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing of any kind, or offered or received in evidence, or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal, or administrative, in any court, administrative agency, or other tribunal, except in connection with any proceeding to enforce the terms of the Settlement Agreement. The Released Persons, Lead Plaintiff, Class Members, and each of their counsel, may file the Settlement Agreement and/or the Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

25. All proceedings in the Action are stayed until further order of this Court, except as may be necessary to implement the Settlement or comply with the terms of the Settlement Agreement. Pending final determination of whether the Settlement should be approved, neither the Lead Plaintiff nor any Class Member, either directly, representatively, or in any other capacity shall commence or prosecute against any of the Released Persons any action or proceeding in any court or tribunal asserting any of the Released Claims.

26. The Court reserves the right to alter the time or the date of the Settlement Hearing without further notice to the members of the Class, provided that the time or the date of the Settlement Hearing shall not be set at a time or date earlier than the time and date set forth in ¶2 above, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such



modifications as may be agreed to by the Settling Parties, if appropriate, without further notice to the Class.

27. If the Settlement fails to become effective as defined in the Settlement Agreement or is terminated, then, in any such event, the Settlement Agreement, including any amendment(s) thereof, except as expressly provided in the Settlement Agreement, and this Order shall be null and void, of no further force or effect, and without prejudice to any Settling Party, and may not be introduced as evidence or used in any actions or proceedings by any person or entity against the Settling Parties and they shall be deemed to have reverted to their respective litigation positions in the Action as of July 18, 2014.

IT IS SO ORDERED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
THE HONORABLE HARVEY E. SCHLESINGER  
UNITED STATES DISTRICT JUDGE

# EXHIBIT A-1

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

NICK MOGENSEN, Individually and on ) No. 3:12-cv-00954-HES-JRK  
Behalf of All Others Similarly Situated, )  
 ) CLASS ACTION  
Plaintiff, )  
 )  
vs. )  
 )  
BODY CENTRAL CORPORATION, )  
B. ALLEN WEINSTEIN, THOMAS )  
STOLTZ and BETH R. ANGELO, )  
 )  
Defendants. )  
 )  
\_\_\_\_\_ )

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT,  
MOTION FOR ATTORNEYS' FEES AND SETTLEMENT FAIRNESS HEARING

EXHIBIT A-1

**TO: ALL PERSONS WHO PURCHASED OR ACQUIRED BODY CENTRAL CORPORATION (“BODY CENTRAL” OR THE “COMPANY”) COMMON STOCK DURING THE PERIOD FROM NOVEMBER 10, 2011, THROUGH AND INCLUDING JUNE 18, 2012**

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS ACTION. PLEASE NOTE THAT IF YOU ARE A CLASS MEMBER, YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE OF THE SETTLEMENT PROCEEDS, YOU MUST SUBMIT A VALID PROOF OF CLAIM AND RELEASE FORM (“PROOF OF CLAIM”) **POSTMARKED OR SUBMITTED ONLINE ON OR BEFORE [INSERT DATE]**.

This Notice of Pendency of Class Action and Proposed Settlement, Motion for Attorneys’ Fees and Settlement Fairness Hearing (“Notice”) has been sent to you pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Middle District of Florida, Jacksonville Division (the “Court”). The purpose of this Notice is to inform you of the pendency of this class action and the proposed settlement of the Action (the “Settlement”) and of the hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement as well as counsel’s application for fees, costs, and expenses. This Notice describes the rights you may have in connection with your participation in the Settlement, what steps you may take in relation to the Settlement and this class action, and, alternatively, what steps you must take if you wish to be excluded from the Settlement and this Action.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM</b>	The only way to get a payment. Proof of Claim forms must be postmarked or submitted online on or before [Insert Date].
<b>EXCLUDE YOURSELF</b>	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against the Defendants or any other Released Persons about the legal claims in this case. Exclusions must be received on or before [Insert Date].
<b>OBJECT</b>	Write to the Court about why you do not like the Settlement, the Plan of Distribution, and/or the request for attorneys’ fees, costs, and expenses. You will still be a member of the Class. Objections must be received by the Court and counsel on or before [Insert Date].
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Settlement. Requests to speak must be received by the Court and counsel on or before [Insert Date].

<b>DO NOTHING</b>	Get no payment. Give up your rights.
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## **SUMMARY NOTICE**

### **Statement of Class Recovery**

Pursuant to the Settlement described herein, a \$3.425 million Settlement Fund has been established. Lead Plaintiff estimates that there were approximately 10.8 million shares of Body Central common stock which may have been damaged during the Class Period. Lead Plaintiff estimates that the average recovery under the Settlement is roughly \$0.31 per damaged share before deduction of any taxes on the income thereof, notice and administration costs and the attorneys' fee, cost, and expense award as determined by the Court. A Class Member's actual recovery will be a proportion of the Net Settlement Fund determined by that claimant's Recognized Claim as compared to the total of all Recognized Claims. An individual Class Member may receive more or less than the average amount depending on the number of claims submitted, as estimated by Lead Plaintiff, when during the Class Period a Class Member purchased Body Central common stock, the purchase price paid, and whether those shares were held at the end of the Class Period or sold during the Class Period, and, if sold, when they were sold and the amount received. *See* Plan of Distribution as set forth at pages \_\_\_ below for more information on your Recognized Claim.

### **Statement of Potential Outcome of Case**

The parties disagree on both liability and damages and do not agree on the average amount of damages per Body Central common share that would be recoverable if the Class prevailed on each claim alleged. The Defendants deny that they are liable to the Class and deny that the Class has suffered any damages.

### **Statement of Attorneys' Fees, Costs, and Expenses Sought**

Lead Counsel will apply to the Court for an award of attorneys' fees not to exceed thirty percent (30%) of the Settlement Fund, plus costs and expenses not to exceed \$50,000, plus interest earned on both amounts at the same rate as earned by the Settlement Fund. Since the Action's inception, Lead Counsel have expended considerable time and effort in the prosecution of this litigation on a contingent fee basis and advanced the expenses of the litigation in the expectation that if they were successful in obtaining a recovery for the Class they would be paid from such recovery. In this type of litigation it is customary for counsel to be awarded a percentage of the common fund recovery as their attorneys' fees. The requested fees, costs, and expenses amount to an average of approximately \$0.10 per damaged share. The average cost per damaged share will vary depending on the number of acceptable Proofs of Claim submitted.

### **Further Information**

For further information regarding the Action, this Notice or to review the Stipulation and Agreement of Settlement, please contact the Claims Administrator toll-free at 1-888-283-6643, or [www.bodycentralcorporationsecuritieslitigation.com](http://www.bodycentralcorporationsecuritieslitigation.com).

You may also contact representatives of counsel for the Class: Rick Nelson, c/o Shareholder Relations, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101, 1-800-449-4900.

Please do not call the Court or Defendants with questions about the Settlement.

### **Reasons for the Settlement**

The principal reason for the Settlement is the benefit to be provided to the Class now. This benefit must be compared to the risk that no recovery might be achieved after a contested trial and likely appeals, possibly years into the future.

## **BASIC INFORMATION**

### **1. Why did I get this notice package?**

You or someone in your family may have purchased or acquired Body Central common stock during the time period from November 10, 2011, through and including June 18, 2012 (“Class Period”).

The Court directed that this Notice be sent to Class Members because they have a right to know about the proposed Settlement of this class action lawsuit, and about all of their options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement and after objections and appeals, if any, are resolved, the Claims Administrator appointed by the Court will make the payments provided for in the Settlement.

This Notice explains the class action lawsuit, the Settlement, Class Members’ legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the Action is the United States District Court for the Middle District of Florida, Jacksonville Division, and the case is known as *Mogensen v. Body Central Corporation, et al.*, No. 3:12-cv-00954-HES-JRK. The case has been assigned to the Honorable Harvey E. Schlesinger. The individual representing the Class is the “Lead Plaintiff,” and the company and individuals he sued are called the Defendants.

### **2. What is this lawsuit about?**

On August 27, 2012, a putative class action alleging violations of federal securities laws was filed in the United States District Court for the Middle District of Florida,

Jacksonville Division, referenced herein as the “Action.” The Court has appointed the law firm of Robbins Geller Rudman & Dowd LLP as Lead Counsel.

The Corrected Amended Class Action Complaint for Violations of the Federal Securities Laws (the “Complaint”) filed in the Action on February 26, 2013 against Defendants Body Central, B. Allen Weinstein, Thomas Stoltz and Beth R. Angelo generally alleged, among other things, that Defendants engaged in a fraudulent scheme to artificially inflate the price of Body Central common stock by concealing and subsequently minimizing significant deteriorating merchandise conditions that negatively impacted sales and Body Central’s financial outlook. The Complaint asserts that these allegedly false and misleading statements and omissions artificially inflated the price of Body Central common stock.

The Complaint further alleged that Class Members purchased or acquired Body Central common stock during the Class Period at prices artificially inflated as a result of the Defendants’ dissemination of materially false and misleading statements. The Complaint asserted claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), and Rule 10b-5 promulgated thereunder.

On April 23, 2013, Defendants filed their Corrected Motion to Dismiss the Complaint, arguing that Lead Plaintiff failed to allege particularized facts showing that any challenged statement was false or misleading when it was made, that all of Body Central’s forward-looking statements, and their factual assumptions, were protected by the Private Securities Litigation Reform Act of 1995’s (“PSLRA”) Safe Harbor provisions, and that the Complaint failed to plead specific facts establishing a strong inference of scienter. Defendants also filed a motion to take judicial notice of certain documents in connection with their motion to dismiss.

On June 24, 2013, Lead Plaintiff filed his opposition to Defendants’ motion to dismiss and a motion to strike certain documents submitted by Defendants in support of their motion to dismiss. Lead Plaintiff countered each of Defendants’ arguments, and argued that the Complaint adequately alleged violations of Sections 10(b) and 20(a) of the Exchange Act.

On July 8, 2013, Defendants filed their opposition to the motion to strike, and on July 19, 2013, filed their reply to the motion to dismiss. On September 19, 2013, the Court issued an Order granting in part and denying in part both Lead Plaintiff’s motion to strike and Defendants’ motion for judicial notice, and gave Defendants the opportunity to convert their motion to dismiss to a motion for summary judgment, or to notify the Court that they would like it to consider their motion as a motion to dismiss.

Defendants notified the Court that they did not wish to convert their motion to dismiss into a motion for summary judgment, and on March 19, 2014, the Court issued an Order granting Defendants’ motion to dismiss, dismissing the Complaint without prejudice. The Order also provided Lead Plaintiff the opportunity to amend his complaint.

On April 23, 2014, Lead Plaintiff filed his Second Amended Class Action Complaint for Violations of the Federal Securities Laws (the “SAC”). On the same day, Lead Plaintiff filed his motion to partially modify the PSLRA-mandated discovery stay, seeking the documents Defendants had produced, or will produce, in connection with government investigations into trading in Body Central stock during the Class Period. On May 30, 2014, Defendants filed their motion to dismiss the SAC and their opposition to the motion to partially lift the discovery stay. On June 12, 2014, the Court denied Lead Plaintiff’s motion to partially lift the stay.

The parties then engaged in arm’s-length negotiations in an effort to resolve the litigation, and on July 18, 2014, executed a Settlement Term Sheet setting forth the parties’ agreement-in-principle to settle the litigation. Lead Plaintiff notified the Court of the Settlement on the same day.

Defendants deny each and all of the claims and contentions of wrongdoing alleged by Lead Plaintiff in the litigation. Defendants contend that they did not make any materially false or misleading statements, and that they disclosed all material information required to be disclosed by the federal securities laws, and that any misstatements or omissions were not made with the requisite intent or knowledge of wrongdoing. Defendants also contend that any losses suffered by members of the Class were not caused by any false or misleading statements by Defendants and/or were caused by intervening events.

### **3. Why is this a class action?**

In a class action, one or more people called the plaintiff sues on behalf of people who have similar claims. All of the people with similar claims are referred to as a class or class members. One court resolves the issues for all class members, except for those who exclude themselves from the class.

### **4. Why is there a settlement?**

The Court has not decided in favor of the Defendants or of the Class. Instead, both sides agreed to the Settlement to avoid the distraction, costs and risks of further litigation, and Lead Plaintiff agreed to the Settlement in order to ensure that Class Members will receive compensation. Continuing to litigate the case would require all parties to expend substantial resources. If the Action continued, fact discovery would be extremely expensive, both sides would likely engage expert witnesses, and Lead Plaintiff believes much of the proof would be highly technical, making the outcome of any trial unpredictable. Lead Plaintiff and Lead Counsel believe the Settlement is in the best interest of all Class Members in light of the real possibility that continued litigation could result in no recovery at all.



## WHO IS IN THE SETTLEMENT

To see if you will get money from this Settlement, you first have to decide if you are a Class Member.

### **5. How do I know if I am part of the Settlement?**

The Court directed that everyone who fits this description is a Class Member: *all Persons who purchased or acquired Body Central common stock during the period from November 10, 2011, through and including June 18, 2012*, except those Persons and entities that are excluded, as described below.

### **6. Are there exceptions to being included?**

Excluded from the Class are the Defendants, the officers and directors of Body Central during the Class Period, members of their immediate families, and their legal representatives, heirs, successors or assigns, and any entity in which any Defendant has or had a controlling interest. Also excluded from the Class are those Persons who timely and validly exclude themselves therefrom by submitting a request for exclusion in accordance with the requirements set forth in question 13 below.

If one of your mutual funds own Body Central common stock, that alone does not make you a Class Member. You are a Class Member only if you directly purchased or acquired Body Central common stock during the Class Period. Contact your broker to see if you have purchased or acquired Body Central common stock.

If you sold Body Central common stock during the Class Period, that alone does not make you a Class Member. You are a Class Member only if you *purchased or acquired* Body Central common stock, as defined above.

### **7. What if I am still not sure if I am included?**

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator toll-free at 1-888-283-6643, or you can fill out and return the Proof of Claim form enclosed with this Notice package, to see if you qualify.

## THE SETTLEMENT BENEFITS – WHAT YOU GET

### **8. What does the Settlement provide?**

In exchange for the Settlement and the release of the Released Claims (defined below) as well as dismissal of the Action, Defendants have agreed that a payment of \$3.425 million will be made by Defendants (or on their behalf) to be divided, after taxes, fees, and expenses, among all Class Members who send in a valid Proof of Claim form.

### **9. How much will my payment be?**

Your share of the fund will depend on several things, including, how many Class Members submit timely and valid Proof of Claim forms, the total Recognized Claims represented by the valid Proof of Claim forms that Class Members send in, the number of shares of Body Central common stock you purchased, how much you paid for the shares, when you purchased, and if you sold your shares and for how much.

By following the instructions in the Plan of Distribution, you can calculate what is called your Recognized Claim. It is unlikely that you will get a payment for all of your Recognized Claim. After all Class Members have sent in their Proof of Claim forms, the payment you get will be a part of the Net Settlement Fund equal to your Recognized Claim divided by the total of everyone's Recognized Claim. *See* the Plan of Distribution at pages \_\_\_ hereof for more information on your Recognized Claim.

## HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM

### **10. How can I get a payment?**

To qualify for a payment, you must submit a Proof of Claim form. A Proof of Claim form is enclosed with this Notice or it may be downloaded at [www.bodycentralcorporationsecuritieslitigation.com](http://www.bodycentralcorporationsecuritieslitigation.com). Read the instructions carefully, fill out the Proof of Claim form, include all the documents the form asks for, sign it, and mail or submit it online so that it is postmarked or received no later than [insert date]. The claim form may be submitted online at [www.bodycentralcorporationsecuritieslitigation.com](http://www.bodycentralcorporationsecuritieslitigation.com)

### **11. When would I get my payment?**

The Court will hold a Settlement Hearing on \_\_\_\_\_, 2014, to decide whether to approve the Settlement. If the Court approves the Settlement after that, there might be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. It also takes time for all the Proofs of Claim to be processed. Please be patient.

## **12. What am I giving up to get a payment or to stay in the Class?**

Unless you exclude yourself, you will remain a Class Member, and that means that, if the Settlement is approved, you will give up all “Released Claims” (as defined below), including “Unknown Claims” (as defined below), against the “Released Persons” (as defined below):

- “Released Claims” means any and all claims, demands, rights, causes of action or liabilities of every nature and description whatsoever (including, but not limited to, any claims for damages, interest, attorneys’ fees, expert or consulting fees, and any other costs, expenses or liabilities whatsoever), whether based on federal, state, local, foreign, statutory or common law or any other law, rule, ordinance, administrative provision or regulation, including both known claims and unknown claims, whether class or individual in nature, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, based on, arising from or relating to (i) the purchase of the common stock of Body Central during the Class Period, and (ii) the allegations, transactions, facts, matters, events, disclosures, registration statements, public filings, acts, occurrences, representations, statements, omissions or failures to act that were or could have been alleged by Lead Plaintiff in the Action against the Released Persons. Released Claims does not include claims to enforce the Settlement; nor does it include any governmental or regulatory agency’s claims in any criminal or civil action against any of the Defendants or any claims in any related ERISA or derivative actions.
- “Released Persons” means each and all of the Defendants and each and all of their Related Persons.
- “Related Persons” means, with respect to the Defendants, each and all of their respective present or former parents, subsidiaries, affiliates, successors and assigns, and each and all of their and Defendants’ respective present or former officers, directors, employees, employers, attorneys, accountants, financial advisors, commercial bank lenders, insurers, reinsurers, investment bankers, underwriters, representatives, general and limited partners and partnerships, heirs, executors, administrators, successors, affiliates, agents, spouses, associates, and assigns of each of them, in their capacity as such, or any trust of which any Defendant is the settlor or which is for the benefit of any Defendant and/or member(s) of his or her family and any entity in which any such Defendant has a controlling interest.
- “Unknown Claims” means any Released Claims which Lead Plaintiff or any Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons, and any claims that any Released

Persons does not know or suspect to exist in his, her, or its favor at the time of the release of the Lead Plaintiff, each and all of the Class Members and Plaintiff's Counsel, which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Persons or Lead Plaintiff, each and all of the Class Members and Plaintiff's Counsel, or might have affected his, her or its decision not to object to this Settlement or seek exclusion. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Lead Plaintiff and Defendants shall have, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Judgment shall have, expressly waived to the fullest extent permitted by law the provisions, rights, and benefits of California Civil Code §1542, which provides:

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

Lead Plaintiff and Defendants shall have, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code §1542. Lead Plaintiff, Class Members, and Released Persons may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims and the claims released by the Released Persons, but Lead Plaintiff and Defendants shall have, and each Class Member and Released Person, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, or the claims released by the Released Persons, as the case may be, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now 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 that 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, whether or not previously or currently asserted in any action. Lead Plaintiff and Defendants acknowledge, and the Class Members and Released Persons shall be deemed by operation of the Judgment to have acknowledged, that the

foregoing waiver was separately bargained for and an essential term of the Settlement of which this release is a part.

If you remain a member of the Class, all of the Court's orders will apply to you and legally bind you.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not want a payment from this Settlement, and you want to keep the right to sue the Defendants and the other Released Persons, on your own, about the legal issues in this case, then you must take steps to remove yourself from the Settlement. This is called excluding yourself – or is sometimes referred to as “opting out.”

#### **13. How do I get out of the proposed Settlement?**

To exclude yourself from the Class, you must send a letter by First-Class Mail stating that you “request exclusion from the Class in the *Body Central Securities Litigation*.” Your letter must include the date(s), price(s), and number(s) of all purchases and sales of Body Central common stock during the Class Period. In addition, you must include your name, address, telephone number, and your signature. You must submit your exclusion request so that it is **received no later than [insert date]** to:

*Body Central Securities Litigation*  
c/o Gilardi & Co. LLC  
Claims Administrator  
P.O. Box 990  
Corte Madera, CA 94976-0990

If you ask to be excluded, you will not get any payment, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit, and you may be able to sue the Defendants and the other Released Persons in the future.

#### **14. If I do not exclude myself, can I sue the Defendants and the other Released Persons for the same thing later?**

No. Unless you exclude yourself, you give up any rights to sue the Defendants and the other Released Persons for any and all Released Claims. If you have a pending lawsuit against the Released Persons speak to your lawyer in that case immediately. You must exclude yourself from this Action to continue your own lawsuit. Remember, the exclusion deadline is [insert date].

**15. If I exclude myself, can I get money from the proposed Settlement?**

No. If you exclude yourself, you may not send in a Proof of Claim to ask for any money. But, you may sue or be part of a different lawsuit against the Defendants and the other Released Persons.

**THE LAWYERS REPRESENTING YOU**

**16. Do I have a lawyer in this case?**

The Court ordered that the law firm of Robbins Geller Rudman & Dowd LLP represent the Class Members, including you. These lawyers are called Lead Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

**17. How will the lawyers be paid?**

Lead Counsel will move the Court for an award of attorneys' fees in an amount not greater than thirty percent (30%) of the Settlement Fund and for expenses and costs in an amount not to exceed \$50,000, plus interest on such fees, costs, and expenses at the same rate earned by the Settlement Fund. Such sums as may be approved by the Court will be paid from the Settlement Fund.

**OBJECTING TO THE SETTLEMENT**

**18. How do I tell the Court that I object to the proposed Settlement?**

If you are a Class Member, you can object to the proposed Settlement, the proposed Plan of Distribution, and/or Lead Counsel's fee, cost, and expense application. You can write to the Court setting out your objection. The Court will consider your views. To object, you must send a signed letter saying that you object to the proposed Settlement in the *Body Central Securities Litigation*. Be sure to include your name, address, telephone number, and your signature, identify the date(s), price(s), and number(s) of shares of Body Central common stock you purchased and sold during the Class Period, and state the reasons why you object to the proposed Settlement. Your objection must be filed with the Court and mailed or delivered to each of the following addresses such that it is **received no later than [insert date]**:

**COURT****LEAD COUNSEL****DEFENDANTS'  
COUNSEL**

Clerk of the Court  
 United States District Court  
 Middle District of Florida  
 Jacksonville Division  
 Bryan Simpson  
 U.S. Courthouse  
 300 North Hogan Street  
 Jacksonville, FL 32202

Ellen Gusikoff Stewart  
 ROBBINS GELLER  
 RUDMAN & DOWD  
 LLP  
 655 West Broadway,  
 Suite 1900  
 San Diego, CA 92101

Jerome F. Birn, Jr.  
 WILSON SONSINI  
 GOODRICH & ROSATI  
 Professional Corporation  
 650 Page Mill Road  
 Palo Alto, CA 94304

<b>19. What is the difference between objecting and excluding myself?</b>
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Objecting is simply telling the Court that you do not like something about the proposed Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

**THE COURT'S SETTLEMENT HEARING**

The Court will hold a hearing to decide whether to approve the proposed Settlement. You may attend and you may ask to speak, but you do not have to.

<b>20. When and where will the Court decide whether to approve the proposed Settlement?</b>
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The Court will hold a Settlement Hearing at\_\_: \_\_\_\_\_.m., on \_\_\_\_\_day, \_\_\_\_\_, 2014, at the United States District Court for the Middle District of Florida, Jacksonville Division, Bryan Simpson U.S. Courthouse, 300 North Hogan Street, Jacksonville, FL 32202. At the hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay to Lead Counsel. After the Settlement Hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. You should be aware that the Court may change the date and time of the Settlement Hearing without another notice being sent to Class Members. If you want to attend the hearing, you should check with Lead Counsel beforehand to be sure that the date and/or time has not changed.

**21. Do I have to come to the hearing?**

No. Lead Counsel will answer questions the Court may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary. Class Members do not need to appear at the hearing or take any other action to indicate their approval.

**22. May I speak at the hearing?**

If you object to the Settlement, you may ask the Court for permission to speak at the Settlement Hearing. To do so, you must include with your objection (*see* question 18 above) a statement saying that it is your “Notice of Intention to Appear in the *Body Central Securities Litigation*.” Persons who intend to object to the Settlement, the Plan of Distribution, and/or the application for an award of attorneys’ fees, costs, and expenses and desire to present evidence at the Settlement Hearing must include in their written objections the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Settlement Hearing. You cannot speak at the hearing if you exclude yourself.

**IF YOU DO NOTHING**

**23. What happens if I do nothing at all?**

If you do nothing, you will get no money from this Settlement. But, unless you exclude yourself, you will not be able to start a lawsuit or be part of any other lawsuit against the Released Persons about the legal issues in this case, ever again.

**GETTING MORE INFORMATION**

**24. Are there more details about the proposed Settlement?**

This Notice summarizes the proposed Settlement. More details are in a Stipulation and Agreement of Settlement dated August 25, 2014 (the “Settlement Agreement”). You can get a copy of the Settlement Agreement and obtain answers to common questions regarding the proposed Settlement by contacting the Claims Administrator toll-free at 1-888-283-6643. A copy of the Settlement Agreement is also available on the Claims Administrator’s website at [www.bodycentralcorporationsecuritieslitigation.com](http://www.bodycentralcorporationsecuritieslitigation.com).

**25. How do I get more information?**

For even more detailed information concerning the matters involved in this Action, reference is made to the pleadings, to the Settlement Agreement, to the Orders entered by the Court and to the other papers filed in the Action, which may be inspected at the Office of the



Clerk of the United States District Court for the Middle District of Florida, Jacksonville Division, Bryan Simpson U.S. Courthouse, 300 North Hogan Street, Jacksonville, FL 32202, during regular business hours. For a fee, all papers filed in this Action are available at [www.pacer.gov](http://www.pacer.gov).

## **PLAN OF DISTRIBUTION OF NET SETTLEMENT FUND AMONG CLASS MEMBERS**

The Settlement Amount of \$3.425 million and any interest earned thereon shall be the “Settlement Fund.” The Settlement Fund, less all taxes, approved costs, fees, and expenses (the “Net Settlement Fund”) shall be distributed to Class Members who submit timely and valid Proof of Claim forms to the Claims Administrator (“Authorized Claimants”).

The Claims Administrator shall determine each Authorized Claimant’s *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant’s “Recognized Claim.” The Recognized Claim formula (below) is not intended to be an estimate of the amount of what a Class Member might have been able to recover after a trial; nor is it an estimate of the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Claim formula is the basis upon which the Net Settlement Fund will be proportionately allocated to the Authorized Claimants. The Court may approve the Plan of Distribution, or modify it without additional notice to the Class. Any order modifying the Plan of Distribution will be posted on the settlement website at: [www.bodycentralcorporationsecuritieslitigation.com](http://www.bodycentralcorporationsecuritieslitigation.com).

The following proposed Plan of Distribution reflects the assumption that the prices of Body Central common stock were allegedly artificially inflated during the Class Period. The Plan of Distribution was created with the assistance of a consulting damages expert who analyzed the movement of Body Central’s common stock after the alleged disclosures. It takes into account the portion of the stock drops attributable to the alleged fraud. Accordingly, “Recognized Claims” will be calculated for purposes of the Settlement as follows:

The calculation of claims below is not an estimate of the amount you will receive. It is a formula for allocating the Net Settlement Fund among all Authorized Claimants.

The allocation below is based on the following price declines as well as the statutory PSLRA 90-day look-back amount of \$9.42:

May 4, 2012 Price Decline: \$14.04

June 18, 2012 Price Decline: \$7.77

### **Proposed Allocation**

For shares of Body Central common stock *purchased or acquired on or between November 10, 2011 through May 3, 2012*, the claim per share shall be as follows:

- a) If sold prior to May 4, 2012, the claim per share is zero.
- b) If sold on or between May 4, 2012 through June 17, 2012, the claim per share shall be the lesser of (i) \$14.04 (May 4, 2012 Price Decline), or (ii) the difference between the purchase price and the selling price.
- c) If retained at the end of June 17, 2012 and sold before September 14, 2012, the claim per share shall be the lesser of (i) \$21.81 (May 4, 2012 and June 18, 2012 price declines), or (ii) the difference between the purchase price and the selling price, or (iii) the difference between the purchase price per share and the average closing price per share up to the date of sale as set forth in the table below.
- d) If retained or sold on or after September 14, 2012, the claim per share shall be the lesser of: (i) \$21.81 (May 4, 2012 and June 18, 2012 price declines), or (ii) the difference between the purchase price per share and \$9.42 per share.

For shares of Body Central common stock ***purchased or acquired on or between May 4, 2012 through June 17, 2012***, the claim per share shall be as follows:

- a) If sold prior to June 18, 2012, the claim per share is zero.
- b) If retained at the end of June 17, 2012 and sold before September 14, 2012, the claim per share shall be the lesser of (i) \$7.77 (June 18, 2012 price decline), or (ii) the difference between the purchase price and the selling price, or (iii) the difference between the purchase price per share and the average closing price per share up to the date of sale as set forth in the table below.
- c) If retained or sold on or after September 14, 2012, the claim per share shall be the lesser of: (i) \$7.77 (June 18, 2012 price decline), or (ii) the difference between the purchase price per share and \$9.42 per share.

For shares of Body Central common stock ***purchased or acquired on June 18, 2012***, the claim per share shall be \$0.00.<sup>1</sup>

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<sup>1</sup> Please note that although the Class Period includes June 18, 2012, shares of Body Central common stock that were purchased and/or acquired on June 18, 2012 are not eligible for a recovery under the Plan of Distribution because the disclosure made on June 18, 2012 that Lead Plaintiff alleges corrected earlier alleged misrepresentations and omissions was made before the opening of trading that day.

<b>Date</b>	<b>Closing Price</b>	<b>Average Closing Price</b>
18-Jun-12	\$8.22	\$8.22
19-Jun-12	\$8.61	\$8.42
20-Jun-12	\$8.57	\$8.47
21-Jun-12	\$8.47	\$8.47
22-Jun-12	\$8.44	\$8.46
25-Jun-12	\$8.60	\$8.49
26-Jun-12	\$8.58	\$8.50
27-Jun-12	\$8.73	\$8.53
28-Jun-12	\$8.71	\$8.55
29-Jun-12	\$9.00	\$8.59
2-Jul-12	\$9.82	\$8.70
3-Jul-12	\$10.62	\$8.86
5-Jul-12	\$10.65	\$9.00
6-Jul-12	\$10.61	\$9.12
9-Jul-12	\$10.84	\$9.23
10-Jul-12	\$10.72	\$9.32
11-Jul-12	\$10.73	\$9.41
12-Jul-12	\$10.92	\$9.49
13-Jul-12	\$11.21	\$9.58
16-Jul-12	\$11.12	\$9.66
17-Jul-12	\$10.98	\$9.72
18-Jul-12	\$11.13	\$9.79
19-Jul-12	\$10.87	\$9.83
20-Jul-12	\$11.04	\$9.88
23-Jul-12	\$10.60	\$9.91
24-Jul-12	\$10.32	\$9.93
25-Jul-12	\$10.37	\$9.94
26-Jul-12	\$10.43	\$9.96
27-Jul-12	\$10.51	\$9.98
30-Jul-12	\$10.50	\$10.00
31-Jul-12	\$10.34	\$10.01
1-Aug-12	\$10.22	\$10.02
2-Aug-12	\$9.59	\$10.00
3-Aug-12	\$8.22	\$9.95
6-Aug-12	\$8.14	\$9.90
7-Aug-12	\$8.52	\$9.86
8-Aug-12	\$8.88	\$9.83
9-Aug-12	\$9.17	\$9.82
10-Aug-12	\$9.09	\$9.80
13-Aug-12	\$8.94	\$9.78
14-Aug-12	\$8.77	\$9.75
15-Aug-12	\$8.81	\$9.73
16-Aug-12	\$8.93	\$9.71
17-Aug-12	\$8.82	\$9.69

20-Aug-12	\$8.56	\$9.66
21-Aug-12	\$8.43	\$9.64
22-Aug-12	\$8.44	\$9.61
23-Aug-12	\$8.37	\$9.59
24-Aug-12	\$8.66	\$9.57
27-Aug-12	\$8.69	\$9.55
28-Aug-12	\$8.78	\$9.54
29-Aug-12	\$8.83	\$9.52
30-Aug-12	\$8.75	\$9.51
31-Aug-12	\$8.78	\$9.49
4-Sep-12	\$8.85	\$9.48
5-Sep-12	\$8.89	\$9.47
6-Sep-12	\$8.89	\$9.46
7-Sep-12	\$9.13	\$9.46
10-Sep-12	\$8.90	\$9.45
11-Sep-12	\$8.93	\$9.44
12-Sep-12	\$9.00	\$9.43
13-Sep-12	\$9.09	\$9.42
14-Sep-12	\$9.28	\$9.42

In the event a Class Member has more than one purchase or sale of Body Central common stock during the Class Period, all purchases and sales within the Class Period shall be matched on a First-In, First-Out (“FIFO”) basis. Class Period sales will be matched first against any holdings at the beginning of the Class Period, and then against purchases in chronological order, beginning with the earliest purchase made during the Class Period.

A purchase or sale of Body Central common stock shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. The receipt or grant by gift, devise or operation of law of Body Central common stock during the Class Period shall not be deemed a purchase or sale of Body Central common stock for the calculation of an Authorized Claimant’s Recognized Claim nor shall it be deemed an assignment of any claim relating to the purchase of such shares unless specifically provided in the instrument of gift or assignment. The receipt of Body Central common stock during the Class Period in exchange for securities of any other corporation or entity shall not be deemed a purchase or sale of Body Central common stock.

To the extent a claimant had a gain from his, her, or its overall transactions in Body Central common stock during the Class Period, the value of the Recognized Claim will be zero.

Each Authorized Claimant shall be allocated a *pro rata* share of the Net Settlement Fund based on his, her, or its Recognized Claim as compared to the total Recognized Claims of all Authorized Claimants. No distribution will be made to Class Members who would otherwise receive a distribution of less than \$10.00.

Class Members who do not submit acceptable Proofs of Claim will not share in the Settlement proceeds. The Settlement and the Final Judgment and Order of Dismissal with Prejudice dismissing this Action will nevertheless bind Class Members who do not either submit a request for exclusion or submit an acceptable Proof of Claim.

Please contact the Claims Administrator or Lead Counsel if you disagree with any determinations made by the Claims Administrator regarding your Proof of Claim. If you are unsatisfied with the result, you may ask the Court, which retains jurisdiction over the claims administration process, to decide the issue by submitting a written request.

Distributions will be made to Authorized Claimants after all claims have been processed and after the Court has finally approved the Settlement. If any funds remain in the Net Settlement Fund by reason of un-cashed distribution checks or otherwise, then, after the Claims Administrator has made reasonable and diligent efforts to have Class Members who are entitled to participate in the distribution of the Net Settlement Fund cash their distributions, any balance remaining in the Net Settlement Fund after at least six (6) months after the initial distribution of such funds shall be used: (a) first, to pay any amounts mistakenly omitted from the initial disbursement; (b) second, to pay any additional settlement administration fees, costs, and expenses, including those of Lead Counsel as may be approved by the Court; and (c) finally, to make a second distribution to claimants who cashed their checks from the initial distribution and who would receive at least \$10.00, after payment of the estimated costs, expenses, or fees to be incurred in administering the Net Settlement Fund and in making this second distribution, if such second distribution is economically feasible. These redistributions shall be repeated until the balance remaining in the Net Settlement Fund is *de minimis* and such remaining balance shall then be distributed to a non-sectarian, not-for-profit organization identified by Lead Counsel.

### **SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES**

If you purchased Body Central common stock during the Class Period for the beneficial interest of an individual or organization other than yourself, the Court has directed that, **WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS NOTICE**, you either (a) provide to the Claims Administrator the name and last known address of each person or organization for whom or which you purchased such securities during such time period or (b) request additional copies of this Notice and the Proof of Claim form, which will be provided to you free of charge, and within ten (10) days mail the Notice and Proof of Claim form directly to the beneficial owners of the securities referred to herein. If you choose to follow alternative procedure (b), the Court has ordered that, upon such mailing, you send a statement to the Claims Administrator confirming that the mailing was made as directed. You are entitled to reimbursement from the Settlement Fund of your reasonable expenses actually incurred in connection with the foregoing, including reimbursement of postage expense and the cost of ascertaining the names and addresses of beneficial owners. Those expenses will be paid upon request and submission of appropriate supporting documentation.

All communications concerning the foregoing should be addressed to the Claims Administrator:

*Body Central Securities Litigation*  
c/o Gilardi & Co. LLC  
Claims Administrator  
P.O. Box 990  
Corte Madera, CA 94976-0990  
(1-888-283-6643)  
[www.bodycentralcorporationsecuritieslitigation.com](http://www.bodycentralcorporationsecuritieslitigation.com).

Dated: \_\_\_\_\_

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

# EXHIBIT A-2

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

NICK MOGENSEN, Individually and on ) No. 3:12-cv-00954-HES-JRK  
Behalf of All Others Similarly Situated, )  
 ) CLASS ACTION  
Plaintiff, )  
 )  
vs. )  
 )  
BODY CENTRAL CORPORATION, )  
B. ALLEN WEINSTEIN, THOMAS )  
STOLTZ and BETH R. ANGELO, )  
 )  
Defendants. )  
 )  
\_\_\_\_\_ )

PROOF OF CLAIM AND RELEASE

EXHIBIT A-2



## I. GENERAL INSTRUCTIONS

1. To recover as a member of the Class based on your claims in the action entitled *Mogensen v. Body Central Corporation, et al.*, No. 3:12-cv-00954-HES-JRK (the “Action”), you must complete and, on page \_\_\_ hereof, sign this Proof of Claim and Release. If you fail to file a properly addressed (as set forth in paragraph 3 below) Proof of Claim and Release, postmarked or received by the date shown below, your claim may be rejected and you may be precluded from any recovery from the Net Settlement Fund created in connection with the proposed Settlement of the Action.

2. Submission of this Proof of Claim and Release, however, does not assure that you will share in the proceeds of the Settlement of the Action.

3. YOU MUST MAIL OR SUBMIT ONLINE YOUR COMPLETED AND SIGNED PROOF OF CLAIM AND RELEASE, ACCOMPANIED BY COPIES OF THE DOCUMENTS REQUESTED HEREIN, NO LATER THAN \_\_\_\_\_, 2014, TO THE COURT-APPOINTED CLAIMS ADMINISTRATOR IN THIS CASE, AT THE FOLLOWING ADDRESS:

*Body Central Securities Litigation*  
Claims Administrator  
c/o Gilardi & Co. LLC  
P.O. Box 990  
Corte Madera, CA 94976-0990  
[www.bodycentralcorporationsecuritieslitigation.com](http://www.bodycentralcorporationsecuritieslitigation.com).

If you are NOT a member of the Class (as defined in the Notice of Pendency of Class Action and Proposed Settlement, Motion for Attorneys’ Fees and Settlement Fairness Hearing (the “Notice”)), DO NOT submit a Proof of Claim and Release form.

4. If you are a member of the Class and you do not timely request exclusion in connection with the proposed Settlement, you will be bound by the terms of any judgment entered in the Action, including the releases provided therein, **WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM AND RELEASE FORM.**

## **II. CLAIMANT IDENTIFICATION**

If you purchased the common stock of Body Central Corporation (“Body Central” or the “Company”) during the period from November 10, 2011, through and including June 18, 2012, and held the certificate(s) in your name, you are the beneficial purchaser as well as the record purchaser. If, however, you purchased the common stock of Body Central during the Class Period and the certificate(s) were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial purchaser and the third party is the record purchaser.

Use Part I of this form entitled “Claimant Identification” to identify each purchaser of record (“nominee”), if different from the beneficial purchaser of the common stock which form the basis of this claim. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL PURCHASER(S) OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASER(S) OF THE BODY CENTRAL COMMON STOCK UPON WHICH THIS CLAIM IS BASED.**

All joint purchasers must sign this claim. Executors, administrators, guardians, conservators and trustees must complete and sign this claim on behalf of persons represented by them and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the

beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

If you are acting in a representative capacity on behalf of a Class Member (for example, as an executor, administrator, trustee, or other representative), you must submit evidence of your current authority to act on behalf of that Class Member. Such evidence would include, for example, letters testamentary, letters of administration, or a copy of the trust documents.

**NOTICE REGARDING ELECTRONIC FILES:** Certain claimants with large numbers of transactions may request to, or may be requested to, submit information regarding their transactions in electronic files. All claimants **MUST** submit a manually signed paper Proof of Claim and Release form listing all their transactions whether or not they also submit electronic copies. If you wish to file your claim electronically, you must contact the Claims Administrator at 1-888-283-6643 to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the claimant a written acknowledgement of receipt and acceptance of electronically submitted data.

### **III. CLAIM FORM**

Use Part II of this form entitled “Schedule of Transactions in Body Central Common Stock” to supply all required details of your transaction(s) in Body Central common stock. If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

On the schedules, provide all of the requested information with respect to *all* of your purchases and *all* of your sales of Body Central common stock between November 10, 2011, and September 14, 2012, inclusive, whether such transactions resulted in a profit or a loss. You must also provide all of the requested information with respect to *all* of the Body Central common stock you held at the close of trading on November 9, 2011, June 18, 2012, and September 14, 2012. Failure to report all such transactions may result in the rejection of your claim.

List these transactions separately and in chronological order, by trade date, beginning with the earliest. You must accurately provide the month, day and year of each transaction you list.

For short-sale transactions, the date of covering a “short sale” is deemed to be the date of purchase of Body Central common stock, and the date of a “short sale” is deemed to be the date of sale of Body Central common stock.

For each transaction, you must provide, together with this claim form, copies of stockbroker confirmation slips, stockbroker statements, or other documents evidencing your transactions in Body Central common stock. If any such documents are not in your possession, please obtain a copy or equivalent documents from your broker because these documents are necessary to prove and process your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

JACKSONVILLE DIVISION

*Mogensen v. Body Central Corporation, et al.*

No. 3:12-cv-00954-HES-JRK

PROOF OF CLAIM AND RELEASE

Must Be Postmarked or Received No Later Than:

\_\_\_\_\_, 2014

Please Type or Print

PART I: CLAIMANT IDENTIFICATION

\_\_\_\_\_  
Beneficial Owner's Name (First, Middle, Last)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State or Province

\_\_\_\_\_  
Zip Code or Postal Code

\_\_\_\_\_  
Country

\_\_\_\_\_  
Social Security Number or  
Taxpayer Identification Number

\_\_\_\_\_  
Individual  
Corporation/Other

\_\_\_\_\_  
Area Code

\_\_\_\_\_  
Telephone Number (work)

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Area Code

Telephone Number (home)

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Record Owner's Name (if different from beneficial owner listed above)

**PART II: SCHEDULE OF TRANSACTIONS IN BODY CENTRAL COMMON STOCK**

A. Number of shares of Body Central common stock held at the close of trading on November 9, 2011: \_\_\_\_\_.

B. Purchases of Body Central common stock between November 10, 2011 and September 14, 2012, inclusive:

Trade Date Mo. Day Year	Number of Shares Purchased	Total Purchase Price
1. _____	1. _____	1. _____
2. _____	2. _____	2. _____
3. _____	3. _____	3. _____

**IMPORTANT:** Identify by number listed above all purchases in which you covered a “short sale”: \_\_\_\_\_

C. Sales of Body Central common stock between November 10, 2011 and June 18, 2012, inclusive:

Trade Date Mo. Day Year	Number of Shares Sold	Total Sales Price
1. _____	1. _____	1. _____
2. _____	2. _____	2. _____
3. _____	3. _____	3. _____

D. Sales of Body Central common stock between June 19, 2012 and September 14, 2012, inclusive:

Trade Date Mo. Day Year	Number of Shares Sold	Total Sales Price
1. _____	1. _____	1. _____
2. _____	2. _____	2. _____
3. _____	3. _____	3. _____

E. Number of shares of Body Central common stock held at the close of trading on June 18, 2012: \_\_\_\_\_.

F. Number of shares of Body Central common stock held at the close of trading on September 14, 2012: \_\_\_\_\_.

If you require additional space, attach extra schedules in the same format as above.

Sign and print your name on each additional page.

**YOUR SIGNATURE ON PAGE \_\_ WILL CONSTITUTE YOUR  
ACKNOWLEDGMENT OF THE RELEASE DESCRIBED IN PART V BELOW.**

**IV. SUBMISSION TO JURISDICTION OF COURT AND  
ACKNOWLEDGMENTS**

I (We) submit this Proof of Claim and Release under the terms of the Settlement Agreement described in the Notice. I (We) also submit to the jurisdiction of the United States District Court for the Middle District of Florida, Jacksonville Division, with respect to my (our) claim as a Class Member and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the Action. I (We) agree to furnish additional information to the Claims Administrator to support this claim if requested to do so. I (We) have not submitted any other claim in connection with the purchase of Body Central common stock during the Class Period and know of no other person having done so on my (our) behalf.

**V. RELEASE**

1. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever settle, release and discharge from the Released Claims each and all of the Released Persons as provided in the Settlement Agreement.



2. “Related Persons” means, with respect to the Defendants, each and all of their respective present or former parents, subsidiaries, affiliates, successors and assigns, and each and all of their and Defendants’ respective present or former officers, directors, employees, employers, attorneys, accountants, financial advisors, commercial bank lenders, insurers, reinsurers, investment bankers, underwriters, representatives, general and limited partners and partnerships, heirs, executors, administrators, successors, affiliates, agents, spouses, associates, and assigns of each of them, in their capacity as such, or any trust of which any Defendant is the settlor or which is for the benefit of any Defendant and/or member(s) of his or her family and any entity in which any such Defendant has a controlling interest.

3. “Released Persons” means each and all of the Defendants and each and all of their Related Persons.

4. “Released Claims” means any and all claims, demands, rights, causes of action or liabilities of every nature and description whatsoever (including, but not limited to, any claims for damages, interest, attorneys’ fees, expert or consulting fees, and any other costs, expenses or liabilities whatsoever), whether based on federal, state, local, foreign, statutory or common law or any other law, rule, ordinance, administrative provision or regulation, including both known claims and unknown claims, whether class or individual in nature, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, based on, arising from or relating to (i) the purchase of the common stock of Body Central during the Class Period, and (ii) the allegations, transactions, facts, matters, events, disclosures, registration statements, public filings, acts, occurrences, representations, statements, omissions or failures to act that were or could have

been alleged by Lead Plaintiff in the Action against the Released Persons. Released Claims does not include claims to enforce the Settlement; nor does it include any governmental or regulatory agency's claims in any criminal or civil action against any of the Defendants or any claims in any related ERISA or derivative actions.

5. "Unknown Claims" means any Released Claims which Lead Plaintiff or any Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons, and any claims that any Released Person does not know or suspect to exist in his, her, or its favor at the time of the release of the Lead Plaintiff, each and all of the Class Members and Plaintiff's Counsel, which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Persons or Lead Plaintiff, each and all of the Class Members and Plaintiff's Counsel, or might have affected his, her or its decision not to object to this Settlement or seek exclusion. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Lead Plaintiff and Defendants shall have, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Judgment shall have, expressly waived to the fullest extent permitted by law the provisions, rights, and benefits of California Civil Code §1542, which provides:

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

Lead Plaintiff and Defendants shall have, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights, and benefits conferred by any law of any state or

territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code §1542. Lead Plaintiff, Class Members, and Released Persons may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims and the claims released by the Released Persons, but Lead Plaintiff and Defendants shall have, and each Class Member and Released Person, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, or the claims released by the Released Persons, as the case may be, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now 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 that 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, whether or not previously or currently asserted in any action. Lead Plaintiff and Defendants acknowledge, and the Class Members and Released Persons shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and an essential term of the Settlement of which this release is a part.

6. This release shall be of no force or effect unless and until the Court approves the Settlement Agreement and the Settlement becomes effective on the Effective Date.

7. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any claim or matter released pursuant to this release or any other part or portion thereof.

8. I (We) hereby warrant and represent that I (we) have included information about all of my (our) purchases and sales of Body Central common stock between November 10, 2011, and September 14, 2012, inclusive, and the number of shares of Body Central common stock held by me (us) at the close of trading on November 9, 2011, June 18, 2012, and September 14, 2012.

9. I (We) certify that I am (we are) not subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code.

Note: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the language that you are not subject to backup withholding in the certification above.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_  
(Month/Year)  
in \_\_\_\_\_  
(City) (State/Country)

\_\_\_\_\_  
(Sign your name here)

\_\_\_\_\_  
(Type or print your name here)

---

(Capacity of person(s) signing,  
*e.g.*, Beneficial Purchaser,  
Executor or Administrator)

**ACCURATE CLAIMS PROCESSING TAKES A  
SIGNIFICANT AMOUNT OF TIME.  
THANK YOU FOR YOUR PATIENCE.**

Reminder Checklist:

1. Please sign the above release and declaration.
2. Remember to attach supporting documentation, if available.
3. Do not send original stock certificates.
4. Keep a copy of your claim form for your records.
5. If you desire an acknowledgment of receipt of your claim form, please send it Certified Mail, Return Receipt Requested.
6. If you move, please send us your new address.

# EXHIBIT A-3

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

NICK MOGENSEN, Individually and on ) No. 3:12-cv-00954-HES-JRK  
Behalf of All Others Similarly Situated, )  
 ) CLASS ACTION  
Plaintiff, )  
 )  
vs. )  
 )  
BODY CENTRAL CORPORATION, )  
B. ALLEN WEINSTEIN, THOMAS )  
STOLTZ and BETH R. ANGELO, )  
 )  
Defendants. )  
 )  
\_\_\_\_\_ )

SUMMARY NOTICE

EXHIBIT A-3

**TO: ALL PERSONS WHO PURCHASED OR ACQUIRED BODY CENTRAL CORPORATION (“BODY CENTRAL”) COMMON STOCK DURING THE PERIOD FROM NOVEMBER 10, 2011, THROUGH AND INCLUDING JUNE 18, 2012**

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the United States District Court for the Middle District of Florida, Jacksonville Division, that a hearing will be held on \_\_\_\_\_, 2014, at \_\_\_\_:\_\_\_\_ \_\_.m., before the Honorable Harvey E. Schlesinger, United States District Judge, at the United States District Court for the Middle District of Florida, Bryan Simpson U.S. Courthouse, 300 North Hogan Street, Jacksonville, Florida 32202, for the purpose of determining: (1) whether the proposed Settlement of the claims in the Action for the amount of \$3,425,000.00 should be approved by the Court as fair, reasonable, and adequate; (2) whether a Final Judgment and Order of Dismissal with Prejudice (“Judgment”) should be entered by the Court dismissing the Action with prejudice and releasing the Released Claims; (3) whether the Plan of Distribution for the Net Settlement Fund is fair, reasonable, and adequate and should be approved; and (4) whether the application of Lead Counsel for the payment of attorneys’ fees, costs, and expenses should be approved.

IF YOU PURCHASED OR ACQUIRED BODY CENTRAL COMMON STOCK DURING THE TIME PERIOD FROM NOVEMBER 10, 2011, THROUGH AND INCLUDING JUNE 18, 2012, YOUR RIGHTS WILL BE AFFECTED BY THE SETTLEMENT OF THIS ACTION, INCLUDING THE RELEASE AND EXTINGUISHMENT OF CLAIMS YOU MAY POSSESS RELATING TO YOUR PURCHASE OR ACQUISITION OF BODY CENTRAL COMMON STOCK DURING THE CLASS PERIOD. If you have not received a detailed Notice of Pendency of Class Action and Proposed Settlement, Motion for Attorneys’ Fees and Settlement Fairness



Hearing (“Notice”) and a copy of the Proof of Claim and Release form, you may obtain copies by writing to *Body Central Securities Litigation*, Claims Administrator, c/o Gilardi & Co. LLC, P.O. Box 990, Corte Madera, CA 94976-0990, or on the Internet at [www.bodycentralcorporationsecuritieslitigation.com](http://www.bodycentralcorporationsecuritieslitigation.com). If you are a Class Member, in order to share in the distribution of the Net Settlement Fund, you must submit a Proof of Claim and Release by mail or online ***no later than*** \_\_\_\_\_, establishing that you are entitled to recovery.

If you purchased or acquired Body Central common stock during the Class Period and you desire to be excluded from the Class, you must submit a request for exclusion so that it is received no later than \_\_\_\_\_, in the manner and form explained in the detailed Notice referred to above. All members of the Class who do not timely and validly request exclusion from the Class will be bound by any judgment entered in the Action pursuant to the Stipulation and Agreement of Settlement.

Any objection to the Settlement, the Plan of Distribution, or Lead Counsel’s request for attorneys’ fees, costs, and expenses, must be received by each of the following recipients ***no later than*** \_\_\_\_\_:

CLERK OF THE COURT  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION  
Bryan Simpson U.S. Courthouse  
300 North Hogan Street  
Jacksonville, FL 32202

*Lead Counsel:*

ROBBINS GELLER RUDMAN & DOWD LLP  
ELLEN GUSIKOFF STEWART  
655 West Broadway, Suite 1900  
San Diego, CA 92101

*Counsel for Defendants:*

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation  
JEROME F. BIRN, JR.  
650 Page Mill Road  
Palo Alto, CA 94304

**PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE  
REGARDING THIS NOTICE.** If you have any questions about the Settlement, you may  
contact Lead Counsel at the address listed above.

DATED: \_\_\_\_\_

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

# EXHIBIT B

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

NICK MOGENSEN, Individually and on ) No. 3:12-cv-00954-HES-JRK  
Behalf of All Others Similarly Situated, )  
 ) CLASS ACTION  
Plaintiff, )  
 )  
vs. )  
 )  
BODY CENTRAL CORPORATION, )  
B. ALLEN WEINSTEIN, THOMAS )  
STOLTZ and BETH R. ANGELO, )  
 )  
Defendants. )  
 )  
\_\_\_\_\_ )

[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL WITH  
PREJUDICE

EXHIBIT B

This matter came before the Court for hearing pursuant to the Order Preliminarily Approving Settlement and Providing for Notice (“Notice Order”) dated \_\_\_\_\_, 2014, on the application of the Settling Parties for approval of the Settlement set forth in the Stipulation and Agreement of Settlement dated August 25, 2014 (the “Settlement Agreement”). Due and adequate notice having been given to the Class as required in said Order, and the Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Final Judgment and Order of Dismissal with Prejudice (“Judgment”) incorporates by reference the definitions in the Settlement Agreement, and all terms used herein shall have the same meanings as set forth in the Settlement Agreement, unless otherwise set forth herein.

2. This Court has jurisdiction over the subject matter of the Action and over all Settling Parties to the Action, including all members of the Class.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby affirms its determinations in the Notice Order and finally certifies for purposes of settlement only, a Class defined as all Persons who purchased or acquired Body Central Corporation (“Body Central” or the “Company”) common stock during the period from November 10, 2011, through and including June 18, 2012 (“Class Period”). Excluded from the Class are the Defendants, the officers and directors of Body Central during the Class Period, members of their immediate families, and their legal representatives, heirs, successors or assigns, and any entity in which any Defendant has or had a controlling interest. Also excluded from the

Class are those Persons who timely and validly excluded themselves therefrom (listed on Exhibit A hereto).

4. For purposes of settlement only, the Court hereby affirms its determinations in the Notice Order and finds that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the members of the Class are so numerous that joinder of all Class Members in the class action is impracticable; (b) there are questions of law and fact common to the Class which predominate over any individual question; (c) the claims of the Lead Plaintiff are typical of the claims of the Class; (d) Lead Plaintiff and his counsel have fairly and adequately represented and protected the interests of the Class Members; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering: (i) the interests of the members of the Class in individually controlling the prosecution of the separate actions, (ii) the extent and nature of any litigation concerning the controversy already commenced by members of the Class, (iii) the desirability or undesirability of concentrating the litigation of these claims in this particular forum, and (iv) the difficulties likely to be encountered in the management of the class action.

5. Pursuant to Federal Rule of Civil Procedure 23, this Court hereby approves the Settlement set forth in the Settlement Agreement and finds that said Settlement is, in all respects, fair, reasonable, and adequate to the Class.

6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court finds that the Settlement Agreement and Settlement are fair, reasonable, and adequate as to each of

the Settling Parties, and that the Settlement Agreement and Settlement are hereby finally approved in all respects, and the Settling Parties are hereby directed to perform its terms.

7. Accordingly, the Court authorizes and directs implementation of all the terms and provisions of the Settlement Agreement, as well as the terms and provisions hereof. The Court hereby dismisses, as to the Defendants, the Action and all Released Claims of the Class with prejudice, without costs as to any of the Released Persons, except as and to the extent provided in the Settlement Agreement and herein.

8. Upon the Effective Date hereof, and as provided in the Settlement Agreement, Lead Plaintiff and each of the Class Members, other than those listed on Exhibit A hereto, and their predecessors, successors, agents, representatives, attorneys, and affiliates, and the heirs, executors, administrators, successors, and assigns of each of them, in their capacity as such, shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged any and all Released Claims (including, without limitation, Unknown Claims) against the Released Persons (whether or not such Class Member executes and delivers the Proof of Claim and Release), as well as any claims arising out of, relating to, or in connection with, the defense, settlement, or resolution of the Action or the Released Claims against the Released Persons, Lead Plaintiff and/or Plaintiff's Counsel, except for claims relating to the enforcement of the Settlement.

9. Upon the Effective Date hereof, and as provided in the Settlement Agreement, each of the Released Persons shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiff, each and all of the Class Members, other than those listed on Exhibit A hereto, and their

respective counsel from all claims (including, without limitation, Unknown Claims) arising out of, relating to, or in connection with, the institution, prosecution, assertion, settlement, or resolution of the Action or the Released Claims, except for claims relating to the enforcement of the Settlement.

10. Upon the Effective Date hereof, Lead Plaintiff and each of the Class Members, other than those listed on Exhibit A hereto, and their predecessors, successors, agents, representatives, attorneys, and affiliates, and the heirs, executors, administrators, successors, and assigns of each of them, in their capacity as such, shall be deemed to be, and by virtue of this Judgment shall be, permanently barred and enjoined from the assertion, institution, maintenance, prosecution, or enforcement against any Released Person, in any state or federal court or arbitral forum, or in the court of any foreign jurisdiction, of any and all Released Claims (including, without limitation, Unknown Claims), as well as any claims arising out of, relating to, or in connection with, the defense, settlement, or resolution of the Action or the Released Claims against the Released Persons, Lead Plaintiff and/or Plaintiff's Counsel, except for claims relating to the enforcement of the Settlement, whether or not such Class Member executes and delivers the Proof of Claim and Release.

11. The Notice of Pendency of Class Action and Proposed Settlement, Motion for Attorneys' Fees and Settlement Fairness Hearing given to the Class in accordance with the Notice Order entered on \_\_\_\_\_, 2014 was the best notice practicable under the circumstances, including the individual notice to all members of the Class who could be identified through reasonable effort. Said notice provided the best notice practicable under the circumstances of those proceedings and of the matters set forth therein, including the



proposed Settlement set forth in the Settlement Agreement, to all Persons entitled to such notice, and said notice fully satisfied the requirements of Federal Rule of Civil Procedure 23, the requirements of due process, and the requirement of Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. §78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995 (the “PSLRA”), and all other applicable law and rules.

12. Separate orders shall be entered regarding the proposed Plan of Distribution and Lead Counsel’s motion for attorneys’ fees and payment of costs and expenses as allowed by the Court. Any plan of distribution submitted by Lead Counsel or any order entered regarding any attorneys’ fee and expense application shall in no way disturb or affect this Judgment and shall be considered separate from this Judgment.

13. Neither the Settlement Agreement nor any of its terms or provisions, nor any of the negotiations, discussions, proceedings connected with it, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any of the allegations in the Action or of the validity of any Released Claim, or of any wrongdoing or liability of the Released Persons; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal, or administrative proceeding in any court, arbitration proceeding, administrative agency, or forum or tribunal in which the Released Persons are or become parties; or (c) is or may be deemed to be or may be used as an admission or evidence that any claims asserted by Lead Plaintiff were not valid or that the amount recoverable was not greater than the Settlement Amount, in any civil, criminal, or administrative proceeding

in any court, administrative agency, or other tribunal. The Released Persons, Lead Plaintiff, Class Members, and their respective counsel, may file the Settlement Agreement and/or this Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. The Settling Parties may file the Settlement Agreement and/or this Judgment in any proceedings that may be necessary to consummate or enforce the Settlement Agreement, the Settlement, or this Judgment.

14. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing exclusive jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and determining applications for attorneys' fees, interest, costs and expenses in the Action; and (d) all Settling Parties hereto for the purpose of construing, enforcing, and administering the Settlement Agreement.

15. The Court finds that during the course of the Action, the Settling Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11.

16. In the event that the Settlement does not become effective in accordance with the terms of the Settlement Agreement, or the Effective Date does not occur, or in the event that the Settlement Fund, or any portion thereof, is returned to the Defendants, then this Judgment shall be rendered null and void to the extent provided by and in accordance with the Settlement Agreement and shall be vacated and, in such event, all orders entered and

releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Settlement Agreement.

17. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

18. The Court directs immediate entry of this Judgment by the Clerk of the Court.

IT IS SO ORDERED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
THE HONORABLE HARVEY E. SCHLESINGER  
UNITED STATES DISTRICT JUDGE