By Fax	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	James R. Hawkins, Esq. SBN 192925 Isandra Fernandez, Esq. SBN 220482 JAMES HAWKINS APLC 9880 Research Drive, Suite 200 Irvine, CA 92618 TEL: (949) 387-7200 FAX: (949) 387-6676 Attorneys for Plaintiff, ANTHONY W. FORD on behalf of himself and all others similarly situat SUPERIOR COURT OF THI FOR THE COUNTY ANTHONY W. FORD on behalf of himself and all others similarly situated Plaintiff, vs. DOUGLAS EMMETT MANAGEMENT, LLC. a Delaware limited liability company, and DOES 1 through 50, inclusive, Defendants. RECEIVED LOS ANGELES SUPERIOR COURT DEC 17 2018	E STATE OF CALIFORNIA	
	22	I. LOVO		
	23 24	Plaintiff ANTHONY W. FORD (hereinafter referred to as "Plaintiff") hereby applies to		
	25	this Court for dismissal of the class action claims	and individual claims without prejudice	
	26	pursuant California Rules of Court, Rule 3.770 (a	). (See Declaration of Isandra Fernandez	
	27	("Fernandez Decl." ¶ 2)		
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# A. FACTUAL AND PROCEDURAL SUMMARY

2 This is a proposed wage and hour class action brought by Anthony W. Ford (hereinafter 3 "Plaintiff") on behalf of all current and former non- exempt employees of Douglas Emmett 4 Management, LLC. (hereinafter "Defendant" and/or "Douglas Emmett"). On May 10, 2018, 5 Plaintiff filed the Complaint in Los Angeles County Superior Court alleging the following claims 6 against Defendant: (1) unpaid overtime wages; (2) failure to provide compliant meal periods; (3) 7 failure to provide compliant rest breaks; (4) failure to reimburse employee expenses: (5) failure 8 to timely pay wages; (6) failure to furnish accurate itemized wage statements; and (7) unfair 9 competition pursuant to Business and Professions Code section 17200 et seq. (Fernandez Decl. ¶ 10 3.)

Counsel for Defendant provided Plaintiff's counsel with an arbitration agreement that Mr.
 Ford signed while employed by Defendant and which contains a class action waiver and subjects
 Plaintiff to arbitration of his individual claims exclusively. (Fernandez Decl. ¶ 4.)

In light of Morris v Ernst & Young, LLP, 834 F. 3d 975 (9th Cir. 2016) ("Morris"), in
which the U.S. Supreme Court ruled that class action waivers in arbitration agreements are
enforceable, Plaintiff has no other option but to dismiss the class action claims and pursue his
individual claims in arbitration. (Fernandez Decl. ¶ 5.) Therefore, Plaintiff requests dismissal of
the class action claims and individual claims against Douglas Emmett without prejudice.

No consideration, either direct or indirect, was provided to Plaintiff or his counsel, in
exchange for the dismissal of the class action claims alleged in this lawsuit. (Fernandez Dec.¶ 6.)
Also, no notice either formal or informal has been given to any of the potential class members
regarding the existence of this action by Plaintiff. (Fernandez Dec.¶ 7.)

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### **B. LEGAL STANDARD**

Rule 3.770(a), California Rules of Court, provides that "a dismissal of an entire class
action, or of any party or cause of action in a class action, requires court approval...Requests for
dismissal must be accompanied by a declaration setting forth the facts on which the party relies.
The declaration must clearly state whether consideration, direct or indirect, is being given for the
dismissal and must describe the consideration in detail."

- 2 -

REQUEST FOR DISMISSAL OF CLASS ACTION CLAIMS

1	As set forth in the accompanying declaration submitted in accordance with California		
2	Rules of Court, rule 3.770(a), no consideration, either direct or indirect, was provided to Plaintiff		
3	or his counsel, in exchange for the dismissal of the class action claims alleged in this lawsuit.		
4	(Fernandez Dec.¶ 6.)		
5	Further, Rule 3.770(c), California Rules of Court provides:		
6	If the court has not ruled on class certification, or if notice of the pendency of the		
7	action has not been provided to class members in a case in which such notice was		
8	required, notice of the proposed dismissal may be given in the manner and to those class members specified by the court, or the action may be dismissed		
9	without notice to the class members if the court finds that the dismissal will not		
10	<i>prejudice them.</i> (emphasis added) This Court has not ruled on certification, and dismissal of the instant case would not		
11	prejudice the class because (a) a class has not been certified, and (b) the claims asserted in this		
12	action are being dismissed without prejudice. Therefore, notice to class members of the		
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14	C. CONCLUSION		
15	Based on the foregoing, Plaintiff Anthony W. Ford respectfully requests that the Court		
16	dismiss the class action claims against Douglas Emmett without prejudice pursuant California		
17	Rules of Court, Rule 3.770 (a) and dismiss Plaintiff's individual claims against Douglas Emmett		
18	without prejudice.		
19	Respectfully submitted,		
20			
21	Dated: December 14, 2018 JAMES HAWKINS, APLC		
22			
23	Isandra berrandes		
24	Isandra Y. Fernandez, Esq.		
25	Attorneys for Plaintiff Anthony W. Ford		
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	REQUEST FOR DISMISSAL OF CLASS ACTION CLAIMS		

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1	[PROPOSED] ORDER	
2	The Court having considered the Request for Dismissal pursuant to California Rules of	
3	Court 3.770, and good cause appearing therefore, the class action claims in the above entitled	
4	action are dismissed without prejudice and Plaintiff's individual claims are also dismissed	
5	without prejudice.	
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7	IT IS HEREBY ORDERED.	
8	A = H	
9	Dated: December $24$ , 2018	
10	Hon. John Shebard Wildy Or. Amy Hogy	
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	REQUEST FOR DISMISSAL OF CLASS ACTION CLAIMS	

### PROOF OF SERVICE, COUNTY OF ORANGE

I am a resident of the State of California, County of Orange. I am over the age of eighteen years and not a party to the within action. My business address is 9880 Research Drive., Suite 200, Irvine, California 92618.

5 On December 14, 2018, I served on the interested parties in this action the following document(s) entitled:

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• REQUEST FOR DISMISSAL OF CLASS ACTION CLAIMS PURSUANT TO CRC 3.770 WITHOUT PREJUDICE AND

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INDIVIDUAL CLAIMS WITHOUT PREJUDICE; [PROPOSED]

## **ORDER OF DISMISSAL WITHOUT PREJUDICE**

[XX] BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List below and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

#### SERVICE LIST Rafael Gonzalez, Esq.

Nathan E. Klouda, Esq. MULLEN HENZELL, LLP 112 East Victoria Street Santa Barbara, CA 93101 Tel: 805-966-1501 Fax: 805-966-9204 rgonzalez@mullenlaw.com nklouda@mullenlaw.com

[XX] **STATE:** I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct

24 Executed on December 14, 2018, at Irvine, California

Maribel Martine

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