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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF SAN DIEGO**

13 Jane Roes, et al.,

Case No. 37-2018-28044-CU-OE-CTL

14 Plaintiff,

**DECLARATION OF GARY MARLIN IN  
SUPPORT OF RESPONSE TO OPPOSITION  
TO MOTION TO FOR PRELIMINARY  
APPROVAL**

15 v.

16 Deja Vu Services, Inc., et al.,

17 Defendant.

Assigned to: Hon. Timothy Taylor

18 Complaint Filed: July 6, 2018

19 I, Gary Marlin, declare:

20 1. I have personal knowledge of all facts stated herein. If called upon as a witness, I  
21 could competently testify to the facts stated herein.

22 2. From approximately 2004 to 2013, I was the President of SFBSC MANAGEMENT,  
23 LLC (“BSC”), a management consulting firm for nightclubs. Since June 2013 I have worked with  
24 BSC as a consultant. Since at least 2004, BSC has provided consulting and administrative services to  
25 ten San Francisco nightclubs, all of whom are named as Defendants in this action (collectively, “the  
26 Clubs”. These services include marketing and advertising, human resources support, payroll  
27 coordination, contract review and administration, and oversight of all legal and litigation issues.

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3. BSC also assists its client nightclubs by collecting and storing its client nightclubs' records, including entertainer contracts ("Performer Contracts"), daily records concerning entertainer performances, performance times, dates, and hours, and entertainers' income/earnings. BSC assembles necessary information for the client nightclubs' tax professionals.

4. In the course of my work for BSC relating to its client nightclubs, I became (and I am) generally knowledgeable about the operations, policies, and practices of the client nightclubs and am familiar with the client nightclubs' personnel. I am also familiar with the record-keeping practices of the client nightclubs and I have access to the client nightclubs' records.

5. The Clubs would not have converted the Entertainers to employees had it not been for this settlement. There was a concern that business would be significantly impacted because Entertainers would not want the Clubs to assert control over their scheduling and entertainment style as is necessary in an employment relationship, and would seek to perform elsewhere where they can do so as independent contractors. As a result of the conversion, this concern became a reality. Specifically, I estimate that the Clubs have lost 25%-40% of the Entertainers who perform in those facilities following the conversion to employment status.

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

Executed on November 29, 2018

  
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Gary Marlin, Declarant