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8 *Counsel for Plaintiff*

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

11  
12 ROBERT SHAFFER, Derivatively And On Behalf  
of EXTREME NETWORKS, INC.,

13 Plaintiff,

14 v.

15 JOHN H. KISPERT, EDWARD B. MEYERCORD,  
16 III, CHARLES CARINALLI, EDWARD H.  
KENNEDY, JOHN C. SHOEMAKER, RAJ  
17 KHANNA, RANDI PAIKOFF FEIGIN, MAURY  
AUSTIN, CHARLES W. BERGER, JOHN T.  
18 KURTZWEIL, and KEN AROLA,

19 Defendants,

20 And

21 EXTREME NETWORKS, INC.,

22 Nominal Defendant.

Case No. 16 CV 291726

**EXHIBIT B**

**NOTICE TO CURRENT EXTREME  
STOCKHOLDERS**

23  
24 **NOTICE OF PROPOSED SETTLEMENT OF DERIVATIVE ACTION**

25 TO: ALL OWNERS OF EXTREME NETWORKS, INC. ("EXTREME" OR THE  
26 "COMPANY") COMMON STOCK (TICKER SYMBOL: EXTR) AS OF  
27 OCTOBER 23, 2018, WHO CONTINUE TO OWN SUCH SHARES ("CURRENT  
EXTREME STOCKHOLDERS").

1 PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. THIS NOTICE  
2 RELATES TO A PROPOSED SETTLEMENT AND DISMISSAL OF STOCKHOLDER  
3 DERIVATIVE LITIGATION AND CONTAINS IMPORTANT INFORMATION REGARDING  
YOUR RIGHTS.

4 IF THE COURT APPROVES THE SETTLEMENT AND DISMISSAL OF THE DERIVATIVE  
5 ACTION, STOCKHOLDERS OF EXTREME WILL BE FOREVER BARRED FROM  
6 CONTESTING THE APPROVAL OF THE PROPOSED SETTLEMENT AND FROM  
PURSUING RELEASED CLAIMS.

7 THIS ACTION IS NOT A "CLASS ACTION." THUS, THERE IS NO COMMON FUND  
8 UPON WHICH YOU CAN MAKE A CLAIM FOR A MONETARY PAYMENT.

9 PLEASE TAKE NOTICE that this action is being settled on the terms in a Stipulation and  
10 Agreement of Settlement, dated October 23, 2018 (the "Stipulation"). The purpose of this Notice  
is to inform you of:

- 11 • the existence of this derivative action (the "Derivative Action"),
- 12 • the proposed settlement between the Plaintiffs and Defendants reached in this  
Derivative Action (the "Settlement"),
- 13 • the hearing to be held by the Court to consider the fairness, reasonableness, and  
adequacy of the Settlement,
- 14 • Plaintiffs' Counsel's application for fees and expenses, and
- 15 • Plaintiff's Service Award.

16 This Notice describes what steps you may take in relation to the Settlement. This Notice  
17 is not an expression of any opinion by the Court about the truth or merits of Plaintiff's claims or  
18 Defendants' defenses. This Notice is solely to advise you of the proposed Settlement of the  
Derivative Action and of your rights in connection with the proposed Settlement.

#### 19 Summary

20 On October 23, 2018, Extreme, in its capacity as a nominal defendant, entered into the  
21 Stipulation in the Derivative Action filed derivatively on behalf of Extreme, in the Superior Court  
22 of the State of California, County of Santa Clara (the "Court") against certain current and former  
23 directors and officers of the Company (the "Derivative Action"). The Stipulation and the  
24 Settlement, subject to the approval of the Court, is intended by the Settling Parties<sup>1</sup> to fully,  
25 finally, and forever compromise, resolve, discharge, and settle the Released Claims and to result  
26 in the complete dismissal of the Derivative Action with prejudice, upon the terms and subject to  
the conditions set forth in the Stipulation. The proposed Settlement requires the Company to  
27 adopt certain additional corporate governance measures and procedures, as outlined in Exhibit A  
to the Stipulation, and provides that Defendants shall cause their insurer to pay a Fee and Expense  
28 Award to Plaintiff's Counsel of two hundred thousand dollars (\$200,000.00) and a Service Award  
to Plaintiff of one thousand five hundred dollars (\$1,500.00) to be paid from the Fee and Expense  
Award, subject to Court approval.

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<sup>1</sup> All capitalized terms used in this notice, unless otherwise defined herein, are defined as set forth  
in the Stipulation.

1 This notice is a summary only and does not describe all of the details of the Stipulation.  
2 For full details of the matters discussed in this summary, please see the full Stipulation posted on  
3 the Company's website, [https://investor.extremenetworks.com/statis-files/  
4 stipulation\\_of\\_settlement](https://investor.extremenetworks.com/statis-files/stipulation_of_settlement), contact Plaintiff's Counsel at the address listed below, or inspect the  
5 full Stipulation filed with the Clerk of the Court.

#### 6 What is the Lawsuit About?

7 The Derivative Action is brought derivatively on behalf of Extreme and alleges that the  
8 Individual Defendants breached their fiduciary duties by knowingly or recklessly making and/or  
9 causing Extreme to make false and misleading statements of material fact to the investing public.

#### 10 Why is there a Settlement?

11 The Court has not decided in favor of the Defendants or the Plaintiffs. Instead, both sides  
12 agreed to the Settlement to avoid the distraction, costs, and risks of further litigation, and because  
13 the Settlement provides substantial benefits to, and is in the best interests of, Extreme and its  
14 stockholders.

15 The Individual Defendants deny each and every allegation of wrongdoing or liability  
16 arising out of or relating in any way to the events, conduct, statements, acts, or omissions alleged  
17 in the Action. The Individual Defendants further assert that, at all times, they acted in good faith,  
18 and in a manner they reasonably believed to be and that was in the best interests of Extreme and  
19 Extreme's stockholders. The Individual Defendants assert that they have meritorious defenses to  
20 the claims in the Derivative Action. Nonetheless, the Individual Defendants have entered into the  
21 Stipulation, without admitting or conceding any fault, liability, wrongdoing, or damage  
22 whatsoever, in order to avoid the risks inherent in any lawsuit and the burden and expense of  
23 further litigation.

#### 24 The Settlement Hearing and Your Right to Object to the Settlement

25 On January 11, 2019, the Court entered an order preliminarily approving the Stipulation  
26 and the Settlement contemplated therein (the "Preliminary Approval Order") and providing for  
27 the Notice of the Settlement to be issued via press release, filed via Form 8-K with the SEC, and  
28 posted, along with the Stipulation, on the Company's website. The Preliminary Approval Order  
further provides that the Court will hold a hearing (the "Settlement Hearing") on May 3, 2019 at  
9:00 a.m. before the Honorable Thomas E. Kuhnle in Department 5 of the Superior Court of the  
State of California, County of Santa Clara, 191 N. First Street, San Jose, CA 95113, to among  
other things: (i) determine whether the proposed Settlement is fair, reasonable and adequate and  
in the best interests of the Company and its shareholders; (ii) consider any objections to the  
Settlement submitted in accordance with the Notice; (iii) determine whether a Judgment  
substantially in the form attached as Exhibit D to the Stipulation should be entered dismissing all  
claims in the Derivative Action with prejudice, and releasing the Released Claims against the  
Released Persons; (iv) consider the agreed-to Fee and Expense Award to Plaintiff's Counsel of  
attorneys' fees and the reimbursement of expenses; (v) consider the Service Award to Plaintiff,  
which will be funded from the Fee and Expense Award; and (vi) consider any other matters that  
may properly be brought before the Court in connection with the Settlement.

Any Current Extreme Stockholder who wishes to object to the fairness, reasonableness, or  
adequacy of the Settlement as set forth in the Stipulation, or to the proposed award of attorneys'

1 fees and expenses, may file a with the Court a written objection. Any written objection must be  
2 filed at least fourteen (14) calendar days prior to the Settlement Hearing with the Clerk of the  
3 Court and served upon the below listed counsel. A written objection to the Settlement should set  
4 forth (a) the nature of the objection; (b) proof of ownership of Extreme common stock as of  
5 October 23, 2018 and through the date of the Settlement Hearing, including the number of shares  
of Extreme common stock held and the date of purchase; (c) any and all documentation or  
evidence in support of such objection; and (d) the identities of any cases, by name, court, and  
docket number, in which the stockholder or his, her, or its attorney has objected to a settlement in  
the last three years. The Clerk's address is:

6 Clerk of the Court  
7 SUPERIOR COURT OF CALIFORNIA  
8 Department 5  
191 N. First Street  
San Jose, CA 95113

9 Counsel's addresses are:

10 **Counsel for Plaintiff:**  
11 Phillip Kim  
12 THE ROSEN LAW FIRM, P.A.  
275 Madison Avenue, 34th Floor  
New York, NY 10016

13 **Counsel for Defendants:**  
14 Shirli F. Weiss  
DLA PIPER LLP (US)  
2000 University Avenue  
15 East Palo Alto, CA 94303

16 Any objector who files and serves a timely, written objection in accordance with the  
17 instructions above may appear at the Settlement Hearing either in person or through counsel  
18 retained at the objector's expense. Objectors need not attend the Settlement Hearing, however, in  
order to have their written objections considered by the Court.

19 In addition, any Current Extreme Stockholder who wishes to object to the fairness,  
20 reasonableness, or adequacy of the Settlement as set forth in the Stipulation, or to the proposed  
21 award of attorneys' fees and expenses, may appear at the Settlement Hearing and make an  
objection without filing or serving and papers and without providing any advance notice of the  
objection.

22 If you are a Current Extreme Stockholder and do not take steps to appear in this action and  
23 object to the proposed Settlement, you will be bound by the Judgment of the Court and will  
24 forever be barred from raising an objection to such settlement in this or any other action or  
proceeding, and from pursuing any of the Released Claims.

25 If you held Extreme common stock as of October 23, 2018 and continue to hold such  
26 stock, you may have certain rights in connection with the proposed Settlement. You may obtain  
27 further information by contacting counsel for Plaintiff at: Phillip Kim, The Rosen Law Firm,  
P.A., 275 Madison Avenue, 34th Floor, New York, NY 10016, Telephone: (212) 686-1060,  
28

1 Email: [pkim@rosenlegal.com](mailto:pkim@rosenlegal.com). **Please Do Not Call the Court or Defendants with Questions**  
2 **About the Settlement.**

1 Laurence M. Rosen (SBN 219683)  
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7 Timothy W. Brown  
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9 240 Townsend Square  
10 Oyster Bay, New York 11771  
11 Telephone: (516) 922-5427  
12 Email: tbrown@thebrownlawfirm.net

13 *Counsel for Plaintiff*

14 [Additional counsel on signature page]

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

ROBERT SHAFFER, Derivatively And On Behalf  
of EXTREME NETWORKS, INC.,

Plaintiff,

v.

JOHN H. KISPERT, EDWARD B. MEYERCORD,  
III, CHARLES CARINALLI, EDWARD H.  
KENNEDY, JOHN C. SHOEMAKER, RAJ  
KHANNA, RANDI PAIKOFF FEIGIN, MAURY  
AUSTIN, CHARLES W. BERGER, JOHN T.  
KURTZWEIL, and KEN AROLA,

Defendants,

And

EXTREME NETWORKS, INC.,

Nominal Defendant.

Case No. 16 CV 291726

**STIPULATION AND AGREEMENT  
OF SETTLEMENT**

This Stipulation and Agreement of Settlement (the “Stipulation”), dated October 23, 2018,  
is made and entered into by and among the following Settling Parties (as defined herein), each by  
and through their respective counsel: (i) plaintiff to the above-captioned shareholder derivative

1 action (the “Derivative Action”), Robert Shaffer (“Plaintiff”), derivatively on behalf of Extreme  
2 Networks, Inc. (“Extreme” or the “Company”); (ii) nominal defendant Extreme; and (iii)  
3 defendants John H. Kispert, Edward B. Meyercord, III, Charles Carinalli, Edward H. Kennedy,  
4 John C. Shoemaker, Raj Khanna, Randi Paikoff Feigin, Maury Austin, Charles W. Berger, John  
5 T. Kurtzweil, and Ken Arola (collectively, the “Individual Defendants,” and together with  
6 Extreme, “Defendants”), all of whom are current or former members of Extreme’s Board of  
7 Directors (the “Board”) and/or senior officers of Extreme. This Stipulation, subject to the  
8 approval of the Superior Court of the State of California, County of Santa Clara (the “Court”), is  
9 intended by the Settling Parties to fully, finally, and forever compromise, resolve, discharge, and  
10 settle the Released Claims (as defined herein) and to result in the complete dismissal of the  
11 Derivative Action with prejudice, upon the terms and subject to the conditions set forth herein,  
12 and without any admission or concession as to the merits of any of the Settling Parties’ claims or  
13 defenses.  
14

## 15 **I. INTRODUCTION**

### 16 **A. Factual Background**

17  
18 Extreme, a Delaware corporation with its principal executive offices in San Jose,  
19 California, is a provider of wired and wireless network infrastructure equipment, software and  
20 services for enterprises, data centers and service providers. Plaintiff alleges in the Derivative  
21 Action that the Individual Defendants knowingly or recklessly made and/or caused the Company  
22 to make false and misleading statements and/or omissions concerning Extreme’s business,  
23 operations, and prospects in its press releases, conference calls, and filings with the U.S.  
24 Securities and Exchange Commission (“SEC”).  
25

### 26 **B. Procedural Background**

27 On February 18, 2016, Plaintiff filed the Derivative Action in the Court against the  
28

1 Individual Defendants, asserting claims for breach of fiduciary duty, abuse of control, gross  
2 mismanagement, and unjust enrichment.

3 On April 7, 2016, the Derivative Action was reassigned for all purposes to the Honorable  
4 Peter H. Kirwan.

5 On April 11, 2016, the Court entered an order deeming the Derivative Action as complex  
6 and staying discovery.

7 On April 11, 2016, the Court also entered an order staying the Derivative Action until  
8 entry of any order(s) denying all motions to dismiss in the related securities fraud class action  
9 pending in the United States District Court for the Northern District of California (the “District  
10 Court”), captioned *In re Extreme Networks, Inc. Securities Litigation*, Master File No. 4:15-cv-  
11 04883 (the “Securities Class Action”), or a final order dismissing the Securities Class Action with  
12 prejudice.

13 On March 21, 2018, the District Court entered an order granting in part and denying in  
14 part the Securities Class Action defendants’ motion to dismiss the amended complaint filed in the  
15 Securities Class Action.

16 Shortly after the order granting in part and denying in part the Securities Class Action  
17 defendants’ motion to dismiss the amended complaint was entered, the Settling Parties began  
18 engaging in settlement negotiations.

### 19 **C. Settlement Negotiations**

20 On May 13, 2018, Plaintiff’s Counsel (as defined herein) sent a settlement demand to  
21 Defendants’ Counsel (as defined herein) that included proposed corporate governance reforms for  
22 the Company to implement.

23 On July 18, 2018, the Settling Parties participated in an in-person, full-day mediation (the  
24 “Mediation”) in Los Angeles, California with Robert Meyer of JAMS (the “Mediator”), a  
25



1 nationally reputed mediator, to reach a resolution of the Derivative Action. The Settling Parties  
2 did not reach a resolution in the Mediation meeting of July 18, 2018. Thereafter the Settling  
3 Parties continued settlement discussions with the assistance of the Mediator and continued to  
4 proffer and respond to proposals and counter-proposals.

5  
6 On July 27, 2018, the Settling Parties agreed in principle to the terms of the settlement  
7 reflected in this Stipulation (the "Settlement"), except for the amount of attorneys' fees and  
8 expenses to be paid to Plaintiff's Counsel.

9 The Settling Parties agreed in principle to certain corporate governance reforms, the terms  
10 of which are fully set forth in Exhibit A attached hereto (the "Reforms"). As a condition of the  
11 Settlement, Extreme will agree to institute and maintain the Reforms for at least three (3) years.

12  
13 With substantial assistance from the Mediator, and after agreeing in principle to the  
14 Reforms, the Settling Parties thereafter negotiated at arm's-length the attorneys' fees and  
15 reimbursement of expenses to be paid to Plaintiff's Counsel to be paid by or on behalf of  
16 Extreme. On August 17, 2018, the Defendants agreed to cause their insurer to pay \$200,000.00 to  
17 Plaintiff's Counsel as their attorneys' fees and expenses (the "Fee and Expense Award") on  
18 behalf of Extreme, in light of the substantial benefit that will be conferred upon the Company and  
19 its shareholders by the Reforms as a result of the Settlement of the Derivative Action.

20  
21 **II. PLAINTIFF'S COUNSEL'S INVESTIGATION AND RESEARCH, PLAINTIFF'S  
22 CLAIMS, AND THE SUBSTANTIAL BENEFIT OF SETTLEMENT**

23 Plaintiff's Counsel conducted investigations relating to the claims and the underlying  
24 events alleged in the respective Derivative Action, including, but not limited to: (1) reviewing and  
25 analyzing the Company's public filings with the SEC, press releases, announcements, transcripts  
26 of investor conference calls, and news articles; (2) reviewing and analyzing the allegations  
27 contained in the related Securities Class Action; (3) researching and drafting the shareholder  
28 derivative complaint in the Derivative Action; (4) reviewing the pleadings, briefs, and orders on

1 motions to dismiss filed in the related Securities Class Action; (5) researching the applicable law  
2 with respect to the claims in the Derivative Action and the potential defenses thereto; (6)  
3 researching and drafting an amended shareholder derivative complaint, which Plaintiff did not  
4 ultimately file; (7) researching corporate governance issues; (8) preparing an extensive settlement  
5 demand and corporate governance reforms proposals; (9) attending the in-person, full-day  
6 Mediation in Los Angeles, California and preparing a comprehensive mediation statement in  
7 advance of the Mediation; and (10) engaging in extensive settlement discussions with  
8 Defendants' Counsel.

10 Plaintiff's Counsel believe that the claims asserted in the Derivative Action have merit  
11 and that their investigations support the claims asserted. Without conceding the merit of any of  
12 Defendants' defenses or the lack of merit of any of their own allegations, and in light of the  
13 substantial benefit of the Settlement, as well as to avoid the potentially protracted time, expense,  
14 and uncertainty associated with continued litigation, including potential trials and appeals,  
15 Plaintiff has concluded that it is desirable that the Derivative Action be fully and finally settled in  
16 the manner, and upon the terms and conditions, set forth in this Stipulation. Plaintiff and  
17 Plaintiff's Counsel recognize the significant risk, expense, and length of continued proceedings  
18 necessary to prosecute the Derivative Action against the Individual Defendants through trials and  
19 possible appeals. Plaintiff's Counsel also have taken into account the uncertain outcome and the  
20 risk of any litigation, especially complex litigation such as the Derivative Action, as well as the  
21 difficulties and delays inherent in such litigation. Based on their evaluation, and in light of the  
22 substantial benefit conferred upon the Company and its shareholders as a result of the Settlement,  
23 Plaintiff and Plaintiff's Counsel have determined that the Settlement is in the best interests of  
24 Plaintiff, Extreme, and Current Extreme Stockholders (as defined herein), and have agreed to  
25 settle the Derivative Action upon the terms, and subject to the conditions, set forth herein.  
26  
27  
28



1 As used in this Stipulation, the following terms have the meanings specified below. In the  
2 event of any inconsistency between any definition set forth below and any definition set forth in  
3 any document attached as an exhibit to this Stipulation, the definitions set forth below shall  
4 control.

5 1.1 "Board" means the Extreme Board of Directors.

6 1.2 "Claims" means, collectively, any and all claims, rights, demands, causes of action  
7 or liabilities of any kind, nature and character (including but not limited to claims  
8 for damages, interest, attorneys' fees, expert or consulting fees, and any and all  
9 other costs, expenses or liabilities whatsoever), whether based on federal, state,  
10 local, statutory or common law or any other law, rule or regulation, whether  
11 foreign or domestic, whether fixed or contingent, accrued or unaccrued, liquidated  
12 or unliquidated, at law or in equity, matured or unmatured.

13 1.3 "Court" means the Superior Court of the State of California, Santa Clara County.

14 1.4 "Current Extreme Stockholders" means, for purposes of this Stipulation, any  
15 Persons (defined below) who owned Extreme common stock as of the date of this  
16 Stipulation and who continue to hold their Extreme common stock as of the date of  
17 the Settlement Hearing, excluding the Individual Defendants, the officers and  
18 directors of Extreme, members of their immediate families, and their legal  
19 representatives, heirs, successors, or assigns, and any entity in which Individual  
20 Defendants have or had a controlling interest.

21 1.5 "Defendants" means, collectively, the Individual Defendants and nominal  
22 defendant Extreme.  
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- 1.6 “Defendants’ Counsel” means Bergeson LLP as to Defendant Extreme and DLA Piper LLP, 2000 University Avenue, East Palo Alto, California 94303 as to the Individual Defendants.
- 1.7 “Defendants’ Released Claims” means all Claims that could be asserted in any forum by the Released Persons against Plaintiff, and Plaintiff’s Counsel, Extreme, and all Current Extreme Stockholders (solely in their capacity as Extreme stockholders) (including known and unknown Claims brought directly), arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement, or resolution of the Derivative Action or the Released Claims; provided, however, that nothing herein shall in any way release, waive, impair, or restrict the rights of any Settling Party to enforce the terms of this Settlement.
- 1.8 “Derivative Action” means the shareholder derivative action filed in this Court, captioned: *Shaffer v. Kispert, et al.*, Case No. 16-cv-291726.
- 1.9 “District Court” means the United States District Court for the Northern District of California.
- 1.10 “Effective Date” means the first date by which all of the events and conditions specified in Section IV, ¶ 6.1 herein have been met and have occurred.
- 1.11 “Fee and Expense Award” means the sum to be paid to Plaintiff’s Counsel for their attorneys’ fees and expenses, as detailed in Section IV, ¶¶ 5.1-5.2 of this Stipulation, subject to approval by the Court.
- 1.12 “Final” means the first date when an order or judgment that has not been reversed, vacated, or modified in any way and is no longer subject to appellate review, either because of disposition on appeal and conclusion of the appellate process (including potential writ proceedings) or because of passage, without action, of time for

1 seeking appellate or writ review. More specifically, it is that first date when,  
2 except as provided herein, (1) either no appeal or petition for review by writ has  
3 been filed and the time has passed for any notice of appeal or writ petition to be  
4 timely filed in the Derivative Action; or (2) an appeal has been filed and the court  
5 of appeals has either affirmed the order or judgment or dismissed that appeal and  
6 the time for any reconsideration or further appellate review has passed; or (3) a  
7 higher court has granted further appellate review, and that court has either affirmed  
8 the underlying order or judgment or affirmed the court of appeals' decision  
9 affirming the order or judgment or dismissing the appeal or writ proceeding.  
10 Notwithstanding anything to the contrary, a reversal or modification of the  
11 proposed Fee and Expense Award shall not prevent the Settlement from an order  
12 or judgement becoming Final as to all other matters therein.  
13

14  
15 1.13 "Individual Defendants" means, collectively: John H. Kispert, Edward B.  
16 Meyercord, III, Charles Carinalli, Edward H. Kennedy, John C. Shoemaker, Raj  
17 Khanna, Randi Paikoff Feigin, Maury Austin, Charles W. Berger, John T.  
18 Kurtzweil, and Ken Arola.

19  
20 1.14 "Judgment" means the final order and judgment to be rendered by the Court,  
21 substantially in the form attached hereto as Exhibit D.

22 1.15 "Mediator" means Robert Meyer.

23 1.16 "Notice to Current Extreme Stockholders" or "Notice" means the Notice to  
24 Current Extreme Stockholders, substantially in the form of Exhibit B attached  
25 hereto.

26 1.17 "Person(s)" means an individual, corporation, limited liability company,  
27 professional corporation, partnership, limited partnership, limited liability  
28

1 partnership, association, joint stock company, estate, legal representative, trust,  
2 unincorporated association, government or any political subdivision or agency  
3 thereof, and any business or legal entity, and where applicable: their spouses,  
4 heirs, predecessors, successors, administrators, parents, subsidiaries, affiliates,  
5 representatives, or assignees.

6  
7 1.18 “Plaintiff” means Robert Shaffer.

8 1.19 “Plaintiff’s Counsel” means: (1) The Rosen Law Firm, P.A., 275 Madison  
9 Avenue, 34th Floor, New York, New York 10016; and (2) The Brown Law Firm,  
10 P.C., 240 Townsend Square, Oyster Bay, New York 11771.

11 1.20 “Preliminary Approval Order” means the Order to be entered by the Court,  
12 substantially in the form of Exhibit C attached hereto, including, *inter alia*,  
13 preliminarily approving the terms and conditions of the Settlement as set forth in  
14 this Stipulation, directing that Notice be provided to Current Extreme  
15 Stockholders, and scheduling a Settlement Hearing to consider whether the  
16 Settlement and Fee and Expense Award should be finally approved.

17  
18 1.21 “Extreme” or the “Company” means nominal defendant Extreme Networks, Inc.  
19 and includes all of its subsidiaries, predecessors, successors, affiliates, officers,  
20 directors, employees, and agents.

21  
22 1.22 “Related Persons” means each and all of a Person’s past, present, or future family  
23 members, spouses, domestic partners, parents, associates, affiliates, divisions,  
24 subsidiaries, officers, directors, stockholders, owners, members, representatives,  
25 employees, attorneys, financial or investment advisors, consultants, underwriters,  
26 investment banks or bankers, commercial bankers, insurers, reinsurers, excess  
27 insurers, co-insurers, advisors, principals, agents, heirs, executors, trustees, estates,  
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beneficiaries, distributees, foundations, general or limited partners or partnerships, joint ventures, personal or legal representatives, administrators, or any other person or entity acting or purporting to act for or on behalf of any Person, and each of their respective predecessors, successors, and assigns.

1.23 “Released Claims” means all Claims, including known and Unknown Claims (as defined herein), against any of the Released Persons that (i) were asserted or could have been asserted derivatively in the Derivative Action; (ii) would have been barred by *res judicata* had the Derivative Action been fully litigated to final judgment; or (iii) that could have been, or could in the future be, asserted derivatively in any forum or proceeding or otherwise against any of the Released Persons that (a) concern, arise out of or relate in any way to any of the subject matters, allegations, transactions, facts, occurrences, representations, statements, or omissions alleged, involved, set forth, or referred to in any complaint in the Derivative Action, *provided that* Released Claims shall not include: (a) claims to enforce the terms of this Settlement; (b) obligations regarding confidentiality arising from the mediation and settlement process; or (c) or claims or rights of indemnification held by the Individual Defendants arising from their status as current or former directors or officers of Extreme.

1.24 “Released Person(s)” means, collectively, each and all of the Defendants and their Related Persons.

1.25 “Settlement” means the settlement of the Derivative Action as documented in this Stipulation.

1.26 “Settlement Hearing” means a hearing by the Court to review the adequacy, fairness, and reasonableness of the Settlement set forth in this Stipulation and to



determine: (i) whether to enter the Judgment; and (ii) all other matters properly before the Court.

1.27 “Settling Parties” means, collectively, the Plaintiff (individually and derivatively on behalf of Extreme), each of the Individual Defendants, and nominal defendant Extreme.

1.28 “Stipulation” means this Stipulation and Agreement of Settlement, dated October 23, 2018.

1.29 “Unknown claims” means any Claims that Plaintiff, Extreme or any Current Extreme Stockholder (claiming in the right of, or on behalf of, the Company) does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Persons that, if known by him, her, or it, might have affected his, her, or its settlement with and release of the Released Persons, or might have affected his, her, or its decision not to object to this Settlement. Unknown Claims include those Claims in which some or all of the facts comprising the Claim may be unsuspected, or even undisclosed or hidden. With respect to any and all Released Claims, including Unknown Claims, the Settling Parties stipulate and agree that, upon the Effective Date, they shall expressly waive, and every Current Extreme Stockholder shall be deemed to have, and by operation of the Judgment shall have, expressly waived 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.**

1 The Settling Parties shall expressly waive, and every Current Extreme Stockholder  
2 shall be deemed to have, and by operation of the Judgment shall have, expressly  
3 waived any and all provisions, rights, and benefits conferred by any law of any  
4 state or territory of the United States, or principle of common law or foreign law,  
5 which is similar, comparable or equivalent in effect to California Civil Code §  
6 1542. Plaintiff, Extreme, and/or any Current Extreme Stockholders may hereafter  
7 discover facts in addition to or different from those which he, she, or it now knows  
8 or believes to be true with respect to the subject matter of the Released Claims, but  
9 the Settling Parties shall expressly have, and every Current Extreme Stockholder  
10 shall be deemed to have, and by operation of the Judgment shall have, fully,  
11 finally, and forever settled and released any and all Released Claims, known or  
12 unknown, suspected or unsuspected, contingent or non-contingent, whether or not  
13 concealed or hidden, which now exist, or heretofore have existed, upon any theory  
14 of law or equity now existing or coming into existence in the future, including, but  
15 not limited to, conduct which is negligent, reckless, intentional, with or without  
16 malice, or a breach of any duty, law or rule, without regard to the subsequent  
17 discovery or existence of such different or additional facts. The Settling Parties  
18 acknowledge, and every Current Extreme Stockholder shall be deemed by  
19 operation of the Judgment to have acknowledged, that the foregoing waivers were  
20 separately bargained for and a key element of the Settlement of which this release  
21 is a material and essential part.

## 22 **2. Terms of the Settlement**

23 2.1 The benefits of the Settlement consist of the Reforms, the terms of which are fully  
24 set forth in Exhibit A attached hereto. Extreme acknowledges and agrees that the filing,  
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pendency, and settlement of the Derivative Action is a precipitating and material factor to the Company's decision to adopt and implement the Reforms. Extreme also acknowledges and agrees that the Reforms confer a substantial benefit to Extreme and its shareholders.

2.2 Extreme shall ensure that the Reforms have been adopted no later than thirty (30) days from the Effective Date and shall maintain the Reforms for at least three (3) years after the Effective Date.

### **3. Procedure for Implementing the Settlement**

3.1 Promptly after execution of this Stipulation, the Plaintiff shall submit this Stipulation, together with its exhibits, to the Court and apply for entry of the Preliminary Approval Order in this Court, substantially in the form of Exhibit C attached hereto, requesting, *inter alia*: (i) preliminary approval of the Settlement set forth in this Stipulation; (ii) approval of the method of providing notice of the proposed Settlement to Current Extreme Stockholders; (iii) approval of the form of notice substantially in the form of Exhibit B attached hereto; and (iv) a date for the Settlement Hearing.

3.2 Extreme shall undertake the administrative responsibility for giving Notice to Current Extreme Stockholders in the manner set forth in this paragraph. Extreme shall be solely responsible for paying the costs and expenses related to providing such Notice or any notice that is required by the Court. Within ten (10) calendar days after the Court's entry of the Preliminary Approval Order, Extreme shall post the Notice, together with the Stipulation, on the investor relations portion of Extreme's corporate website, and Extreme shall issue the Notice as a press release and file the Notice with the SEC on Form 8-K, with both the press release and Form 8-K referring shareholders via an internet link to the Notice and Stipulation posted on the investor relations portion of Company's corporate website. The Settling Parties believe the content of the

1 Notice and the manner of the notice procedures set forth in this paragraph constitute adequate and  
2 reasonable notice to Current Extreme Stockholders pursuant to applicable law and due process.

3 3.3 Plaintiff's Counsel shall request that the Court hold the Settlement Hearing at least  
4 forty-five (45) calendar days after the deadline to provide the Notice described in Section IV, ¶  
5 3.2 above to Current Extreme Stockholders to approve the Settlement and the Fee and Expense  
6 Award.  
7

8 3.4 Pending the Court's determination as to final approval of the Settlement, Plaintiff  
9 and Plaintiff's Counsel, and any Current Extreme Stockholders, derivatively on behalf of  
10 Extreme, are barred and enjoined from commencing, prosecuting, instigating, or in any way  
11 participating in the commencement or prosecution of any action asserting any Released Claims  
12 against any of the Released Persons in any court or tribunal.  
13

#### 14 **4. Releases**

15 4.1 Upon the Effective Date, Extreme, Plaintiff, and each of Extreme's current and  
16 former stockholders shall be deemed to have, and by operation of the Judgment shall have, fully,  
17 finally, and forever released, relinquished, and discharged the Released Claims against the  
18 Released Persons. Extreme, Plaintiff, and each of Extreme's current and former stockholders  
19 shall be deemed to have, and by operation of the Judgment shall have, covenanted not to sue any  
20 Released Person with respect to any Released Claims, and shall be permanently barred and  
21 enjoined from instituting, commencing or prosecuting the Released Claims against the Released  
22 Persons except to enforce the releases and other terms and conditions contained in this Stipulation  
23 and/or the Judgment entered pursuant thereto.  
24

25 4.2 Upon the Effective Date, each of the Released Persons shall be deemed to have,  
26 and by operation of the Judgment shall have, fully, finally, and forever released, relinquished and  
27 discharged each and all of Plaintiff and their beneficiaries, Plaintiff's Counsel, Extreme, and all  
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1 current and former Extreme stockholders (solely in their capacity as Extreme shareholders) from  
2 any and all Defendants' Released Claims. The Released Persons shall be deemed to have, and by  
3 operation of the Judgment shall have, covenanted not to sue Plaintiff or their beneficiaries,  
4 Plaintiff's Counsel, Extreme, or any current or former Extreme stockholders (solely in their  
5 capacity as Extreme shareholders) with respect to any Defendants' Released Claims, and shall be  
6 permanently barred and enjoined from instituting, commencing or prosecuting Defendants'  
7 Released Claims against all of Plaintiff and their beneficiaries, Plaintiff's Counsel, Extreme, and  
8 all current and former Extreme stockholders except to enforce the releases and other terms and  
9 conditions contained in this Stipulation and/or the Judgment entered pursuant thereto.  
10

11 4.3 Nothing herein shall in any way release, waive, impair, or restrict the rights of any  
12 of the Settling Parties to enforce the terms of the Stipulation.  
13

14 **5. Plaintiff's Counsel's Attorneys' Fees and Expenses**

15 5.1 In recognition of the substantial benefit provided to Extreme and Current Extreme  
16 Stockholders due to the Reforms as a result of the Settlement, Defendant Extreme shall cause its  
17 insurer to pay to Plaintiff's Counsel, attorneys' fees and expenses in the amount of two hundred  
18 thousand dollars (\$200,000.00) (the "Fee and Expense Award"), subject to the Court's approval.  
19 Such Fee and Expense Award shall be deemed to cover all fees and expenses for all Plaintiff's  
20 Counsel in the Derivative Action. The Settling Parties mutually agree that the Fee and Expense  
21 Award is fair and reasonable in light of the substantial benefit conferred upon Extreme and  
22 Current Extreme Stockholders by the Reforms.  
23

24 5.2 To the extent awarded by the Court, Defendants shall cause their insurer to pay the  
25 Fee and Expense Award to Plaintiff's Counsel's escrow account (the "Escrow Account") within  
26 twenty (20) calendar days of the Court's entering the Preliminary Approval Order. Plaintiff's  
27 Counsel shall provide Defendants' counsel, within five (5) calendar days after entry of the  
28

1 Preliminary Approval Order, all necessary payment details to accomplish payment of the Fee and  
2 Expense Award to the Escrow Account by wire transfer, including bank account number, name of  
3 bank, bank address, a Sort Code or ABA Routing Number, wire transfer instructions, the Tax  
4 Identification Number, and an executed Form W-9. Defendants' Counsel shall have no  
5 responsibility for, nor bear any risk or liability with respect to, the Escrow Account, its operation,  
6 and any taxes or expenses incurred in connection with the Escrow Account. Plaintiff's Counsel  
7 shall be solely responsible for any administrative costs associated with the Escrow Account as well  
8 as the filing of all informational and other tax returns with the Internal Revenue Service, or any  
9 other state or local taxing authority, as may be necessary or appropriate.  
10

11           5.3     The Fee and Expense Award shall remain in the Escrow Account until the entry of  
12 the Judgment by the Court finally approving the Settlement, at which time the Fee and Expense  
13 Award shall be immediately releasable to Plaintiff's Counsel. Should the Court order the payment  
14 of attorneys' fees and expenses to Plaintiff's Counsel in an amount less than the agreed Fee and  
15 Expense Award prior to, or at the time of, entry of the Judgment, then only the Court-approved  
16 amount shall be released to Plaintiff's Counsel and any amounts remaining in the Escrow Account  
17 after entry of Judgment shall be returned to Defendants' insurer within ten (10) calendar days of  
18 entry of the Judgment.  
19

20           5.4     Payment of the Fee and Expense Award in the amount approved by the Court shall  
21 constitute final and complete payment for Plaintiff's Counsel's attorneys' fees and expenses that  
22 have been incurred or will be incurred in connection with the filing and prosecution of the  
23 Derivative Action and the resolution of the claims alleged therein. Defendants and Defendants'  
24 Counsel shall have no responsibility for the allocation or distribution of the Fee and Expense  
25 Award amongst Plaintiff's Counsel. Defendants, including Extreme, shall have no obligation to  
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28

1 make any payment to any Plaintiff's Counsel other than the payment to the Escrow Account  
2 provided in Section IV, ¶¶ 5.1-5.2 herein.

3           5.5 If for any reason any condition in Section IV, ¶ 6.1 is not met and the Effective  
4 Date of the Stipulation does not occur, if the Stipulation is in any way canceled or terminated, or  
5 if the Judgment is reversed on appeal, then each of Plaintiff's Counsel and their successors shall  
6 be obligated to repay, within ten (10) calendar days after written notification of such an event, the  
7 amount of the Fee and Expense Award paid by Defendants' insurer that they received. In the  
8 event of any failure to obtain final approval of the full amount of the Fee and Expense Award, or  
9 upon any appeal and/or further proceedings on remand, or successful collateral attack, which  
10 results in the Judgment or the Fee and Expense Award being overturned or substantially  
11 modified, each of Plaintiff's Counsel and their successors shall be obligated to repay, within ten  
12 (10) calendar days, the portion of the Fee and Expense Award paid by Defendants' insurer that  
13 they received and that was ultimately not awarded to Plaintiff's Counsel.

14           5.6 In light of the substantial benefit Plaintiff has helped to create for all Current  
15 Extreme Stockholders, Plaintiff shall apply for a Court-approved service award in the amount of  
16 one thousand five hundred dollars (\$1,500.00) (the "Service Award"), which Defendants shall not  
17 oppose. The Service Award to the Plaintiff, to the extent that it is approved, shall be funded from  
18 the Fee and Expense Award.

19  
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21  
22           **6. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination**

23           6.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all  
24 of the following events:

- 25                   (i) the entry of the Preliminary Approval Order;
- 26                   (ii) the Court's entry of the Judgment;
- 27                   (iii) the payment of the Fee and Expense Award in accordance with Section IV,
- 28

¶¶ 5.1-5.2 hereof; and

(iv) the Judgment has become Final.

6.2 If any of the conditions specified in Section IV, ¶ 6.1 are not met, then the Stipulation shall be cancelled and terminated subject to Section IV, ¶ 6.4, and the Settling Parties shall be restored to their respective positions in the Derivative Action as of the date immediately preceding the date of this Stipulation unless Plaintiff's Counsel and Defendants' Counsel mutually agree in writing to proceed with the Stipulation.

6.3 Each of the Settling Parties shall have the right to terminate the Settlement by providing written notice of their election to do so to all other Settling Parties within twenty (20) calendar days of the date on which: (i) the Court refuses to approve this Stipulation, or the terms contained herein, in any material respect; (ii) the Preliminary Approval Order is not entered in substantially the form attached as Exhibit C hereto; (iii) the Judgment is not entered in substantially the form attached as Exhibit D hereto; (iv) the Judgment is reversed or substantially modified on appeal, reconsideration, or otherwise; or (v) the Effective Date of the Settlement cannot otherwise occur; except that such termination shall not be effective unless and until the terminating Settling Party has, within twenty (20) calendar days of the date on which notice of the termination event has been provided to all other Settling Parties, attempted in good faith to confer with the other Settling Parties and/or to participate in a mediation session with the Mediator and the other Settling Parties to attempt to remedy the issue. Any order or proceeding relating to the Fee and Expense Award, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to cancel the Stipulation, allow for the termination of the Settlement, or affect or delay the finality of the Judgment approving the Settlement.

6.4 In the event that the Stipulation is not approved by the Court, or the Settlement is terminated for any reason, including pursuant to Section IV, ¶ 6.3 above, the Settling Parties shall



1 be restored to their respective positions as of the date immediately preceding the date of this  
2 Stipulation, and all negotiations, proceedings, documents prepared and statements made in  
3 connection herewith shall be without prejudice to the Settling Parties, shall not be deemed or  
4 construed to be an admission by any of the Settling Parties of any act, matter, or proposition, and  
5 shall not be used in any manner for any purpose in any subsequent proceeding in the Derivative  
6 Action or in any other action or proceeding. In such event, the terms and provisions of the  
7 Stipulation, with the exception of Section IV, ¶¶ 1.1-1.29, 5.5, 6.2, 6.4, 8.3-8.6, 8.8, 8.10, and  
8 8.12-8.19 herein, shall have no further force and effect with respect to the Settling Parties and  
9 shall not be used in the Derivative Action or in any other proceeding for any purpose, and any  
10 judgment or orders entered by the Court in accordance with the terms of the Stipulation shall be  
11 treated as vacated, *nunc pro tunc*.  
12

#### 13 **7. Bankruptcy**

14  
15 7.1 In the event any proceedings by or on behalf of Extreme, whether voluntary or  
16 involuntary, are initiated under any chapter of the United States Bankruptcy Code, including any  
17 act of receivership, asset seizure, or similar federal or state law action (“Bankruptcy  
18 Proceedings”), the Settling Parties agree to use their reasonable best efforts to obtain all necessary  
19 orders, consents, releases, and approvals for effectuation of this Stipulation in a timely and  
20 expeditious manner.  
21

22 7.2 In the event of any Bankruptcy Proceedings by or on behalf of Extreme, the  
23 Settling Parties agree that all dates and deadlines set forth herein will be extended for such  
24 periods of time as are necessary to obtain necessary orders, consents, releases and approvals from  
25 the bankruptcy court to carry out the terms and conditions of the Stipulation.  
26

#### 27 **8. Miscellaneous Provision**

28 8.1 The Settling Parties: (i) acknowledge that it is their intent to consummate this

1 Stipulation; and (ii) agree to cooperate to the extent reasonably necessary to effectuate and  
2 implement all terms and conditions of the Stipulation and to exercise their best efforts to  
3 accomplish the foregoing terms and conditions of the Stipulation. To the extent the Settling  
4 Parties are unable to reach agreement concerning such best efforts, any Settling Party may refer  
5 the matter to the Mediator for mediated resolution, subject to Court approval, with the fees and  
6 expenses of the Mediator to be divided equally between Plaintiff on the one hand, and Defendants  
7 on the other.  
8

9 8.2 The Settling Parties agree that the terms of the Settlement were negotiated in good  
10 faith and at arm's-length by the Settling Parties and reflect a settlement that was reached  
11 voluntarily based upon adequate information and after consultation with competent legal counsel.  
12 The Parties shall not take the position that the litigation was brought or defended in bad faith or in  
13 violation of California Code of Civil Procedure § 128.7.  
14

15 8.3 While maintaining their positions that the claims and defenses asserted in the  
16 Derivative Action are meritorious, Plaintiff and Plaintiff's Counsel, on the one hand, and  
17 Defendants and Defendants' Counsel, on the other, shall not make any public statements or  
18 statements to the media (whether or not for attribution) that disparage the other's business,  
19 conduct, or reputation, or that of their counsel, based on the subject matter of the Derivative  
20 Action. Notwithstanding the foregoing, each of the Settling Parties reserves their right to rebut,  
21 in a manner that such party determines to be reasonable and appropriate, any contention made in  
22 any public forum that the Derivative Action was brought or defended in bad faith or without a  
23 reasonable basis.  
24

25 8.4 Whether or not the Settlement is approved by the Court, and whether or not the  
26 Settlement is consummated, the fact and terms of this Stipulation, including any exhibits attached  
27  
28

1 hereto, all proceedings in connection with the Settlement, and any act performed or document  
2 executed pursuant to or in furtherance of the Stipulation or the Settlement:

3 (a) shall not be offered, received, or used in any way against the Settling Parties as  
4 evidence of, or be deemed to be evidence of, a presumption, concession, or admission by any of  
5 the Settling Parties with respect to the truth of any fact alleged by Plaintiff or the validity, or lack  
6 thereof, of any claim that has been or could have been asserted in the Derivative Action or in any  
7 litigation, or the deficiency, infirmity, or validity of any defense that has been or could have been  
8 asserted in the Derivative Action or in any litigation, or of any fault, wrongdoing, negligence, or  
9 liability of any of the Released Persons;  
10

11 (b) shall not be offered, received, or used in any way against any of the Released Persons  
12 as evidence of, or be deemed to be evidence of, a presumption, concession, or admission of any  
13 fault, misrepresentation or omission with respect to any statement or written document approved,  
14 issued, or made by any Released Person, or against Plaintiff as evidence of any infirmity in their  
15 claims; and  
16

17 (c) shall not be offered, received, or used in any way against any of the Released Persons  
18 as evidence of, or be deemed to be evidence of, a presumption, concession, or admission of any  
19 liability, fault, negligence, omission or wrongdoing, or in any way referred to for any other reason  
20 as against the Released Persons, in any arbitration proceeding or other civil, criminal, or  
21 administrative action or proceeding in any court, administrative agency, or other tribunal.  
22

23 8.5 Neither this Stipulation nor the Settlement, nor any act performed or document  
24 executed pursuant to or in furtherance of this Stipulation, or the Settlement, shall be admissible in  
25 any proceeding for any purpose, except to enforce the terms of the Settlement; provided,  
26 however, that the Released Persons may refer to the Settlement, and file the Stipulation and/or the  
27 Judgment, in any action that may be brought against them to effectuate the liability protections  
28

1 granted them hereunder, including, without limitation, to support a defense or claim based on  
2 principles of *res judicata*, collateral estoppel, full faith and credit, release, standing, good faith  
3 settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion  
4 or similar defense or claim under U.S. federal or state law or foreign law.

5  
6 8.6 The exhibits to the Stipulation are material and integral parts hereof and are fully  
7 incorporated herein by this reference.

8 8.7 The Stipulation may be amended or modified only by a written instrument signed  
9 by or on behalf of all the Settling Parties or their respective successors-in-interest. After prior  
10 notice to the Court, but without further order of the Court, the Settling Parties may agree to  
11 reasonable extensions of time to carry out any provisions of this Stipulation.

12 8.8 This Stipulation and the exhibits attached hereto represent the complete and final  
13 resolution of all disputes among the Settling Parties with respect to the Derivative Action,  
14 constitute the entire agreement among the Settling Parties, and supersede any and all prior  
15 negotiations, discussions, agreements, or undertakings, whether oral or written, with respect to  
16 such matters.

17  
18 8.9 The waiver by one party of any breach of the Settlement by any other party shall  
19 not be deemed a waiver of any other prior or subsequent breach of the Settlement. The provisions  
20 of the Settlement may not be waived except by a writing signed by the affected party, or counsel  
21 for that party.

22  
23 8.10 The headings in the Stipulation and its exhibits are used for the purpose of  
24 convenience only and are not meant to have legal effect.

25 8.11 The Stipulation and the Settlement shall be binding upon, and inure to the benefit  
26 of, the successors and assigns of the Settling Parties and the Released Persons. The Settling  
27 Parties agree that this Stipulation will run to their respective successors-in-interest, and they  
28

1 further agree that any planned, proposed or actual sale, merger or change-in-control of Extreme  
2 shall not void this Stipulation, and that in the event of a planned, proposed or actual sale, merger  
3 or change-in-control of Extreme they will continue to seek final approval of this Stipulation  
4 expeditiously, including, but not limited to, the Settlement terms reflected in this Stipulation and  
5 the Fee and Expense Award.  
6

7 8.12 The Stipulation and the exhibits attached hereto shall be considered to have been  
8 negotiated, executed, and delivered, and to be wholly performed, in the State of California and the  
9 rights and obligations of the Settling Parties to the Stipulation shall be construed and enforced in  
10 accordance with, and governed by, the internal, substantive laws of the State of California without  
11 giving effect to that State's choice of law principles. No representations, warranties, or  
12 inducements have been made to any party concerning the Stipulation or its exhibits other than the  
13 representations, warranties, and covenants contained and memorialized in such documents.  
14

15 8.13 This Stipulation shall not be construed more strictly against one Settling Party than  
16 another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel  
17 for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations  
18 among the Settling Parties and all Settling Parties have contributed substantially and materially to  
19 the preparation of this Stipulation.  
20

21 8.14 All agreements made and orders entered during the course of the Derivative  
22 Action relating to the confidentiality of information and documents shall survive this Stipulation.

23 8.15 Nothing in this Stipulation, or the negotiations or proceedings relating to the  
24 Settlement, is intended to or shall be deemed to constitute a waiver of any applicable privilege or  
25 immunity, including, without limitation, the attorney-client privilege, the joint defense privilege,  
26 the accountants' privilege, or work product immunity; further, all information and documents  
27 transmitted between Plaintiff's Counsel and Defendants' Counsel in connection with the  
28

1 Settlement shall be kept confidential and shall be inadmissible in any proceeding in any U.S.  
2 federal or state court or other tribunal or otherwise, in accordance with Rule 408 of the Federal  
3 Rules of Evidence as if such Rule applied in all respects in any such proceeding or forum.

4 8.16 The Settling Parties intend that the Court retain jurisdiction for the purpose of  
5 effectuating and enforcing the terms of the Settlement.  
6

7 8.17 Each counsel or other Person executing the Stipulation or its exhibits on behalf of  
8 any of the Settling Parties hereby warrants that such Person has the full authority to do so. The  
9 Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the  
10 Settling Parties and their Related Persons.

11 8.18 Any notice required by this Stipulation shall be submitted by overnight mail and e-  
12 mail to each of the signatories below.  
13

14 8.19 The Stipulation may be executed in one or more counterparts, including by  
15 signature transmitted via facsimile, or by a .pdf/.tif image of the signature transmitted via e-mail.  
16 All executed counterparts and each of them shall be deemed to be one and the same instrument.  
17 A complete set of original executed counterparts shall be filed with the Court.  
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1 IN WITNESS WHEREOF, the Settling Parties hereto have caused the Stipulation to be  
2 executed, by their duly authorized attorneys, dated as of October 23, 2018.  
3

4 Dated: October 23, 2018

**THE ROSEN LAW FIRM, P.A.**

5 By:   
6 Laurence M. Rosen (SBN 219683)

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13 *Attorneys for Plaintiff Robert Shaffer, derivatively*  
14 *and on behalf of Extreme Networks, Inc.*

15  
16 Dated: October 23, 2018

**DLA PIPER LLP (US)**

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24 *Kennedy, John C. Shoemaker, Raj Khanna, Randi*  
25 *Paikoff Feigin, Maury Austin, Charles W. Berger,*  
*John T. Kurtzweil, and Ken Arola and Nominal*  
*Defendant Extreme Networks, Inc.*

26 **BERGESON, LLP**

27 By: \_\_\_\_\_  
28 John D. Pernick, SBN 155468

1 IN WITNESS WHEREOF, the Settling Parties hereto have caused the Stipulation to be  
2 executed, by their duly authorized attorneys, dated as of October 23, 2018.

3  
4 Dated: October 23, 2018

**THE ROSEN LAW FIRM, P.A.**

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17 *Attorneys for Plaintiff Robert Shaffer, derivatively*  
18 *and on behalf of Extreme Networks, Inc.*

19  
20  
21 Dated: October 23, 2018

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**BERGESON, LLP**

By:   
John D. Pernick, SBN 155468



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10 Oyster Bay, New York 11771  
11 Telephone: (516) 922-5427  
12 Email: tbrown@thebrownlawfirm.net

13 *Counsel for Plaintiff*

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

ROBERT SHAFFER, Derivatively And On Behalf  
of EXTREME NETWORKS, INC.,

Plaintiff,

v.

JOHN H. KISPERT, EDWARD B. MEYERCORD,  
III, CHARLES CARINALLI, EDWARD H.  
KENNEDY, JOHN C. SHOEMAKER, RAJ  
KHANNA, RANDI PAIKOFF FEIGIN, MAURY  
AUSTIN, CHARLES W. BERGER, JOHN T.  
KURTZWEIL, and KEN AROLA,

Defendants,

And

EXTREME NETWORKS, INC.,

Nominal Defendant.

Case No. 16 CV 291726

**EXHIBIT A**

**CORPORATE  
GOVERNANCE REFORMS**

Extrem Networks, Inc. ("Extrem Networks" or the "Company") shall provide for and  
adhere to the following changes, modifications, and improvements to the Company's corporate  
governance practices (the "Reforms") for no less than three (3) years from the Court's final  
approval of the settlement of the Derivative Action. Extrem Networks acknowledges and

1 agrees that the filing, pendency and settlement of the Derivative Action is a precipitating and  
2 material factor to the Company's decision to adopt and implement the Reforms. Extreme  
3 Networks acknowledges and agrees that the Reforms confer a substantial benefit to Extreme  
4 Networks and Extreme Networks shareholders.

5  
6 1. Deputy General Counsel Position

7 Extreme Networks has employed a Deputy General Counsel ("Deputy GC") whose most  
8 significant area of responsibility includes overseeing and coordinating Securities and  
Exchange Commission ("SEC") reporting and review of public disclosures.

9  
10 2. Implementation of Process for Certain Disclosures Related to Acquired Businesses

11 Extreme Networks shall implement the following process for public disclosures related to  
integration of an acquired business ("Acquired Business"):

12 a. An "Acquired Business" shall mean an entity as to which Extreme Networks has  
13 acquired at least 50% of its outstanding stock or assets;

14 b. Process:

15 Step 1: Determination of types of Post-Business Acquisition Update Disclosures

16 As part of a post-signing and closing planning process, unless otherwise required  
17 by the SEC or the accounting rules, Extreme Networks' CFO and his/her team  
18 acting under his/her supervision, shall determine (1) the topics on which the  
Company intends to provide post-acquisition-related progress updates to the  
19 market including with respect to integration, if applicable; and (2) the financial  
metrics of the Acquired Business that will be forecasted and reported on a  
20 standalone basis, if any, and for what period of time. Specifically, the CFO and  
his/her team shall:

21  
22 i. Define the topics and related terminology to be used in any  
23 disclosure referenced above;

24 ii. Include a reminder of the topics and terminology whenever the  
25 company provides a progress update or forecast on an integration-  
26 related disclosure topic; and  
27  
28

1                                   iii. Ensure that a Safe Harbor for Forward Looking Statements  
2                                   pursuant to the Federal Securities Laws, is included in all such  
3                                   disclosures.

4                   Extreme Networks may, from time to time, modify the topics upon which it  
5                   provides disclosure.

6                   Step 2: Post-Acquisition Related Disclosures

7                                   i. The VP of Financial Planning and Analysis (“FP&A”) (or  
8                                   delegates under his/her supervision) shall prepare the initial draft of  
9                                   the Business Acquisition-related disclosure for particular topics  
10                                  other than those involving financial metrics or forecasts; and

11                                  ii. The VP of FP&A, the VP Corporate Controller, and the  
12                                  Assistant Corporate Controller (or their delegates) shall prepare the  
13                                  initial draft of financial metrics and/or forecasts that relate to post-  
14                                  Business Acquisition disclosures.

15                   Step 3: Post-Business Acquisition-Related Disclosures: review of disclosures  
16                   (steps may occur simultaneously or out of sequence):

17                                  i. Legal review by Deputy GC

18                                  ii. Legal review by outside counsel

19                                  iii. Review by Extreme Networks’ Investor Relations personnel  
20                                  (internal and/or external)

21                                  iv. Review by Audit Committee

22                                  v. Review by CEO, CFO, and Chief Administrative Officer/General  
23                                  Counsel (“CAO/GC”)

24                   3. Formalization of process for financial modeling related to Acquired Business

25                                  Step 1: Acquisition financial modeling shall include the following steps and be  
26                                  reviewed internally by the FP&A team:

27    i. Review of historical financials of target and preparation of  
28    assumptions; and

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ii. Comparison of growth rate v. industry analyst reports.

Step 2: The FP&A team shall disseminate financial modeling to and obtain feedback from Product Marketing, Product Line Management, Sales and executives, as needed. Financial Modeling Process shall remain flexible and subject to updating as new information materializes or assumptions change.

4. Education and Training: Extreme Networks shall provide education and training, as needed, but at least annually, for its executives and other personnel, in order for them to discharge their duties with respect to the above referenced Reforms.

1 Laurence M. Rosen (SBN 219683)  
THE ROSEN LAW FIRM, P.A.  
2 355 South Grand Avenue, Suite 2450  
Los Angeles, CA 90071  
3 Telephone: (213) 785-2610  
Email: lrosen@rosenlegal.com

4 Timothy W. Brown  
5 THE BROWN LAW FIRM, P.C.  
240 Townsend Square  
6 Oyster Bay, New York 11771  
Telephone: (516) 922-5427  
7 Email: tbrown@thebrownlawfirm.net

8 *Counsel for Plaintiff*

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

11  
12 ROBERT SHAFFER, Derivatively And On Behalf  
of EXTREME NETWORKS, INC.,

13 Plaintiff,

14 v.

15 JOHN H. KISPERT, EDWARD B. MEYERCORD,  
16 III, CHARLES CARINALLI, EDWARD H.  
KENNEDY, JOHN C. SHOEMAKER, RAJ  
17 KHANNA, RANDI PAIKOFF FEIGIN, MAURY  
AUSTIN, CHARLES W. BERGER, JOHN T.  
18 KURTZWEIL, and KEN AROLA,

19 Defendants,

20 And

21 EXTREME NETWORKS, INC.,

22 Nominal Defendant.

Case No. 16 CV 291726

23  
24 **EXHIBIT B**

**NOTICE TO CURRENT EXTREME  
STOCKHOLDERS**

25 **NOTICE OF PROPOSED SETTLEMENT OF DERIVATIVE ACTION**

26 TO: ALL OWNERS OF EXTREME NETWORKS, INC. ("EXTREME" OR THE  
27 "COMPANY") COMMON STOCK (TICKER SYMBOL: EXTR) AS OF  
OCTOBER 23, 2018, WHO CONTINUE TO OWN SUCH SHARES ("CURRENT  
EXTREME STOCKHOLDERS").

1 PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. THIS NOTICE  
2 RELATES TO A PROPOSED SETTLEMENT AND DISMISSAL OF STOCKHOLDER  
3 DERIVATIVE LITIGATION AND CONTAINS IMPORTANT INFORMATION REGARDING  
YOUR RIGHTS.

4 IF THE COURT APPROVES THE SETTLEMENT AND DISMISSAL OF THE DERIVATIVE  
5 ACTION, STOCKHOLDERS OF EXTREME WILL BE FOREVER BARRED FROM  
6 CONTESTING THE APPROVAL OF THE PROPOSED SETTLEMENT AND FROM  
PURSUING RELEASED CLAIMS.

7 THIS ACTION IS NOT A "CLASS ACTION." THUS, THERE IS NO COMMON FUND  
8 UPON WHICH YOU CAN MAKE A CLAIM FOR A MONETARY PAYMENT.

9 PLEASE TAKE NOTICE that this action is being settled on the terms in a Stipulation and  
10 Agreement of Settlement, dated October 23, 2018 (the "Stipulation"). The purpose of this Notice  
is to inform you of:

- 11 • the existence of this derivative action (the "Derivative Action"),
- 12 • the proposed settlement between the Plaintiffs and Defendants reached in this  
Derivative Action (the "Settlement"),
- 13 • the hearing to be held by the Court to consider the fairness, reasonableness, and  
adequacy of the Settlement,
- 14 • Plaintiffs' Counsel's application for fees and expenses, and
- 15 • Plaintiff's Service Award.

16 This Notice describes what steps you may take in relation to the Settlement. This Notice  
is not an expression of any opinion by the Court about the truth or merits of Plaintiff's claims or  
17 Defendants' defenses. This Notice is solely to advise you of the proposed Settlement of the  
Derivative Action and of your rights in connection with the proposed Settlement.

#### 18 Summary

19 On October 23, 2018, Extreme, in its capacity as a nominal defendant, entered into the  
Stipulation in the Derivative Action filed derivatively on behalf of Extreme, in the Superior Court  
of the State of California, County of Santa Clara (the "Court") against certain current and former  
20 directors and officers of the Company (the "Derivative Action"). The Stipulation and the  
Settlement, subject to the approval of the Court, is intended by the Settling Parties<sup>1</sup> to fully,  
21 finally, and forever compromise, resolve, discharge, and settle the Released Claims and to result  
in the complete dismissal of the Derivative Action with prejudice, upon the terms and subject to  
22 the conditions set forth in the Stipulation. The proposed Settlement requires the Company to  
adopt certain additional corporate governance measures and procedures, as outlined in Exhibit A  
to the Stipulation, and provides that Defendants shall cause their insurer to pay a Fee and Expense  
23 Award to Plaintiff's Counsel of two hundred thousand dollars (\$200,000.00) and a Service Award  
to Plaintiff of one thousand five hundred dollars (\$1,500.00) to be paid from the Fee and Expense  
24 Award, subject to Court approval.

25  
26 This notice is a summary only and does not describe all of the details of the Stipulation.

27  
28 <sup>1</sup> All capitalized terms used in this notice, unless otherwise defined herein, are defined as set forth  
in the Stipulation.

1 For full details of the matters discussed in this summary, please see the full Stipulation posted on  
2 the Company's website, \_\_\_\_\_, contact Plaintiff's Counsel at the address listed below,  
3 or inspect the full Stipulation filed with the Clerk of the Court.

4 What is the Lawsuit About?

5 The Derivative Action is brought derivatively on behalf of Extreme and alleges that the  
6 Individual Defendants breached their fiduciary duties by knowingly or recklessly making and/or  
7 causing Extreme to make false and misleading statements of material fact to the investing public.

8 Why is there a Settlement?

9 The Court has not decided in favor of the Defendants or the Plaintiffs. Instead, both sides  
10 agreed to the Settlement to avoid the distraction, costs, and risks of further litigation, and because  
11 the Settlement provides substantial benefits to, and is in the best interests of, Extreme and its  
12 stockholders.

13 The Individual Defendants deny each and every allegation of wrongdoing or liability  
14 arising out of or relating in any way to the events, conduct, statements, acts, or omissions alleged  
15 in the Action. The Individual Defendants further assert that, at all times, they acted in good faith,  
16 and in a manner they reasonably believed to be and that was in the best interests of Extreme and  
17 Extreme's stockholders. The Individual Defendants assert that they have meritorious defenses to  
18 the claims in the Derivative Action. Nonetheless, the Individual Defendants have entered into the  
19 Stipulation, without admitting or conceding any fault, liability, wrongdoing, or damage  
20 whatsoever, in order to avoid the risks inherent in any lawsuit and the burden and expense of  
21 further litigation.

22 The Settlement Hearing and Your Right to Object to the Settlement

23 On \_\_\_\_\_, 2019, the Court entered an order preliminarily approving the  
24 Stipulation and the Settlement contemplated therein (the "Preliminary Approval Order") and  
25 providing for the Notice of the Settlement to be issued via press release, filed via Form 8-K with  
the SEC, and posted, along with the Stipulation, on the Company's website. The Preliminary  
Approval Order further provides that the Court will hold a hearing (the "Settlement Hearing") on  
\_\_\_\_\_, 2019 at \_\_: \_\_ .m. before the Honorable Thomas E. Kuhnle in Department 5 of the  
Superior Court of the State of California, County of Santa Clara, 191 N. First Street, San Jose,  
CA 95113, to among other things: (i) determine whether the proposed Settlement is fair,  
reasonable and adequate and in the best interests of the Company and its shareholders; (ii)  
consider any objections to the Settlement submitted in accordance with the Notice; (iii) determine  
whether a Judgment substantially in the form attached as Exhibit D to the Stipulation should be  
entered dismissing all claims in the Derivative Action with prejudice, and releasing the Released  
Claims against the Released Persons; (iv) consider the agreed-to Fee and Expense Award to  
Plaintiff's Counsel of attorneys' fees and the reimbursement of expenses; (v) consider the Service  
Award to Plaintiff, which will be funded from the Fee and Expense Award; and (vi) consider any  
other matters that may properly be brought before the Court in connection with the Settlement.

26 Any Current Extreme Stockholder who wishes to object to the fairness, reasonableness, or  
27 adequacy of the Settlement as set forth in the Stipulation, or to the proposed award of attorneys'  
28 fees and expenses, may file a with the Court a written objection. An objector must at least  
fourteen (14) calendar days prior to the Settlement Hearing: (1) file with the Clerk of the Court  
and serve upon the below listed counsel a written objection to the Settlement setting forth (a) the



1 nature of the objection; (b) proof of ownership of Extreme common stock as of October 23, 2018  
2 and through the date of the Settlement Hearing, including the number of shares of Extreme  
3 common stock held and the date of purchase; (c) any and all documentation or evidence in  
4 support of such objection; and (d) the identities of any cases, by name, court, and docket number,  
5 in which the stockholder or his, her, or its attorney has objected to a settlement in the last three  
6 years; and (2) if a Current Extreme Stockholder intends to appear and requests to be heard at the  
7 Settlement Hearing, he, she, or it must, in addition to the requirements of (1) above, file with the  
8 Clerk of the Court and serve on the below counsel (a) a written notice of his, her, or its intention  
9 to appear at the Settlement Hearing; (b) a statement that indicates the basis for such appearance;  
10 (c) the identities of any witnesses he, she, or it intends to call at the Settlement Hearing and a  
11 statement as to the subjects of their testimony; and (d) any and all evidence that would be  
12 presented at the Settlement Hearing. Any objector who does not timely file and serve a notice of  
13 intention to appear in accordance with this paragraph shall not be permitted to appear at the  
14 Settlement Hearing, except for good cause shown.

15 *IF YOU MAKE A WRITTEN OBJECTION, IT MUST BE ON FILE WITH THE CLERK*  
16 *OF THE COURT NO LATER THAN \_\_\_\_\_, 2019.* The Clerk's address is:

17 Clerk of the Court  
18 SUPERIOR COURT OF CALIFORNIA  
19 Department 5  
20 191 N. First Street  
21 San Jose, CA 95113

22 *YOU ALSO MUST DELIVER COPIES OF THE MATERIALS TO PLAINTIFF'S*  
23 *COUNSEL AND DEFENDANTS' COUNSEL SO THEY ARE RECEIVED NO LATER THAN*  
24 *\_\_\_\_\_, 2019.* Counsel's addresses are:

25 **Counsel for Plaintiff:**

26 Phillip Kim  
27 THE ROSEN LAW FIRM, P.A.  
28 275 Madison Avenue, 34th Floor  
New York, NY 10016

**Counsel for Defendants:**

Shirli F. Weiss  
DLA PIPER LLP (US)  
2000 University Avenue  
East Palo Alto, CA 94303

21 An objector may file an objection on his, her or its own or through an attorney hired at his,  
22 her or its own expense. If an objector hires an attorney to represent him, her or it for the purposes  
23 of making such objection pursuant to this paragraph, the attorney must effect service of a notice  
24 of appearance on the counsel listed above and file such notice with the Court no later than  
25 fourteen (14) calendar days before the Settlement Hearing. Any Extreme shareholder who does  
26 not timely file and serve a written objection complying with the terms of this paragraph shall be  
27 deemed to have waived, and shall be foreclosed from raising, any objection to the Settlement, and  
28 any untimely objection shall be barred.

Any objector who files and serves a timely, written objection in accordance with the  
instructions above and herein, may appear at the Settlement Hearing either in person or through  
counsel retained at the objector's expense. Objectors need not attend the Settlement Hearing,  
however, in order to have their objections considered by the Court.

1        If you are a Current Extreme Stockholder and do not take steps to appear in this action and  
2        object to the proposed Settlement, you will be bound by the Judgment of the Court and will  
3        forever be barred from raising an objection to such settlement in this or any other action or  
     proceeding, and from pursuing any of the Released Claims.

4        If you held Extreme common stock as of October 23, 2018 and continue to hold such  
5        stock, you may have certain rights in connection with the proposed Settlement. You may obtain  
6        further information by contacting counsel for Plaintiff at: Phillip Kim, The Rosen Law Firm,  
7        P.A., 275 Madison Avenue, 34th Floor, New York, NY 10016, Telephone: (212) 686-1060,  
     Email: pkim@rosenlegal.com. **Please Do Not Call the Court or Defendants with Questions  
     About the Settlement.**

1 Laurence M. Rosen (SBN 219683)  
2 THE ROSEN LAW FIRM, P.A.  
3 355 South Grand Avenue, Suite 2450  
4 Los Angeles, CA 90071  
5 Telephone: (213) 785-2610  
6 Email: lrosen@rosenlegal.com

7 Timothy W. Brown  
8 THE BROWN LAW FIRM, P.C.  
9 240 Townsend Square  
10 Oyster Bay, New York 11771  
11 Telephone: (516) 922-5427  
12 Email: tbrown@thebrownlawfirm.net

13 *Counsel for Plaintiff*

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

ROBERT SHAFFER, Derivatively And On Behalf  
of EXTREME NETWORKS, INC.,

Plaintiff,

v.

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III, CHARLES CARINALLI, EDWARD H.  
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AUSTIN, CHARLES W. BERGER, JOHN T.  
KURTZWEIL, and KEN AROLA,

Defendants,

And

EXTREME NETWORKS, INC.,

Nominal Defendant.

Case No. 16 CV 291726

**EXHIBIT C**

**[PROPOSED] ORDER  
PRELIMINARILY APPROVING  
DERIVATIVE SETTLEMENT AND  
PROVIDING FOR NOTICE**

WHEREAS, the parties to the above-captioned consolidated shareholder derivative action (the "Derivative Action") have made an application for an order: (i) preliminarily approving the Stipulation and Agreement of Settlement dated October 23, 2018 (the "Stipulation"), which, together with the exhibits annexed thereto, sets forth the terms and conditions for the proposed

1 settlement and dismissal of the Derivative Action with prejudice; and (ii) approving the form and  
2 content of the Notice to Current Extreme Stockholders, substantially in the form of Exhibit B  
3 attached to the Stipulation,;

4 WHEREAS, all capitalized terms contained herein shall have the same meanings as set  
5 forth in the Stipulation (unless otherwise defined herein); and  
6

7 WHEREAS, the Court has read and considered the Stipulation and the exhibits annexed  
8 thereto, and all the Settling Parties have consented to the entry of this Preliminary Approval  
9 Order,

10 NOW THEREFORE, IT IS HEREBY ORDERED:

11 1. The Court does hereby preliminarily approve, subject to further consideration at  
12 the Settlement Hearing described below, the Stipulation and the settlement set forth therein (the  
13 “Settlement”), including the terms and conditions for settlement and dismissal with prejudice of  
14 the Derivative Action.  
15

16 2. A hearing shall be held before this Court (the “Settlement Hearing”) on  
17 \_\_\_\_\_, 2019 at \_\_:\_\_ .m.,<sup>1</sup> at the Superior Court of the State of California,  
18 County of Santa Clara, the Honorable Thomas E. Kuhnle, Department 5, located at 191 N. First  
19 Street, San Jose, CA 95113, to determine: (i) whether the terms and conditions of the Settlement  
20 set forth in the Stipulation are fair, reasonable, and adequate to Extreme and Current Extreme  
21 Stockholders and should be finally approved by the Court; (ii) whether the Judgment finally  
22 approving the Settlement, substantially in the form of Exhibit D attached to the Stipulation,  
23 should be entered, dismissing the Derivative Action with prejudice, and releasing and enjoining  
24 the prosecution of any and all Released Claims; and (iii) whether Plaintiff’s Counsel’s Fee and  
25 \_\_\_\_\_  
26

27 <sup>1</sup> The Settling Parties respectfully request that the Settlement Hearing be scheduled at least forty-  
28 five (45) days after the deadline for providing notice of the proposed Settlement to Current  
Extreme Stockholders.

1 Expense Award, including Plaintiff's Service Award, should be finally approved. At the  
2 Settlement Hearing, the Court may hear or consider such other matters as the Court may deem  
3 necessary and appropriate.

4 3. The Court approves, as to form and content, the Notice attached as Exhibit B to the  
5 Stipulation, and finds that issuing the Notice as a press release, filing the Notice with the SEC,  
6 and posting the Notice together with the Stipulation on the investor relations portion of Extreme's  
7 corporate website substantially in the manner and form set forth in this Order meets the  
8 requirements of due process, is the best notice practicable under the circumstances, and shall  
9 constitute due and sufficient notice to Current Extreme Stockholders and all other Persons entitled  
10 thereto.  
11

12 4. Not later than ten (10) calendar days following entry of this Order, Extreme shall  
13 post the Notice, together with the Stipulation, on the investor relations portion of Extreme's  
14 corporate website, and Extreme shall issue the Notice as a press release and file the Notice with  
15 the SEC on Form 8-K, with both the press release and Form 8-K containing a link to the Notice  
16 and Stipulation posted on the investor relations portion of the Company's corporate website.  
17

18 5. All costs incurred in providing the Notice shall be paid by Extreme, and Extreme  
19 shall undertake all administrative responsibility for such posting, publishing, and filing.  
20

21 6. All papers in support of the Settlement and the Fee and Expense Award, including  
22 any Service Award, shall be filed with the Court and served at least twenty-one (21) calendar  
23 days prior to the Settlement Hearing, and any reply papers shall be filed with the Court at least  
24 seven (7) calendar days prior to the Settlement Hearing.

25 7. Any Current Extreme Stockholder may object and/or appear and show cause, if he,  
26 she, or it has any concern why the Settlement should not be finally approved as fair, reasonable,  
27 and adequate, why the Judgment should not be entered thereon, or why the Fee and Expense  
28

1 Award, including the Service Award, should not be finally approved; provided, however, unless  
2 otherwise ordered by the Court, that no Current Extreme Stockholder shall be heard or entitled to  
3 contest the approval of the terms and conditions of the Settlement, or, if approved, the Judgment  
4 to be entered thereon approving the same, or the Fee and Expense Award, unless that Stockholder  
5 has, at least fourteen (14) calendar days prior to the Settlement Hearing: (1) filed with the Clerk  
6 of the Court a written objection to the Settlement setting forth (a) the nature of the objection; (b)  
7 proof of ownership of Extreme common stock as of the date of the Stipulation and through the  
8 date of the Settlement Hearing, including the number of shares of Extreme common stock held  
9 and the date of purchase; (c) any and all documentation or evidence in support of such objection;  
10 and (d) the identities of any cases, by name, court, and docket number, in which the Stockholder  
11 or his, her, or its attorney has objected to a settlement in the last three years; and (2) if a Current  
12 Extreme Stockholder intends to appear and requests to be heard at the Settlement Hearing, such  
13 Stockholder must have, in addition to the requirements of (1) above, filed with the Clerk of the  
14 Court (a) a written notice of such Stockholder's intention to appear at the Settlement Hearing; (b)  
15 a statement that indicates the basis for such appearance; (c) the identities of any witnesses the  
16 Stockholder intends to call at the Settlement Hearing and a statement as to the subjects of their  
17 testimony; and (d) any and all evidence that would be presented at the Settlement Hearing. If a  
18 Current Extreme Stockholder files a written objection and/or written notice of intent to appear,  
19 such Stockholder must also simultaneously serve copies of such notice, proof, statement, and  
20 documentation, together with copies of any other papers or briefs such Stockholder files with the  
21 Court (either by hand delivery or by first class mail) upon each of the following:

22  
23  
24  
25 Phillip Kim  
26 THE ROSEN LAW FIRM, P.A.  
27 275 Madison Avenue, 34th Floor  
28 New York, NY 10016

*Counsel for Plaintiff*

Shirli F. Weiss  
DLA PIPER LLP (US)  
2000 University Avenue  
East Palo Alto, CA 94303

*Counsel for Defendants*

1  
2 Any Current Extreme Stockholder who does not make his, her, or its objection in the manner  
3 provided herein shall be deemed to have waived such objection and shall forever be foreclosed  
4 from making any objection to the fairness, reasonableness, or adequacy of the Settlement or the  
5 Fee and Expense Award, including the Service Award, as set forth in the Stipulation, unless  
6 otherwise ordered by the Court, but shall be forever bound by the Judgment to be entered, the  
7 dismissal of the Derivative Action with prejudice, and any and all of the releases set forth in the  
8 Stipulation.  
9

10 8. At least ten (10) calendar days prior to the Settlement Hearing, Defendants'  
11 Counsel shall file with the Court, proof, by affidavit or declaration, of the issuance, filing, and  
12 posting of the Notice pursuant to the terms of this Order.  
13

14 9. All Current Extreme Stockholders shall be bound by all orders, determinations,  
15 and judgments in the Derivative Action concerning the Settlement, whether favorable or  
16 unfavorable to Current Extreme Stockholders.

17 10. Pending final determination of whether the Settlement should be approved, neither  
18 Plaintiff or Plaintiff's Counsel, nor any Current Extreme Stockholders or other Persons,  
19 derivatively on behalf of Extreme, shall commence or prosecute, or in any way instigate or  
20 participate in the commencement or prosecution of, any action or proceeding asserting any  
21 Released Claims against any of the Released Persons in any court or tribunal.  
22

23 11. The facts and terms of the Stipulation, including any exhibits attached thereto, all  
24 proceedings in connection with the Settlement, and any act performed or document executed  
25 pursuant to or in furtherance of the Stipulation or the Settlement:

26 (a) shall not be offered, received, or used in any way against the Settling Parties as  
27 evidence of, or be deemed to be evidence of, a presumption, concession, or admission by  
28

1 any of the Settling Parties with respect to the truth of any fact alleged by Plaintiff or the  
2 validity, or lack thereof, of any claim that has been or could have been asserted in the  
3 Derivative Action or in any litigation, or the deficiency, infirmity, or validity of any  
4 defense that has been or could have been asserted in the Derivative Action or in any  
5 litigation, or of any fault, wrongdoing, negligence, or liability of any of the Released  
6 Persons;

7  
8 (b) shall not be offered, received, or used in any way against any of the Released Persons  
9 as evidence of, or be deemed to be evidence of, a presumption, concession, or admission  
10 of any fault, misrepresentation or omission with respect to any statement or written  
11 document approved, issued, or made by any Released Person, or against Plaintiff as  
12 evidence of any infirmity in their claims; and

13  
14 (c) shall not be offered, received, or used in any way against any of the Released Persons  
15 as evidence of, or be deemed to be evidence of, a presumption, concession, or admission  
16 of any liability, fault, negligence, omission or wrongdoing, or in any way referred to for  
17 any other reason as against the Released Persons, in any arbitration proceeding or other  
18 civil, criminal, or administrative action or proceeding in any court, administrative agency,  
19 or other tribunal.

20  
21 12. Neither the Stipulation nor the Settlement, nor any act performed or document  
22 executed pursuant to or in furtherance thereof, shall be admissible in any proceeding for any  
23 purpose, except to enforce the terms of the Settlement; provided, however, that if finally  
24 approved, the Released Persons may refer to the Settlement, and file the Stipulation and/or the  
25 Judgment, in any action that may be brought against them to effectuate the liability protections  
26 granted them thereunder, including, without limitation, to support a defense or claim based on  
27 principles of *res judicata*, collateral estoppel, full faith and credit, release, standing, good faith  
28



1 settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion  
2 or similar defense or claim under U.S. federal or state law or foreign law.

3 13. If the Stipulation is terminated pursuant to its terms, or the Effective Date does not  
4 otherwise occur, all proceedings in the Derivative Action will revert to their status as of the date  
5 immediately preceding the date of the Stipulation.  
6

7 14. The Court reserves the right to adjourn the date of the Settlement Hearing or  
8 modify any other dates set forth herein without further notice to Current Extreme Stockholders  
9 and retains jurisdiction to consider all further applications arising out of or connected with the  
10 Settlement. The Court may approve the Settlement and any of its terms, with such modifications  
11 as may be agreed to by the Settling Parties, if appropriate, without further notice to Current  
12 Extreme Stockholders.  
13

14 IT IS SO ORDERED.

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

\_\_\_\_\_  
HONORABLE THOMAS E. KUHNLE  
SUPERIOR COURT JUDGE

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8 *Counsel for Plaintiff*

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

11  
12 ROBERT SHAFFER, Derivatively And On Behalf  
of EXTREME NETWORKS, INC.,

13 Plaintiff,

14 v.

15 JOHN H. KISPERT, EDWARD B. MEYERCORD,  
16 III, CHARLES CARINALLI, EDWARD H.  
KENNEDY, JOHN C. SHOEMAKER, RAJ  
17 KHANNA, RANDI PAIKOFF FEIGIN, MAURY  
AUSTIN, CHARLES W. BERGER, JOHN T.  
18 KURTZWEIL, and KEN AROLA,

19 Defendants,

20 And

21 EXTREME NETWORKS, INC.,

22 Nominal Defendant.

Case No. 16 CV 291726

**EXHIBIT D**

**[PROPOSED] FINAL ORDER AND  
JUDGMENT**

23  
24 This matter came before the Court for hearing pursuant to this Court's Order Preliminarily  
25 Approving Derivative Settlement and Providing for Notice, dated \_\_\_\_\_, 2019 (the  
26 "Preliminary Approval Order"), on the application of the Settling Parties for final approval of the  
27 Settlement set forth in the Stipulation and Agreement of Settlement dated October 23, 2018 (the  
28

1 “Stipulation”). Due and adequate notice having been given to Current Extreme Stockholders as  
2 required in said Preliminary Approval Order, and the Court having considered all papers filed and  
3 proceedings had herein and otherwise being fully informed of the premises and good cause  
4 appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

5  
6 1. This Final Order and Judgment (“Judgment”) incorporates by reference the  
7 definitions in the Stipulation, and except where otherwise specified herein, all capitalized terms  
8 used herein shall have the same meanings as set forth in the Stipulation.

9  
10 2. This Court has jurisdiction over the subject matter of the Derivative Action,  
11 including all matters necessary to effectuate the Settlement, and over all Settling Parties.

12  
13 3. This Court finds that the Settlement set forth in the Stipulation is fair, reasonable,  
14 and adequate as to each of the Settling Parties and Current Extreme Stockholders, and hereby  
15 finally approves the Settlement in all respects and orders the Settling Parties to perform its terms  
16 to the extent the Settling Parties have not already done so.

17  
18 4. The Derivative Action, all claims contained therein, and any other Released  
19 Claims, are hereby ordered as fully, finally, and forever compromised, settled, released,  
20 discharged and dismissed on the merits and with prejudice by virtue of the proceedings herein and  
21 this Judgment. The Settling Parties are to bear their own costs, except as otherwise provided in  
22 the Stipulation.

23  
24 5. Upon the Effective Date, Extreme, Plaintiff, and each of Extreme’s current and  
25 former stockholders shall be deemed to have, and by operation of this Judgment shall have, fully,  
26 finally, and forever released, relinquished, and discharged all Released Claims (including  
27 Unknown Claims) against the Released Persons. Extreme, Plaintiff and each of Extreme’s  
28 stockholders shall be deemed to have, and by operation of this Judgment shall have, covenanted  
not to sue any Released Person with respect to any Released Claims, and shall be permanently

1 barred and enjoined from instituting, commencing or prosecuting the Released Claims against the  
2 Released Persons. Nothing herein shall in any way impair or restrict the rights of any Settling  
3 Party to enforce the terms of the Stipulation.

4           6.       Upon the Effective Date, each of the Released Persons shall be deemed to have,  
5 and by operation of this Judgment shall have, fully, finally, and forever released, relinquished,  
6 and discharged each and all of Plaintiff and their beneficiaries, Plaintiff's Counsel, Extreme, and  
7 any current and former Extreme stockholders (solely in their capacity as Extreme shareholders)  
8 from Defendants' Released Claims. The Released Persons shall be deemed to have, and by  
9 operation of this Judgment shall have, covenanted not to sue Plaintiff or his beneficiaries,  
10 Plaintiff's Counsel, or Extreme, or any current or former Extreme stockholders (solely in their  
11 capacity as Extreme shareholders) with respect to any Defendants' Released Claims, and shall be  
12 permanently barred and enjoined from instituting, commencing or prosecuting Defendants'  
13 Released Claims against Plaintiff and his beneficiaries, Plaintiff's Counsel, Extreme, and all  
14 current and former Extreme stockholders. Nor shall the foregoing in any way impair or restrict  
15 the rights of any Settling Party to enforce the terms of the Stipulation.

16           7.       The Court finds that the Notice to Current Extreme Stockholders was made in  
17 accordance with the Preliminary Approval Order and provided the best notice practicable under  
18 the circumstances to all Persons entitled to such notice, and said notice fully satisfied the  
19 requirements of due process.

20           8.       The Court finds that during the course of the Derivative Action, the Settling  
21 Parties and their counsel at all times complied with California Code of Civil Procedure § 128.7.

22           9.       The Court finds that the Fee and Expense Award in the amount of two hundred  
23 thousand dollars (\$200,000.00) is fair and reasonable, in accordance with the Stipulation, and  
24 finally approves the Fee and Expense Award.

1           10.     The Court finds that the Service Award to Plaintiff in the amount of one thousand  
2 five hundred dollars (\$1,500.00) is fair and reasonable, in accordance with the Stipulation, and  
3 finally approves the Service Award, to be paid from the Fee and Expense Award by Plaintiff's  
4 Counsel.

5  
6           11.     This Judgment, the facts and terms of the Stipulation, including any exhibits  
7 attached thereto, all proceedings in connection with the Settlement, and any act performed or  
8 document executed pursuant to or in furtherance of the Stipulation or the Settlement:

9           (a) shall not be offered, received, or used in any way against the Settling Parties as  
10 evidence of, or be deemed to be evidence of, a presumption, concession, or admission by  
11 any of the Settling Parties with respect to the truth of any fact alleged by Plaintiff or the  
12 validity, or lack thereof, of any claim that has been or could have been asserted in the  
13 Derivative Action or in any litigation, or the deficiency, infirmity, or validity of any  
14 defense that has been or could have been asserted in the Derivative Action or in any  
15 litigation, or of any fault, wrongdoing, negligence, or liability of any of the Released  
16 Persons;  
17

18           (b) shall not be offered, received, or used in any way against any of the Released Persons  
19 as evidence of, or be deemed to be evidence of, a presumption, concession, or admission  
20 of any fault, misrepresentation or omission with respect to any statement or written  
21 document approved, issued, or made by any Released Person, or against Plaintiff as  
22 evidence of any infirmity in their claims; and  
23

24           (c) shall not be offered, received, or used in any way against any of the Released Persons  
25 as evidence of, or be deemed to be evidence of, a presumption, concession, or admission  
26 of any liability, fault, negligence, omission or wrongdoing, or in any way referred to for  
27 any other reason as against the Released Persons, in any arbitration proceeding or other  
28

1 civil, criminal, or administrative action or proceeding in any court, administrative agency,  
2 or other tribunal.

3 12. This Judgment, the Stipulation, the Settlement, and any act performed or document  
4 executed pursuant to or in furtherance thereof, shall not be admissible in any proceeding for any  
5 purpose, except to enforce the terms of the Settlement. However, the Released Persons may refer  
6 to the Settlement, and file the Stipulation and/or this Judgment, in any action that may be brought  
7 against them to effectuate the liability protections granted them thereunder, including, without  
8 limitation, to support a defense or claim based on principles of *res judicata*, collateral estoppel,  
9 full faith and credit, release, standing, good faith settlement, judgment bar or reduction or any  
10 other theory of claim preclusion or issue preclusion or similar defense or claim under U.S. federal  
11 or state law or foreign law.  
12

13  
14 13. Without affecting the finality of this Judgment in any way, the Court hereby  
15 retains continuing jurisdiction over: (a) implementation of the Settlement; and (b) all Settling  
16 Parties for the purpose of construing, enforcing, and administering the Stipulation and this  
17 Judgment, including, if necessary, setting aside and vacating this Judgment, on motion of a  
18 Settling Party, to the extent consistent with and in accordance with the Stipulation if the Effective  
19 Date fails to occur in accordance with the Stipulation.  
20

21 14. This Judgment is a final judgment and should be entered forthwith by the Clerk  
22 dismissing the Derivative Action with prejudice.

23 IT IS SO ORDERED.

24 DATED:

25  
26 HONORABLE THOMAS E. KUHNLE  
27 SUPERIOR COURT JUDGE  
28