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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MARIA RAZO VIVEROS and REYES
SEGURA, as individuals and on behalf of all
others similarly situated,

Plaintiffs,

vs.

MISSION PRODUCE, INC., a California
corporation; and DOES 1 through 100,

Defendants.

Case No. 20STCV15737

CLASS ACTION

*[Assigned for all purposes to the Hon.
Kenneth R. Freeman, Dept. SSC-14]*

**DECLARATION OF PAUL K. HAINES
IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: May 17, 2022
Time: 11:00 a.m.
Dept.: SSC-14

1 I, PAUL K. HAINES, declare as follows:

2 1. I am a shareholder and principal of Haines Law Group, APC, and counsel for the
3 named Plaintiffs Maria Razo Viveros and Reyes Segura, as well as Plaintiff Melchor Manlalo
4 Aguilar (collectively, “Plaintiffs”) and the proposed Settlement Class in the above-captioned
5 matter. I am a member in good standing of the bar of the State of California and am admitted to
6 practice in this Court. I have personal knowledge of the facts stated in this declaration and could
7 testify competently to them if called upon to do so.

8 2. I am a 2006 graduate of Pepperdine University School of Law, where I graduated
9 cum laude. During law school, I worked as a law clerk for the appellate firm of Horvitz & Levy,
10 located in Encino, California. I also spent a semester in law school working as an extern for the
11 Honorable Edward Rafeedie, District Judge for the United States District Court for the Central
12 District of California.

13 3. Since graduating from law school, my practice has focused almost exclusively on
14 employment litigation. In September 2007, I began working as an associate attorney at the
15 international law firm of Littler Mendelson P.C., at its Los Angeles office, which according to its
16 website is the “largest U.S.-based law firm exclusively devoted to representing management in
17 every aspect of labor and employment law.” While at Littler Mendelson, I was primarily staffed
18 on wage and hour class actions venued in both state and federal courts, and I also worked on a
19 number of single and multi-plaintiff wage and hour matters as well.

20 4. During my employment at Littler Mendelson, I played a significant role in the
21 class actions that I was staffed on, as I was often the only associate staffed on such cases. In
22 particular, I received a wide-array of wage and hour class action experience performing the
23 following types of tasks: drafting demurrers, motions to strike and/or dismiss; removing actions
24 from state court to federal court; drafting and responding to written discovery; drafting and
25 opposing discovery related motions; arguing discovery related motions; drafting motions to
26 consolidate related matters; interviewing putative class members and obtaining declarations in
27 connection with class certification; drafting oppositions to motions for class certification; drafting
28 motions for decertification following class certification; conducting exposure analyses to assess

1 the strengths and weaknesses of asserted claims, the likelihood of prevailing at class certification
2 and potential damages resulting from such claims; drafting mediation briefs; serving as the
3 primary contact to in-house counsel; deposing named plaintiffs and putative class members;
4 deposing retained expert witnesses; and defending the depositions of corporate witnesses. In
5 short, I played an integral role in all aspects of litigation from the inception of a matter through
6 and beyond class certification. I also supervised the work of several junior attorneys who were
7 staffed on the same wage and hour class actions.

8 5. In June 2011, I voluntarily resigned from Littler Mendelson in order to accept an
9 associate attorney position with the international law firm of Morgan, Lewis & Bockius LLP, at
10 its Los Angeles office, where I began working in July 2011. During my employment at Morgan,
11 Lewis & Bockius LLP, I worked exclusively on the defense of wage and hour class and collective
12 actions. For the vast majority of these cases, I was the only associate staffed on the matter, and I
13 performed the same job duties as described in the immediately preceding paragraph. In addition
14 to working on wage and hour class actions, at Morgan, Lewis & Bockius I also worked on a
15 number of “hybrid” actions asserting nationwide wage and hour claims under the Fair Labor
16 Standards Act (“FLSA”), as well as California-specific claims under Rule 23 of the Rules of Civil
17 Procedure.

18 6. In July 2012, I transitioned into litigating wage and hour class actions from the
19 Plaintiff’s side, first as a Partner with the law firm of Boren, Osher & Luftman, LLP, and since
20 February 2016, as a Shareholder of the Haines Law Group, APC. Currently, over ninety percent
21 (90%) of my practice is dedicated exclusively to the prosecution of wage and hour class actions,
22 and I am currently responsible for prosecuting over fifty (50) wage and hour class actions filed in
23 both State and Federal courts throughout California. A few examples of the matters in which I
24 have been appointed as Class Counsel, all of which have been granted final approval, include the
25 following: *Sanchez v. Res-Care, Inc.*, Case No. BC526175, California Superior Court, County of
26 Los Angeles, Hon. John Shepard Wiley, Jr., presiding; *Prado v. Warehouse Demo Services, Inc.*,
27 Case No. CV14-3170 JFW (Ex), United States District Court, Central District of California, Hon.
28 John F. Walter presiding; *Tesla Motors Wage and Hour Litigation*, JCCP 4792, California

Superior Court, Santa Clara County, Hon. Peter H. Kirwan presiding; *Bower v. Cycle Gear, Inc.*, Case No. CV14-2712 HSG, United States District Court, Northern District of California, Hon. Haywood S. Gilliam, Jr. presiding; *Longstreth v. PAQ, Inc., dba Food 4 Less*, Case No. 15CV-0206, California Superior Court, County of San Luis Obispo, Hon. Charles S. Crandall presiding; *Nunez v. CompuCom Systems, Inc.*, Case No. BC618385, California Superior Court, County of Los Angeles, Hon. John Shepard Wiley, Jr. presiding; *Mansilla v. Haeco Americas Line Services, LLC, et al*, Case No. BC615310, Superior Court of California, County of Los Angeles, Hon. Elihu M. Berle presiding; *Leverage, et al v. Traeger Pellet Grills, LLC, et al*, Case No. 4:16-cv-00784-KAW, United States District Court, Northern District of California, Hon. Kandis A. Westmore presiding.

7. I have also moved to certify and have received an order certifying a class action and/or conditionally certifying a collective action, in the following cases:

- *Medeiros v. Vortex Financial Management Inc.*, Case No. 30-2013-00644741-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge Gail A. Andler, presiding (certifying a class of employees who were misclassified as independent contractors);
- *Javine v. San Luis Ambulance Service, Inc.*, Case No. CV13-07480 BRO (SSx), United States District Court, Central District of California, Honorable Judge Beverly Reid O’Connell, presiding (conditionally certifying an unpaid FLSA overtime wage class);
- *Prado v. Warehouse Demo Services, Inc.*, Case No. CV14-3170 JFW (Ex), United States District Court, Central District of California, Honorable Judge John F. Walter, presiding (certifying a rest period violation class and conditionally certifying an FLSA unpaid overtime wage class);
- *Bower v. Cycle Gear, Inc.*, Case No. CV14-2712 HSG, United States District Court, Northern District of California, Honorable Judge Haywood S. Gilliam, Jr., presiding (conditionally certifying an unpaid FLSA overtime wage class);

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- 1 • *Vega v. Weatherford U.S., Limited Partnership*, Case No. CV14-1790-JLT, United States
2 District Court, Eastern District of California, Honorable Jennifer L. Thurston, presiding
3 (conditionally certifying an unpaid FLSA overtime wage class);
- 4 • *Galvan v. AMVAC Chemical Corporation*, Case No. 30-2014-00716103-CU-OE-CXC,
5 California Superior Court, County of Orange, Honorable Judge William Claster, presiding
6 (certifying unpaid overtime wage class and waiting time penalty class);
- 7 • *Camacho v. Residential Fire Systems, Inc.*, Case No. 30-2015-775372-CU-OE-CXC,
8 California Superior Court, County of Orange, Honorable Glenda Sanders, presiding
9 (certifying piece rate pay plan classes, expense reimbursement class, wage statement
10 class, and waiting time penalties class);
- 11 • *Ontiveros v. Safelite Fulfillment, Inc., et al*, Case No. CV 15-7118-DMG (RAOx), United
12 States District Court, Central District of California, Honorable Dolly M. Gee presiding
13 (certifying six classes of employees for rest period violations, wage statement violations,
14 meal period violations, and overtime and double-time violations);
- 15 • *Vazquez, et al v. Kraft Heinz Foods Company*, Case No. 16-cv-2749-WQH-BLM, United
16 States District Court, Southern District of California, Honorable William Q. Hayes
17 presiding (certifying six classes of employees for unpaid wages, meal period violations,
18 wage statement violations, and waiting time penalties);
- 19 • *Caudle, et al. v. Sprint/United Management Company, et al.* Case No. C 17-06874-WHA,
20 United States District Court, Northern District of California, Honorable William H. Alsup
21 presiding (certifying three classes of employees for unlawful wage deduction violations,
22 wage statement violations, and waiting time violations);
- 23 • *Staublein v. Wells Fargo Bank*, No. CIVDS1712267, San Bernardino County Superior
24 Court, Honorable David S. Cohn presiding (certifying wage statement class); and
- 25 • *Perez v. Sunbelt Rentals, Inc.* Case No. 37-2018-00026405-CU-OE-CTL, California
26 Superior Court, County of San Diego, Honorable Eddie C. Sturgeon presiding (certifying
27 class of employees for wage statement violations);

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- *Bowlin-Burdick, et al v. Life Care Centers of America, Inc.*, Case No. BC657139, Los Angeles County Superior Court, Honorable Maren E. Nelson presiding (certifying four classes for meal period violations, rest period violations, wage statement violations, and waiting time penalties).

8. In 2015, 2016, and 2017, Thomson Reuters recognized me as a Top Young Attorney in Southern California in the annual Rising Stars Edition of Super Lawyer. This is an honor awarded to no more than two-and-a-half percent of attorneys under the age of forty in Southern California each year. In 2018, 2019, 2020, and 2021, Thomson Reuters recognized me as a “Super Lawyer” in the annual Super Lawyer magazine, an honor awarded to no more than five percent of all attorneys in Southern California each year.

9. As counsel for Plaintiffs and the proposed Settlement Class, I have been intimately involved in every aspect of this case from its inception through the present, and I believe that the proposed Settlement is a favorable result for the Settlement Class.

10. Defendant Mission Produce, Inc. (“Mission Produce”) is an international avocado grower and distributor with operations around the world, including in California. Plaintiffs are former Mission Produce employees who worked for Mission produce as non-exempt employees during the putative “Class Period,” which is April 23, 2016 through December 31, 2021.

11. On April 23, 2020, Plaintiffs Viveros and Segura, through my office, filed the instant Action, alleging claims for failure to pay overtime and minimum wages, meal and rest period violations, waiting time penalties, wage statement penalties, and unfair business practices. Plaintiffs Viveros and Segura, through my office, subsequently filed a First Amended Complaint adding a claim for PAGA civil penalties. On June 10, 2020, Plaintiff Aguilar, through my co-counsel’s office, filed a class action against Mission Produce in Ventura County Superior Court, alleging claims for failure to pay overtime and minimum wages, meal and rest period violations, waiting time penalties, wage statement penalties, failure to indemnify for business expenses, and unfair competition. As part of the proposed Settlement, the parties agreed to stipulate to the filing of a Second Amended Complaint, which added Plaintiff Aguilar as a named plaintiff in this Action and included all claims alleged by Plaintiffs in the two actions. On January 6, 2022,

pursuant to the parties' stipulation, Plaintiffs filed the operative Second Amended Complaint in this Action.

12. In preparation for mediation, the parties engaged in extensive informal discovery. Mission Produce produced timekeeping and payroll records for a sampling of putative class members, including actual punches and rounded time, which allowed our office's retained expert to conduct a rounding analysis; Mission Produce's relevant wage and hour policies; a class list that included the hire dates, termination dates, rates of pay, and other information for all putative class members; and other relevant data and information. My office hired a labor economist with a Ph.D. in economics to analyze and extrapolate the data produced by Mission Produce and assist in creating damages models. This discovery allowed the parties to assess the merits and value of Plaintiffs' claims, as well as the chances for class certification.

13. The parties attended a full-day mediation on December 1, 2020 with Jeffrey A. Ross, Esq, an experienced and well-respected wage and hour class action mediator. The parties vigorously debated their legal positions, the likelihood of certification of Plaintiffs' claims, and the legal bases for the claims and defenses. The parties did not reach resolution at mediation. However, with Mr. Ross's assistance, the parties continued their negotiations over the following months and eventually agreed to a mediator's proposal to resolve Plaintiffs' claims. Over the next few months, the parties negotiated the finer terms of the settlement, ultimately resulting in the Stipulation of Settlement ("Settlement") now before the Court. A true and correct copy of the Settlement is attached hereto as **Exhibit 1**. The Class Notice and Notice of Estimated Settlement Award are attached as Exhibits **A and B**, respectively, to the Settlement Agreement.

14. The monetary terms of the Settlement are summarized below:

• Gross Settlement Amount ("GSA"):	\$800,000.00
• Minus Court-approved attorneys' fees (one-third):	\$266,666.67
• Minus Court-approved verified costs (up to):	\$30,000.00
• Minus Court-approved Incentive Awards (\$7,500 each):	\$22,500.00
• Minus PAGA penalties paid to LWDA:	\$45,000.00
• <u>Minus estimated settlement administration costs:</u>	<u>\$11,000.00</u>
Net Settlement Amount ("NSA"):	\$424,833.33

15. Mission Produce represents there are approximately 480 Settlement Class members. Thus, the average Settlement Award is projected to be at least \$885.07.

1 16. Plaintiffs alleges that, until approximately October 2017, Mission Produce
2 rounded its employees' time entries in quarter-hour increments in a manner that consistently
3 favored Mission Produce and that, as a result, its prior time-rounding practice resulted in an
4 underpayment of wages. Based on our retained expert's analysis and extrapolation of Mission
5 Produce's timekeeping records, Plaintiffs estimate that as a result of Mission Produce's rounding
6 practice, Settlement Class members were underpaid by approximately 517 hours during the Class
7 Period. The average minimum wage in California during the rounding period was approximately
8 \$10.26. Thus, Plaintiffs estimate Mission Produce's maximum exposure for this claim at \$10,609
9 (517 hours * \$10.26 min. wage * 2 [liquidated damages per Lab. Code § 1194.2]). Mission
10 Produce contends it utilized an even-handed timekeeping system that, on balance, resulted in
11 employees being paid for all hours actually worked. Mission Produce further argues that most
12 alleged unpaid time was *pre-shift* (i.e., employees clocked in before the scheduled start of the
13 shift), and that it was impossible for employees to begin *working* before the start of their shift,
14 since employees engaged in stretching exercises at the scheduled start of the shift and did not
15 perform any work prior to those stretching exercises. Moreover, even assuming all time on-the-
16 clock were otherwise compensable, Mission Produce asserts the amount of unpaid time per shift
17 is *de minimis* (less than 5 minutes, on average) and thus non-compensable. While Plaintiffs point
18 to *Troester v. Starbucks*, 5 Cal.5th 829 (2018), where the California Supreme Court held
19 California's labor laws generally do not recognize a *de minimis* defense, Mission produce argues
20 *Troester* should be limited to its facts. Mission Produce also contends this claim was not
21 certifiable, since its rounding practice was facially neutral and individualized inquiries would be
22 necessary as to whether employees were in fact underpaid or overpaid for each workday in
23 question (including whether they were actually working when they clocked in early), resulting in
24 hundreds of unmanageable of mini-trials. Although these defenses warranted discounting of the
25 maximum exposure for this claim, in light of the relatively small amount of underpayment,
26 Plaintiffs did not discount this claim for purposes of their damages analysis.

27 17. Plaintiffs also allege that their meal periods were often short, because they were
28 required to use part of their meal period to walk to the time clock to clock out, and there were

1 sometimes long lines to clock out for meal periods. Plaintiffs further allege that Mission Produce
2 failed to provide second meal periods on all shifts over 10 hours, and that this allegation is
3 supported by the fact that many shifts over 10 hours do not reflect a compliant second meal period
4 in employee timekeeping records. Based on Plaintiffs' expert's review of employee timekeeping
5 records, there were approximately 103,886 shifts of over 6.0 hours (where the first meal period
6 may not be waived) during the Class Period. Plaintiffs further estimate, based on their experience
7 and observations of employees, that employees took non-compliant meal periods on
8 approximately 40% of all such shifts as a result of having to wait in line at the time clock.
9 Plaintiffs' expert further calculated that the average rate of pay for putative class members during
10 the Class Period was approximately \$12.53. Thus, Plaintiffs estimated Mission Produce's
11 maximum exposure for first meal period violations at \$520,677 (103,886 shifts * .4 * \$12.53).
12 With respect to second meal periods, and based on Plaintiffs' expert's review and extrapolation
13 of employee timekeeping records, missing or non-compliant second meal periods were observed
14 on approximately 20,995 such shifts, for an additional \$263,067 in liability for second meal
15 periods, for a total maximum exposure of \$783,744 on the meal period claim. Mission Produce
16 argues that it maintained legally-compliant meal period practices throughout the Class Period,
17 and that under *Brinker* it is only required to "provide" the opportunity to take meal periods, not
18 "ensure" meal periods are taken. Mission Produce further argues that even if employees had to
19 wait in line to punch out for lunch, their time records generally show that they were nevertheless
20 clocked out for at least 30 minutes, which demonstrates that they still received a 30-minute meal
21 period even if they clocked out a minute or two after their scheduled lunch break. As for second
22 meal periods, Mission Produce argues that many employees indeed take second meal periods on
23 shifts over 10 hours, as reflected in timekeeping records, and those who do not waive their second
24 meal period as they are entitled to do under Labor Code § 512. Mission Produce also asserts
25 Plaintiffs' meal period exposure calculation is inflated, since it allows for up to two meal period
26 premiums per shift whereas an employee may only recover up to one meal period premium per
27 shift. Mission Produce further argues that individualized inquiries would be required to determine
28 whether individual employees received a short meal period and/or did not take a second meal

1 period on each individual shift, and why any meal period was short or missed, thereby precluding
2 certification of this claim. Given these defenses, Plaintiffs discounted Mission Produce's
3 maximum exposure by 35% to account for the risk of non-certification, and an additional 45% to
4 account for Mission Produce's defenses on the merits, to arrive at an estimated total of \$280,188.

5 18. Plaintiffs allege that Mission Produce failed to authorize and permit third rest
6 periods on shifts over 10 hours, and fourth rest periods on shifts over 14 hours. Plaintiffs' expert's
7 analysis and extrapolation of Mission Produce timekeeping data revealed approximately 25,369
8 shifts over 10 hours worked by Settlement Class members during the Class Period. Thus, and
9 assuming a 100% violation rate for such shifts, Plaintiffs estimated Mission Produce's maximum
10 exposure on this claim at \$317,874 (25,369 * \$12.53 rest period premium). Mission Produce
11 asserts that in practice it has always authorized and permitted all required rest periods to non-
12 exempt employees; that it informs employees of their rest periods, including third and fourth rest
13 periods on shifts over 10 hours and over 14 hours, respectively; and that any failure to take a rest
14 period is the result of employee choice rather than any practice of Mission Produce. Mission
15 Produce further argues this claim is not amenable to class treatment as individualized inquiries
16 would be required to determine whether individual employees were in fact authorized and
17 permitted to take third and/or fourth rest periods on longer shifts, under various supervisors and
18 time periods, thus precluding class certification. These manageability concerns are particularly
19 present with respect to rest periods, Mission Produce contends, given that rest periods are not
20 (and need not) be recorded. In light of these defenses, Plaintiffs discounted Mission Produce's
21 maximum exposure by 40% for risk of non-certification, and an additional 50% for risk of losing
22 on the merits, to arrive at an estimated realistic exposure of \$95,362 for this claim.

23 19. Plaintiffs allege Mission Produce failed to indemnify the cost of personal cell
24 phones for work purposes, as well as for the purchase of jumpsuits, cold-resistant socks, and
25 water-resistant shoes. Plaintiffs estimate the cost of the required attire was approximately \$150
26 per employee, for a total of approximately \$72,000 (480 employees * \$150). Plaintiffs further
27 estimate approximately \$20 per month in cell phone expenses incurred in connection with their
28 job duties, and based on Plaintiffs' expert's analysis and extrapolation of employee timekeeping

records, Settlement Class members worked approximately 6,400 months during the Class Period, for an additional \$128,000 in maximum potential liability, for a total of \$200,000 in potential exposure. Mission Produce counters that employees did not need to use personal cell phones in connection with their job duties, and that if they did, there are procedures in place for employees to request reimbursement of work-related expenses. Mission Produce further contends employees are provided with safety equipment necessary to perform their job duties, and to the extent employees purchase work-related attire, it is the type of attire generally useable in their occupation – not of a distinctive color or design – and therefore did not need to be reimbursed by Mission Produce. Based on these defenses, Plaintiffs discounted this claim by 45% for the risk of non-certification and by an additional 55% for risk of losing on the merits or failing to recover the full amount sought, to arrive at a realistic estimated exposure of approximately \$49,500.

20. As a result of the foregoing alleged violations, Plaintiffs assert that Mission Produce failed to comply with its wage statement obligations. Data provided by Mission Produce reflected that there were approximately 4,827 pay periods worked by Settlement Class members within the one-year liability window under Labor Code § 226. In calculating Mission Produce’s exposure, Plaintiffs assumed they could recover the “initial” wage statement penalty of \$50 for each violation, for a total of \$241,350 (4,827 pay periods * \$50) in potential penalties. However, in addition to its arguments regarding Plaintiffs’ underlying claims – which Plaintiffs would need to overcome in order to prevail on a derivative wage statement claim – Mission Produce further contends any alleged wage statement violations could not be shown to be “knowing and intentional,” particularly given its good-faith defenses; that Plaintiffs cannot show they or other employees “suffer[ed] injury” due to alleged wage statement violations, as required by Lab. Code § 226(e); and that the wage statements always accurately reflected amounts *paid* to employees. Mission Produce also contends that wage statement claim cannot be premised on meal or rest period claim, as some courts have held (and which issue is currently before the California Supreme Court in *Naranjo v. Spectrum Security Services*). Based on these defenses, Plaintiffs discounted the maximum exposure by 35% for risk of non-certification, and by an additional 45% for risk of being unsuccessful on the merits, for an estimated realistic exposure of \$86,283.

1 21. Plaintiffs further assert that, as a result of its failure to pay wages, Mission Produce
2 failed to comply with its final payment obligations and therefore owes former employees waiting
3 time penalties under Labor Code § 203. Based on data provided by Mission Produce, there are
4 approximately 298 employees who separated their employment with Mission Produce since April
5 3, 2017. Based on the average rate of pay of \$12.53, Plaintiffs estimated an average waiting time
6 penalty of \$3,007 ($\$12.53 \times 8 \text{ hours} \times 30 \text{ days}$), and calculated Mission Produce's maximum
7 potential waiting time penalty exposure as approximately \$896,086 ($298 \times \$3,007$). However,
8 Mission Produce asserts it has strong, good-faith defenses to Plaintiffs' underlying claims and
9 thus, even if Plaintiffs were able to recover on their underlying claims, they would not be able to
10 recover waiting time penalties since waiting time penalties are not available where the employer
11 has a "good faith defense" to the underlying wage claim. Moreover, because the waiting time
12 claim is derivative of Plaintiffs' underlying claims, Plaintiffs would need to overcome Mission
13 Produce's defenses, both as to class certification and as to the merits, to their underlying claims.
14 Mission Produce further argues that, as with wage statement penalties, waiting time penalties may
15 not be premised on meal or rest period violations under the relevant case law. In light of these
16 defenses, Plaintiffs discounted Mission Produce's maximum exposure by 35% for risk of non-
17 certification and by an additional 55% for risk of losing on the merits, to arrive at an estimated
18 total of \$262,105.

19 22. Plaintiffs also seek civil penalties under PAGA based on the aforementioned
20 claims. Plaintiffs estimated a maximum PAGA exposure of \$482,700, based on approximately
21 4,827 pay periods worked by Settlement Class members during the PAGA Period at the \$100
22 "initial" violation rate under Lab. Code § 2699(f). Mission Produce contends Plaintiffs' PAGA
23 claim fails because the underlying claims fail, for the reasons described above. In addition,
24 Mission Produce argued that even if Plaintiffs were to prevail on some of their underlying claims,
25 they could not show a violation in each pay period in the PAGA Period. For example, the rounding
26 practice stopped in October 2017, before the beginning of the PAGA Period, and thus there could
27 be no PAGA liability for that claim; and Plaintiffs would not be able to show a meal period
28 violation for every employee in every pay period in the PAGA Period. Mission Produce further

maintains that given its good-faith defenses, the Court would substantially reduce PAGA civil penalties even if it were to find in favor of Plaintiffs on one or more of their underlying claims. Thus, Plaintiffs discounted the maximum figure by 50% for risk of losing on the merits and/or not recovering a PAGA penalty for each pay period, and by an additional 50% for risk of the Court reducing penalties, to arrive at an estimated exposure of \$120,675.

23. Using these estimated figures, Plaintiff predicted the realistic total recovery for the Class would be approximately \$904,722. The proposed settlement of \$800,000 therefore represents over 88.4% of Plaintiffs' reasonably forecasted recovery.

24. At final approval, Plaintiffs' counsel will request attorneys' fees of one-third of the Gross Settlement Award (currently estimated at \$266,666.67), and up to \$30,000 in litigation costs. My office has incurred substantial attorneys' fees conducting pre-filing investigation; analyzing Plaintiffs' claims; conducting legal research; analyzing timekeeping, payroll, and other data with our retained expert to create a comprehensive damages model; preparing for and attending mediation; negotiating and preparing the Settlement Agreement; preparing this Motion; and otherwise prosecuting this case. I anticipate that my office and my co-counsel will incur significant future attorneys' fees in overseeing the Notice process, fielding phone calls from Settlement Class members, preparing the Final Approval Motion and supporting documents, and appearing at the Final Approval Hearing.

25. As will be fully briefed at final approval, Plaintiffs' requested enhancement payments are in recognition of the time and effort they expended on behalf of the Settlement Class, including providing factual information and documents to my office and my co-counsel, identifying potential witnesses, attending in-person and telephonic meetings with my office and my co-counsel to discuss the claims and theories at issue in the litigation, and otherwise actively participating in the prosecution of this case.

26. Although the parties engaged in significant informal discovery, they had not completed formal written and deposition discovery, which would have required expenditure of substantial time and resources. Plaintiffs also still had to file for class certification. Even if Plaintiffs obtained certification, the parties would incur considerable attorneys' fees and costs

1 through a possible decertification motion, motions for summary judgment, trial, and potential
2 appeals.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct. Executed on April 18, 2022, at El Segundo, California.

5 

6 _____
Paul K. Haines

EXHIBIT 1

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiffs Maria Razo Viveros, Reyes Segura, and Melchor Aguilar (“Plaintiffs”), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Mission Produce, Inc. (“Mission Produce”), on the other hand. Plaintiffs and Mission Produce are referred to herein collectively as the “Parties.” Plaintiffs and the Settlement Class (defined below) are represented by Paul K. Haines, Tuvia Korobkin, and Neil M. Larsen of Haines Law Group, APC and David D. Bibiyan and Diego Aviles of Bibiyan Law Group P.C. (“Class Counsel”). Mission Produce is represented by Joel P. Kelly of Jackson Lewis, P.C.

On April 23, 2020, Plaintiffs Viveros and Segura filed a class action lawsuit against Mission Produce in Los Angeles County Superior Court, in the matter titled *Maria Razo Viveros and Reyes Segura v. Mission Produce, Inc.*, Case No. 20STCV15737 (the “*Viveros* Action”). On June 30, 2020, Plaintiffs Viveros and Segura filed the operative First Amended Class and Representative Action Complaint in the *Viveros* Action, alleging causes of action for: (i) failure to pay overtime wages; (ii) failure to pay minimum wages; (iii) meal period violations; (iv) rest period violations; (v) failure to furnish accurate itemized wage statements; (vi) failure to timely pay final wages; (vii) unfair competition as a result of the aforementioned violations (Bus. & Prof. Code § 17200 *et seq.*); and (viii) civil penalties pursuant to the Private Attorneys General Act of 2004 (“PAGA”), California Labor Code § 2698, *et seq.*, as a result of the aforementioned violations.

On June 10, 2020, Plaintiff Aguilar filed a class action lawsuit against Mission Produce in Ventura County Superior Court, entitled *Melchor Manlalo Aguilar v. Mission Produce, Inc.*, Case No. 56-2020-00542261-CU-OE-VTA (“*Aguilar* Action”). The Aguilar Action alleged causes of action for: (i) failure to pay overtime wages; (ii) failure to pay minimum wages; (iii) meal period violations; (iv) rest period violations; (v) failure to pay wages due at termination; (vi) wage statement violations; (vii) failure to indemnify for business expenses; and (viii) unfair competition as a result of the aforementioned violations (Bus. & Prof. Code § 17200 *et seq.*). The *Viveros* Action and the *Aguilar* Action are collectively referred to herein as the “Actions.” As part of this Settlement, the Parties have agreed to stipulate to the filing of an amended complaint in the *Viveros* Action which adds Plaintiff Aguilar as a named plaintiff and contains all claims alleged in both Actions.

Given the uncertainty of litigation, Plaintiffs and Mission Produce wish to settle the Actions both individually and on behalf of the Settlement Class (defined below). Accordingly, Plaintiffs and Mission Produce agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiffs and Mission Produce stipulate to the certification of the following Settlement Class:

All current and former non-exempt employees of Mission Produce who worked for Mission Produce in California at any time from April 23, 2016 to December 31, 2021 or the date of preliminary approval of the Settlement, whichever is earlier (“Class Period”).

Mission Produce represents there are approximately 480 Settlement Class members.

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this

Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in the Actions or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **Release by Settlement Class Members and Plaintiffs.** As of the date that (i) the Final Effective Date (as defined below) occurs and (ii) the settlement is fully funded, Plaintiffs and every member of the Settlement Class will fully release and discharge Mission Produce, and any of its former and current parents and subsidiaries, and its officers, directors, employees, partners, shareholders, attorneys, insurers, and agents, and any other successors, assigns, or legal representatives (collectively, the “Released Parties”) as follows:

- A. Release by Settlement Class members: Settlement Class members (except those who opt-out) shall release all claims against Mission Produce and the Released Parties under California law that were asserted in the Actions, or which could have been asserted in the Actions based on the facts alleged in the operative complaints in the Actions, including claims for: (i) failure to pay overtime wages (Labor Code §§ 204, 510, 1194, 1198); (ii) failure to pay minimum wages (Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1198); (iii) meal period violations (Labor Code §§ 226.7, 512); (iv) rest period violations (Labor Code §§ 226.7, 516); (v) failure to indemnify employees for business expenses (Labor Code §§ 2802, 2804); (vi) failure to furnish accurate itemized wage statements (Labor Code § 226); (vii) failure to timely pay final wages (Labor Code §§ 201-203); and (viii) any claims under Business & Professions Code § 17200 *et seq.* based on any of the above claims, arising from Settlement Class members’ employment with Mission Produce during the Class Period (“Class Released Claims”). The period of release for the Class Released Claims shall extend to the limits of the Class Period. In addition, all Settlement Class members (whether or not they opt out of the Class Settlement) who worked for Mission Produce at any time from April 24, 2019 through the end of the Class Period (the “PAGA Period”) will release all claims against Mission Produce for civil penalties under PAGA based on the facts alleged in the operative complaints in the Actions and in the PAGA letters submitted by Plaintiffs, that arose during the PAGA Period (the “PAGA Released Claims”).
- B. Release by Plaintiffs: In light of Plaintiffs’ Class Representative Enhancement Awards (described below), Plaintiffs, for themselves and none other, have agreed, in addition to the Class Released Claims described above, to provide a general release to Mission Produce, by which they release all claims, whether known or unknown, under federal law or state law, against Mission Produce, arising at any time on or before the date this Settlement Agreement is executed by Plaintiffs (“Plaintiffs’ Released Claims”). The Parties understand and agree that Plaintiffs are not, by way of this release or anything else in this Settlement Agreement, releasing or settling any workers’ compensation claims or any other claims which cannot be released as a matter of law, and such claims are expressly excluded from Plaintiffs’ Released Claims. Plaintiffs understand that this release includes unknown claims and that Plaintiffs are, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

3. **Gross Settlement Amount.** As consideration, Mission Produce agrees to pay a non-reversionary “Gross Settlement Amount” of \$800,000.00 in full and complete settlement of the Actions, as follows:
- A. The Parties have agreed to engage Phoenix Settlement Administrators as the “Settlement Administrator” to administer this Settlement.
 - B. The term “Final Effective Date” means: (i) that the Settlement Agreement has received Final Approval by the Court and there were no timely objections or intervener requests filed, or that any timely objections and/or interveners have been withdrawn; or (ii) in the event that one or more timely objections or interventions has/have been filed and not withdrawn, then upon the passage of the applicable date for an objector or intervener to seek appellate review of the Court’s order of Final Approval, without a timely appeal having been filed; or (iii) in the event that a timely appeal of the Court’s order of Final Approval has been filed, when the applicable appellate court has rendered a final decision or opinion affirming the Court’s Final Approval order without material modification, and the applicable date for seeking further appellate review has passed, or the date that any such appeal has been either dismissed or withdrawn by the appellant.
 - C. The Gross Settlement Amount shall be deposited with the Settlement Administrator within fifteen (15) Court days after the Final Effective Date.
 - D. This is a non-reversionary settlement. The Gross Settlement Amount includes:
 - (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator, which are anticipated to be no greater than Eleven Thousand Dollars and Zero Cents (\$11,000.00);
 - (3) Up to \$7,500 to each Plaintiff (\$22,500 total) as Class Representative Enhancement Awards, in recognition of Plaintiffs’ contributions to the Actions and services to the Settlement Class, and their general release;
 - (4) Up to one-third of the Gross Settlement Amount (currently estimated to be \$266,666.67) in Class Counsel’s attorneys’ fees, plus actual costs and expenses incurred by Class Counsel related to the Actions as supported by declaration, which are currently estimated to be no greater than \$30,000.00;
 - (5) Sixty Thousand Dollars and Zero Cents (\$60,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties, or \$45,000.00, will be payable to the Labor & Workforce Development Agency (“LWDA”), and the remaining 25%, or \$15,000.00, will be paid to certain Settlement Class members as the “PAGA Amount” as described below.

Mission Produce will not oppose the reasonableness of these requests. Any reduction by the Court of these requests will revert to the Net Settlement Amount (defined below).

- E. **Employer Payroll Taxes.** The Gross Settlement Amount does not include employer-side payroll taxes, which shall be paid by Mission Produce separate from, and in addition to, the Gross Settlement Amount. Mission Produce shall pay the employer-side payroll taxes to the Settlement Administrator at the same time it pays the Gross Settlement Amount.
- F. **Escalator Clause.** Mission Produce represents that Settlement Class members collectively worked approximately 12,775 pay periods for Mission Produce during the Class Period as non-exempt employees in California (“Pay Periods”) as of October 15, 2021. The Parties agree that this is a material term of the Settlement. If the actual number of Pay Periods during the Class Period is more than 5% greater than 12,775 (i.e., if there are 13,413 or more total Pay Periods during the Class Period), then the Gross Settlement Amount shall increase commensurate with the increase in Pay Periods (i.e., if the number of total Pay Periods is 10% greater than 12,775, then the Gross Settlement Amount will increase by 10%).

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment (“Settlement Award”) from the Settlement. Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel’s attorneys’ fees, Class Counsel’s costs and expenses, the Class Representatives’ Enhancement Awards, the Settlement Administrator’s fees and expenses for administration, and the amount set aside as PAGA civil penalties payable to the LWDA. The remaining amount shall be known as the “Net Settlement Amount.”
- B. **PAGA Amount:** From the Net Settlement Amount, \$15,000.00 has been allocated as the “PAGA Amount” as stated above. The PAGA Amount will be distributed to all Settlement Class members (whether or not they opt out) who performed work for Mission Produce in California during the PAGA Period, based on each Settlement Class member’s proportionate number of pay periods worked for Mission Produce in California during the PAGA Period.
- C. **Remainder of Net Settlement Amount:** The remainder of the Net Settlement Amount (“NSA Remainder”) will be distributed to all participating Settlement Class members (i.e., those Settlement Class members who do not opt out) based on each participating Settlement Class member’s proportionate number of Pay Periods, i.e., the number of pay periods worked for Mission Produce as a non-exempt employee in California during the Class Period. This portion of each participating Settlement Class member’s Settlement Award shall be calculated by multiplying the NSA Remainder by a fraction, the numerator of which is the participating Settlement Class member’s number of Pay Periods, and the denominator of which is the total Pay Periods worked by all participating Settlement Class members.

- D. **Calculation of Settlement Awards.** Within seven (7) calendar days of the Effective Date, the Settlement Administrator will calculate Settlement Award amounts, as well as the amount of the employer's share of payroll taxes due on the wage portion of the Settlement Awards, and provide the same to counsel for review and approval.
- E. **Payment of Settlement Awards.** Within seven (7) calendar days after receiving the Gross Settlement Amount, and after receiving approval of its final calculations from counsel for the Parties, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Mission Produce's counsel. The Settlement Administrator shall also pay the amounts approved by the Court for Class Counsel's attorneys' fees and costs, Plaintiffs' Class Representative Enhancement Awards, and PAGA payment to the LWDA at the same time it mails Settlement Awards to participating Settlement Class members.
- F. All amounts paid from the PAGA Amount shall be treated as 100% penalties. All amounts paid from the NSA Remainder shall be allocated as one-third wages, one-third penalties, and one-third interest. The Settlement Administrator will be responsible for issuing to Settlement Class members an IRS Form W-2 (for amounts paid as wages) and an IRS Form 1099 (for amounts paid as penalties and interest). Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- G. Each member of the Settlement Class who receives a Settlement Award must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks are not cashed within 180 days after mailing shall be distributed to Family Promise (FamilyPromise.org) in accordance with Section 384 of the California Code of Civil Procedure.
- H. Neither Plaintiffs nor Mission Produce (nor their respective counsel) shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.
5. **Attorneys' Fees and Costs.** Mission Produce will not object to Class Counsel's request for a total award of attorneys' fees of up to one-third of the Gross Settlement Amount, which is currently estimated to be \$266,666.67. Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed \$30,000.00, from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099

by the Settlement Administrator when the Settlement Administrator pays the fee award approved by the Court.

6. **Class Representative Enhancement Awards.** Mission Produce will not object to a request for a Class Representative Enhancement Award of \$7,500.00 to each of the Plaintiffs, for their time and risk in prosecuting this case and Plaintiffs' service to the Settlement Class. These awards will be in addition to Plaintiffs' Settlement Awards as Settlement Class members, and shall be reported on an IRS Form 1099 issued by the Settlement Administrator.

7. **Settlement Administrator.** Mission Produce will not object to the appointment of Phoenix Settlement Administrators as Settlement Administrator. Mission Produce will not object to Plaintiffs seeking approval to pay up to \$11,000 for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending the Notice Packets to the Settlement Class members in both English and Spanish, calculating Settlement Awards and preparing all checks and mailings, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount only after Settlement Awards have been mailed to Settlement Class members. The Settlement Administrator shall also give notice of final judgment by posting the final judgment to its website.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiffs shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for settlement purposes only;
- B. Appointing Paul K. Haines, Tuvia Korobkin, and Neil M. Larsen of Haines Law Group, APC; and David D. Bibiyan and Diego Aviles of Bibiyan Law Group P.C. as Class Counsel;
- C. Appointing Plaintiffs Maria Razo Viveros, Reyes Segura, and Melchor Aguilar as Class Representatives for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice and Notice of Estimated Settlement Award, attached hereto as **Exhibits A and B**, respectively); and
- G. Scheduling a Final Approval hearing.

9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within ten (10) business days after entry of an order preliminarily approving this Agreement, Mission Produce will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, number of Pay Periods worked, and number of pay periods worked during the PAGA Period

("Class Data") for each Settlement Class member during the Class Period. The Class Data shall be treated as confidential by the Settlement Administrator.

- B. Within fifteen (15) business days from receipt of the Class Data, the Settlement Administrator shall: (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member, and receive approval from counsel of those calculations; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within forty-five (45) calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").
 - i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must prepare and submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed and dated by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement (except for a portion of the PAGA Amount, if applicable) and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon. Notwithstanding the foregoing, and pursuant to *Robinson v. Southern Counties Oil Co.*, 53 Cal.App.5th 476 (2020), no Settlement Class member may exclude him/herself from the PAGA portion of the Settlement. Any Settlement Class member who worked for Mission Produce in California during the PAGA Period will be paid a portion of the PAGA Amount and will release the PAGA Released Claims, as noted above.
 - ii. At no time will the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class member to object to the Settlement or opt out of the Settlement Class or encourage any Settlement Class member to appeal from the final judgment.
 - iii. Settlement Class members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any Final Judgment entered by the Court if the Settlement is

approved by the Court. No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a complete list of all members of the Settlement Class who have timely submitted a Request for Exclusion.

- D. Objections. Members of the Settlement Class who do not opt out may object to this Settlement Agreement as explained in the Class Notice by submitting a written objection to the Settlement Administrator (who shall serve all objections as received on defense counsel and Class Counsel, who shall in turn file all such objections with the Court) within the Response Deadline, and/or by appearing at the Final Approval Hearing. Mission Produce's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Mission Produce's counsel and Class Counsel shall have ten (10) days to file a response to the objections. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name, current address, and dates of employment with Mission Produce, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; (4) be postmarked no later than the Response Deadline; and (5) state if the objecting Settlement Class Member intends to appear at the final approval hearing. Settlement Class members may also appear at the Final Approval Hearing to orally object, even if they have not submitted a written objection. Any attorney seeking to represent an objecting Settlement Class member at the Final Approval hearing must submit a Notice of Appearance to the Court and serve it on all counsel, no later than the Response Deadline.
- E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall contain a Notice of Estimated Settlement Award that discloses the amount of the Settlement Class member's estimated Settlement Award as well as all of the information that was used to calculate the Settlement Award. Settlement Class members will have the opportunity, should they disagree with Mission Produce's records regarding the information stated in the Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Settlement Class member and the Parties.
- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an

updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) business days of obtaining the updated address. Settlement Class members to whom Notice Packets are re-sent after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to mail a Request for Exclusion, Objection, or dispute. Notice Packets that are re-sent shall inform the recipient of this adjusted deadline, if applicable. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet need not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Mission Produce's Counsel to provide notice of the proposed settlement.

10. **Final Approval.** Following preliminary approval and the close of the period for submitting requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiffs shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiffs' and Class Counsel's application for attorneys' fees and costs, Class Representative Enhancement Awards, PAGA payment to the LWDA, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769. Said judgment shall be posted on the website of the Settlement Administrator.

11. **Dismissal of *Aguilar* Action.** Within 10 Court days of (i) the Final Effective Date occurring and (2) the Settlement being fully funded, Plaintiff Aguilar will file a request to dismiss the *Aguilar* Action without prejudice.

12. **Nullification of Settlement Agreement.**

A. In the event: (i) the Court denies preliminary approval of the Settlement; (ii) the Court denies final approval of the Settlement; (iii) the Court refuses to enter a Final Judgment as provided herein; or (iv) the Settlement does not become final for any other reason, this Settlement Agreement shall be null and void and any order or judgment entered by the Court in furtherance of this Settlement shall be treated as void from the beginning.

B. To the extent the total number of opt-outs exceed 5% of the number of Settlement Class members, Mission Produce has the option to nullify this settlement within ten (10) Court days of the first day the Settlement Administrator informs the Parties that the number of valid opt-outs has exceeded 5% of the Settlement Class. Mission Produce must provide written notice of such election within this time period to Class Counsel via a written notice, either email or fax will suffice, to Class counsel.

C. If one or more of the events described in (A) or (B) of this section occur, causing the Settlement Agreement to become null and void, the Parties shall proceed in all respects

as if this Settlement Agreement had not been executed. Any fees already incurred by the Settlement Administrator shall be paid equally by the Parties (i.e., 50% by Plaintiffs and 50% by Mission Produce) if the Settlement is terminated under (A) above, and 100% by Mission Produce should it exercise its option to nullify this Agreement based on (B) above.

13. **No Effect on Employee Benefits.** Amounts paid to Plaintiffs or other Settlement Class members pursuant to this Agreement shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of Plaintiffs or Settlement Class members.

14. **Tax Liability.** Neither the Parties nor their counsel make any representations as to the tax treatment or legal effect of the payments called for hereunder, and Settlement Class members are not relying on any statement or representation by the Parties or their counsel in this regard. Settlement Class members will be responsible for the payment of taxes and penalties assessed on the payments described herein and will hold the Parties free and harmless from and against any claims resulting from treatment of such payments as non-taxable damages, including the treatment of such payment as not subject to withholding or deduction for payroll and employment taxes.

15. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or wrongdoing or that class certification is appropriate in any context other than this Settlement Agreement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

16. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by counsel for all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

17. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and/or by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Plaintiffs:

Paul K. Haines of Haines Law Group, APC
2155 Campus Drive, Suite 1550, El Segundo, CA 90245
phaines@haineslawgroup.com

David Bibiyan of Bibiyan Law Group, P.C.
8484 Wilshire Boulevard, Suite 500
Beverly Hills, California 90211
david@tomorrowlaw.com

if to Mission Produce:

Joel P. Kelly of Jackson Lewis P.C.
725 South Figueroa Street, Suite 2500, Los Angeles, CA
90017
joel.kelly@jacksonlewis.com

18. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

19. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

20. **Nondisclosure and Nonpublication.** Until the Motion for Preliminary Approval is filed with the Court, Plaintiffs and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein, and except to Plaintiffs' spouse or to their attorneys or tax preparers as necessary for those professionals to provide their professional services to Plaintiffs.

21. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over the Parties and Settlement Class members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. The Court shall award reasonable attorneys' fees and costs to the prevailing party in any motion or action taken based on an alleged violation of any material term of this Settlement Agreement.

DATED: 10-28, 2021

MISSION PRODUCE, INC.

By: [Signature]
Name: STEPHEN J. BARRAN
Title: CEO

DATED: _____, 2021

PLAINTIFF MARIA RAZO VIVEROS

By: _____
Plaintiff and Settlement Class Representative

DATED: _____, 2021

PLAINTIFF REYES SEGURA

By: _____
Plaintiff and Settlement Class Representative

DATED: _____, 2021

PLAINTIFF MELCHOR AGUILAR

By: _____
Plaintiff and Settlement Class Representative

18. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

19. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

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21. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over the Parties and Settlement Class members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. The Court shall award reasonable attorneys' fees and costs to the prevailing party in any motion or action taken based on an alleged violation of any material term of this Settlement Agreement.

DATED: _____, 2021

MISSION PRODUCE, INC.

By: _____
Name: _____
Title: _____

Nov 9, 2021

DATED: _____, 2021

PLAINTIFF MARIA RAZO VIVEROS

By:  (Nov 9, 2021 17:59 PST)
Plaintiff and Settlement Class Representative

DATED: _____, 2021

PLAINTIFF REYES SEGURA

By: _____
Plaintiff and Settlement Class Representative

DATED: _____, 2021

PLAINTIFF MELCHOR AGUILAR

By: _____
Plaintiff and Settlement Class Representative

18. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

19. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

20. **Nondisclosure and Nonpublication.** Until the Motion for Preliminary Approval is filed with the Court, Plaintiffs and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein, and except to Plaintiffs' spouse or to their attorneys or tax preparers as necessary for those professionals to provide their professional services to Plaintiffs.

21. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over the Parties and Settlement Class members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. The Court shall award reasonable attorneys' fees and costs to the prevailing party in any motion or action taken based on an alleged violation of any material term of this Settlement Agreement.

DATED: _____, 2021

MISSION PRODUCE, INC.

By: _____
Name: _____
Title: _____

DATED: _____, 2021

PLAINTIFF MARIA RAZO VIVEROS

By: _____
Plaintiff and Settlement Class Representative

DATED: Nov 10, 2021, 2021

PLAINTIFF REYES SEGURA

By: Reyes Segura (Nov 10, 2021 16:23 PST)
Plaintiff and Settlement Class Representative

DATED: _____, 2021

PLAINTIFF MELCHOR AGUILAR

By: _____
Plaintiff and Settlement Class Representative

18. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

19. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

20. **Nondisclosure and Nonpublication.** Until the Motion for Preliminary Approval is filed with the Court, Plaintiffs and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein, and except to Plaintiffs' spouse or to their attorneys or tax preparers as necessary for those professionals to provide their professional services to Plaintiffs.

21. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over the Parties and Settlement Class members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. The Court shall award reasonable attorneys' fees and costs to the prevailing party in any motion or action taken based on an alleged violation of any material term of this Settlement Agreement.

DATED: _____, 2021

MISSION PRODUCE, INC.

By: _____
Name: _____
Title: _____

DATED: _____, 2021

PLAINTIFF MARIA RAZO VIVEROS

By: _____
Plaintiff and Settlement Class Representative

DATED: _____, 2021

PLAINTIFF REYES SEGURA

By: _____
Plaintiff and Settlement Class Representative

DATED: Nov 9, 2021 _____, 2021

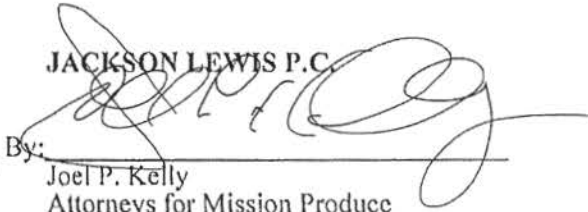
PLAINTIFF MELCHOR AGUILAR

By:  _____
MELCHOR AGUILAR (Nov 9, 2021 14:48 PST)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: Oct 18, 2021

JACKSON LEWIS P.C.

By: 
Joel P. Kelly
Attorneys for Mission Produce

DATED: _____, 2021

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiffs

DATED: _____, 2021

BIBIYAN LAW GROUP, P.C.

By: _____
David D. Bibiyan
Attorneys for Plaintiffs

APPROVED AS TO FORM:

DATED: _____, 2021

JACKSON LEWIS P.C.

By: _____
Joel P. Kelly
Attorneys for Mission Produce

DATED: November 10, 2021

HAINES LAW GROUP, APC

By:  _____
Paul K. Haines
Attorneys for Plaintiffs

DATED: _____, 2021

BIBIYAN LAW GROUP, P.C.

By: _____
David D. Bibiyan
Attorneys for Plaintiffs

APPROVED AS TO FORM:

DATED: _____, 2021

JACKSON LEWIS P.C.

By: _____
Joel P. Kelly
Attorneys for Mission Produce

DATED: _____, 2021

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiffs

DATED: Nov 9, 2021

BIBIYAN LAW GROUP, P.C.

By:  _____
David D. Bibiyan
Attorneys for Plaintiffs

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

MARIA RAZO VIVEROS, et al

Plaintiffs,

vs.

MISSION PRODUCE, INC.

Defendant.

Case No. 20STCV15737

**NOTICE OF PENDENCY OF CLASS ACTION
AND PROPOSED SETTLEMENT**

To: All current and former non-exempt employees of Defendant Mission Produce, Inc. ("Mission Produce") who worked for Mission Produce in California at any time from April 23, 2016 to **<<END OF CLASS PERIOD>>** ("Class Period").

**PLEASE READ THIS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT.**

Why should you read this Notice?

The Los Angeles County Superior Court ("Court") has granted preliminary approval of a proposed class action settlement (the "Settlement") that resolves two pending class action lawsuits against Mission Produce: *Maria Razo Viveros and Reyes Segura v. Mission Produce, Inc.*, Los Angeles County Superior Court Case No. 20STCV15737 (the "*Viveros* Action") and *Melchor Manlalo Aguilar v. Mission Produce, Inc.*, Ventura County Superior Court Case No. 56-2020-00542261-CU-OE-VTA ("*Aguilar* Action"). The *Viveros* Action and *Aguilar* Action are referred to together as the "Actions." Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from the Settlement. Mission Produce's records show that you were employed by Mission Produce as a non-exempt employee in California and performed work for Mission Produce at some point between April 23, 2016 through **<<END OF CLASS PERIOD>>**, and are therefore part of the proposed "Settlement Class." The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Actions, to inform you of the terms of the proposed Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment. If final judgment is entered in this case, it will be posted to the Settlement Administrator's website, www.phoenixclassaction.com.

What is this case about?

Plaintiffs Maria Razo Viveros, Reyes Segura, and Melchor Aguilar (together, "Plaintiffs") collectively allege in the Actions that Mission Produce violated California law by: (i) failing to pay all overtime wages; (ii) failing to pay minimum wages for all hours worked; (iii) failing to provide meal periods; (iv) failing to authorize and permit rest periods; (v) failing to indemnify employees for work-related expenses; (vi) failing to furnish accurate itemized wage statements; (vii) failing to timely pay final wages; and, as a result of the above, (viii) engaging in unlawful business practices. In addition, Plaintiffs seek recovery of derivative civil penalties under the California Labor Code Private Attorneys' General Act ("PAGA"), interest, and attorneys' fees and costs. Plaintiffs are known as the "Class Representatives." Plaintiffs' attorneys, who also represent the interests of all Settlement Class members, are known as "Class Counsel."

Mission Produce has denied and continues to deny that it has done anything wrong, and believes it has acted in compliance with all applicable laws and that Plaintiffs' claims have no merit. Mission Produce also denies that it owes any wages, restitution, penalties, or other damages. By agreeing to settle, Mission Produce is not admitting liability on any of the factual allegations or claims asserted in the Action or that the Action can or should proceed as a class action in a non-settlement context.

The Court has not ruled on the merits of Plaintiffs' claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Mission Produce has concluded that it is in its best interests to settle the Actions on the terms summarized in this Notice. After Mission Produce provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's-length negotiations between the parties.

The Class Representatives and Class Counsel also support the Settlement. Among the reasons for support are the defenses to liability potentially available to Mission Produce, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by Mission Produce, your decision about whether to participate in the Settlement will not affect your employment. California law and Mission Produce's company policies strictly prohibit unlawful retaliation. Mission Produce will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of the Settlement Class member's decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiffs / the Settlement Class:	Attorneys for Mission Produce:
HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Tuvia Korobkin tkorobkin@haineslawgroup.com Neil M. Larsen nlarsen@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	JACKSON LEWIS P.C. Joel P. Kelly, Esq. joel.kelly@jacksonlewis.com 725 South Figueroa Street, Suite 2500 Los Angeles, CA 90017-5408 Tel: (213) 689-0404 Fax: (213) 689-0430 www.jacksonlewis.com
BIBYAN LAW GROUP, P.C. David D. Bibyan david@tomorrowlaw.com Diego Aviles diego@tomorrowlaw.com 8484 Wilshire Boulevard, Suite 500 Beverly Hills, California 90211 Tel: (310) 438-5555 Fax: (310) 300-1705 www.tomorrowlaw.com	

What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court granted preliminary approval of the Settlement. If the Court grants final approval of the Settlement, Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Mission Produce, as specifically described below.

Mission Produce has agreed to pay \$800,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Actions, including claims by Settlement Class members, attorneys' fees, costs, settlement administration costs, PAGA civil penalties, and the Class Representatives' enhancement awards.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$11,000 from the Gross Settlement Amount to pay the Settlement administration costs.

Attorneys' Fees and Expenses. Class Counsel will ask for fees of up to one-third of Gross Settlement Amount, currently estimated to be \$266,666.67, as reasonable compensation for the work Class Counsel performed, and will continue to perform, in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$30,000 for reimbursement of costs Class Counsel have incurred in connection with the Actions.

Class Representatives' Enhancement Awards. Class Counsel will ask the Court to approve enhancement awards of \$7,500 to each of the Class Representatives (\$22,500 total). This award is to compensate the Class Representatives for their service and extra work performed on behalf of the Settlement Class members.

PAGA Civil Penalties. The parties have agreed to allocate \$60,000 of the Gross Settlement Amount as alleged civil penalties for the settlement of Plaintiffs' PAGA claim. Pursuant to the requirements of the PAGA, 75% of that amount, or \$45,000, will be paid to the California Labor & Workforce Development Agency ("LWDA"). The remaining \$15,000 has been designated as the "PAGA Amount" and will be paid to certain Settlement Class members as described below.

Calculation of Settlement Class Members' Settlement Awards. After deducting the Court-approved amounts for attorneys' fees, costs, administration costs, Class Representatives' Enhancement Awards, and the payment to the LWDA described above, the balance of the Gross Settlement Amount will form the Net Settlement Amount ("NSA"), which will be distributed to all Settlement Class members. The NSA is estimated to be approximately \$424,833.33.

- PAGA Amount: As noted above, \$15,000 of the NSA has been designated as the "PAGA Amount." The PAGA Amount will be distributed to all Settlement Class members who worked for Mission Produce in California at any time from April 24, 2019 through <<END OF CLASS PERIOD>> (the "PAGA Period"), based on the proportionate number of pay periods they worked for Mission Produce in California during the PAGA Period.
- Remainder of NSA: The remainder of the NSA, estimated at \$409,833.33, will be distributed to all Settlement Class members who do not opt out of the Settlement, based on each participating Settlement Class member's proportionate number of pay periods worked for Mission Produce in California during the Class Period.

Allocation and Taxes. For tax purposes, all payments made from the PAGA Amount will be designated as 100% penalties. Payments made from the remainder of the Net Settlement Amount will be treated as one-third wages, one-third penalties, and one-third interest. The Settlement Administrator will issue IRS forms W-2 for all amounts designated as "wages," and will issue IRS forms 1099 for all amounts designated as penalties and interest. Settlement Class members are responsible for the proper income tax treatment of the Settlement Awards. The Settlement Administrator, Mission Produce and its counsel, and Plaintiffs and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement and the Settlement becomes final, and upon the Settlement being fully funded, the Class Representatives, and every member of the Settlement Class (except those who opt out) will fully release and discharge Mission Produce, and any of its former and current parents and subsidiaries, and its officers, directors, employees, partners, shareholders, attorneys, insurers, and agents, and any other successors, assigns, or legal representatives (collectively, the "Released Parties") from all claims against Mission Produce and the Released Parties under California law that were asserted in the Actions, or which could have been asserted in the Actions based on the facts alleged in the operative complaints in the Actions, including claims for: (i) failure to pay overtime wages (Labor Code §§ 204, 510, 1194, 1198); (ii) failure to pay minimum wages (Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1198); (iii) meal period violations (Labor Code §§ 226.7, 512); (iv) rest period violations (Labor Code §§ 226.7, 516); (v) failure to indemnify employees for business expenses (Labor Code §§ 2802, 2804); (vi) failure to furnish accurate itemized wage statements (Labor Code § 226); (vii) failure to timely pay final wages (Labor Code §§ 201-203); and (viii) any claims under Business & Professions Code § 17200 et seq. based on any of the above claims, arising from Settlement Class member's employment with Mission Produce during the Class Period ("Class Released Claims"). The period of release for the Class Released Claims shall extend to the limits of the Class Period. In addition, all Settlement Class members (whether or not they opt out) who worked for Mission Produce at any time during the PAGA Period will release all claims against Mission Produce for

civil penalties under PAGA based on the facts alleged in the operative complaints in the Actions and in the PAGA letters submitted by Plaintiffs, that arose during the PAGA Period (the “PAGA Released Claims”).

Conditions of Settlement. By granting preliminary approval of the Settlement, the Court has determined that the Settlement falls within the range of possible approval as fair, reasonable, and adequate. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement.

How can I claim money from the Settlement?

Do Nothing. You do not need to do anything if you want to receive payment from and participate in the Settlement. If you do nothing, you will be entitled to your Settlement Award. Your estimated individual Settlement Award is included in the enclosed Notice of Estimated Settlement Award. You also will be bound by the Settlement, including all of the releases of claims stated herein.

Check Cashing Deadline and Uncashed Checks. You must cash or deposit your Settlement Award check within 180 days from the date that the Settlement Administrator mails the check to you. If you do not cash or deposit your check within 180 days, your check will be voided and the funds from the check will be distributed to *cy pres* recipient Family Promise (FamilyPromise.org) in accordance with Section 384 of the California Code of Civil Procedure.

What other options do I have?

Disputing Information in Notice of Estimated Settlement Award. Your estimated Settlement Award has been calculated and is included in the enclosed Notice of Estimated Settlement Award. As stated above, your estimated Settlement Award is based on the number of pay periods you worked for Mission Produce as a non-exempt employee in California during the Class Period, as well as the number of pay periods, if any, you worked Mission Produce as a non-exempt employee in California during the PAGA Period. The information contained in Mission Produce’s records regarding the number of pay periods you worked in each time period is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than **<<RESPONSE DEADLINE>>**. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.** The parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator’s decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written “Request for Exclusion” letter or postcard, postmarked no later than **<<RESPONSE DEADLINE>>**, with your full name (as well as any former names you used while you were employed by Mission Produce), your current address, telephone number, last 4 digits of your social security number, the date, and your signature. The Request for Exclusion must also state that you wish to exclude yourself from the *Viveros v. Mission Produce, Inc.* class action settlement. Please note, however, that you may not exclude yourself from the PAGA portion of the Settlement. Any Settlement Class member who worked for Mission Produce in California during the PAGA Period will receive a portion of the PAGA Amount and will release the PAGA Released Claims, regardless whether the Settlement Class member submits a Request for Exclusion.

Send the Request for Exclusion directly to the Settlement Administrator at **<<INSERT ADMINISTRATOR CONTACT INFO>>**. Any person who submits a valid and timely Request for Exclusion shall, upon receipt, no longer be a Settlement Class member for purposes of the class claims, shall be barred from participating in the Settlement (other than the PAGA portion), and shall receive no benefits from the Settlement (other than a portion of the PAGA Amount, if applicable). Any person who submits a valid and timely Request for Exclusion will also lack standing to object to the Settlement.

Objecting to the Settlement. If you do not submit a Request for Exclusion, you have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you must either mail a written Objection to the Settlement Administrator, and/or appear at the Final Approval Hearing to orally object. Any

written Objection must include your full name (as well as any former names used while employed by Mission Produce), current address and phone number, last 4 digits of your social security number, the name and contact information of any attorney representing you, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection, including any supporting papers, briefs, written evidence, declarations, and/or other evidence. Your Objection must also state whether you intend to appear at the Final Approval Hearing. All written objections or other correspondence must state the name and number of the case, which is *Maria Razo Viveros v. Mission Produce, Inc.*, Los Angeles County Superior Court Case No. 20STCV15737. Any written Objections must be postmarked on or before <<RESPONSE DEADLINE>>.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing. You have the right to appear either in person or through your own attorney at this hearing. If you wish to appear at the Final Approval Hearing and/or retain an attorney to represent you at the hearing, you must do so at your own expense. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object. In other words, by submitting an Objection, you are not excluding yourself from the Settlement.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department 14 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. At the Final Approval Hearing, the Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of expenses, the incentive awards to the Class Representatives, and the Settlement administration costs. The Final Approval Hearing may be postponed without further notice to the Settlement Class. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing at their own expense.**

If you plan on attending the hearing or otherwise visiting the Court, please consult the Court's website, <https://www.lacourt.ca.gov>, for information regarding court operations during COVID-19 as well as face covering and social distancing requirements.

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012, during regular court hours. You may also contact the Settlement Administrator or Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT.

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

EXHIBIT B

NOTICE OF ESTIMATED SETTLEMENT AWARD

MARIA RAZO VIVEROS AND REYES SEGURA v. MISSION PRODUCE, INC.
LOS ANGELES COUNTY SUPERIOR COURT CASE NO. 20STCV15737

Please complete, sign, and return this Form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute the information listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

Phone number (if you wish to be contacted by phone)

(III) Information Used to Calculate Your Estimated Settlement Award:

According to Mission Produce, Inc.'s ("Mission Produce") records:

- (a) you worked _____ pay periods for Mission Produce in California between April 23, 2016 and <<END OF CLASS PERIOD>>.
- (b) You worked _____ pay periods for Mission Produce in California between April 24, 2019 and <<END OF CLASS PERIOD>>.

Based on the above, your Settlement Award is estimated at \$ _____.

(IV) If you disagree with the information included in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this Form:

If you dispute the above information from Mission Produce's records, Mission Produce's records will control unless you are able to provide documentation that establishes that Mission Produce's records are mistaken. If there is a dispute about whether Mission Produce's information or yours is accurate, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Class Action Settlement" that accompanies this Form. The Settlement Administrator's determination will be final.

Date: _____

Signature: _____

ANY DISPUTES (INCLUDING SUPPORTING DOCUMENTS) MUST BE POSTMARKED NO LATER THAN <<RESPONSE DEADLINE>>.