

1 MAYALL HURLEY P.C.
WILLIAM J. GORHAM III (SBN: 151773)
2 wgorham@mayallaw.com
NICHOLAS F. SCARDIGLI (SBN: 249947)
3 nscardigli@mayallaw.com
ROBERT J. WASSERMAN (SBN: 258538)
4 rwasserman@mayallaw.com
2453 Grand Canal Boulevard
5 Stockton, California 95207-8253
Telephone: (209) 477-3833
6 Facsimile: (209) 473-4818

Electronically Filed
Superior Court of California
County of San Joaquin
2021-01-08 09:26:54
Clerk: Stephanie Ceja

7 Attorneys for Plaintiff DAVID PATTERSON

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN JOAQUIN

10 DAVID PATTERSON,

11 Plaintiff,

12 vs.

13 SCHELL & KAMPETER, INC., and
14 DOES 1-10, inclusive,

15 Defendants.
16
17

Case No.: STK-CV-UOE-2020-9296

FIRST AMENDED CLASS ACTION
COMPLAINT

1. COMPLAINT FOR FAILURE TO
FURNISH ACCURATE WAGE
STATEMENTS (CLASS ACTION
ALLEGATIONS)
2. PAGA

JURY TRIAL DEMANDED

18
19 Plaintiff David Patterson (“Patterson”) brings this action against Schell & Kampeter, Inc.
20 (“Schell”) and Does 1-10, inclusive as referred to herein, for statutory penalties, civil penalties
21 pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code sections 2699 *et seq.*),
22 injunctive relief, costs, and attorneys’ fees resulting from the defendants’ unlawful conduct both
23 individually and on behalf of all similarly situated individuals, as defined below in Paragraph 11. As
24 grounds Patterson therefore alleges:

25 **PARTIES**

26 1. Patterson is and/or was at all times relevant herein an individual; a resident of
27 California; and employed in San Joaquin County, California.
28

1 2. Schell is and was at all times relevant herein a Missouri corporation, doing business in
2 California.

3 3. Schell and Does 1-10 are referred to collectively herein as “Defendants.”

4 4. Patterson is not aware of the true names and capacities of the defendants sued herein as
5 Does 1-10, whether individual, corporate, associate, or otherwise, and, therefore, sues such defendants
6 by these fictitious names. Patterson will amend this complaint to allege their true names and
7 capacities when ascertained. Patterson is informed and believes, and on that basis alleges, that each of
8 the fictitiously named defendants is responsible in some manner for the occurrences herein alleged and
9 that Patterson’s and the similarly situated individuals’ injuries herein alleged were legally caused by
10 such defendants. Unless otherwise indicated, each defendant was acting within the course and scope
11 of said agency and/or employment, with the knowledge and/or consent of said co-defendant.

12 **VENUE AND JURY TRIAL DEMAND**

13 5. Venue is proper in this Court because the unlawful acts as to Patterson alleged herein
14 took place in San Joaquin County and Patterson’s place of employment with Schell is and was at all
15 times relevant herein doing business in Ripon, California. Patterson hereby demands a jury trial.

16 **CLASS ALLEGATIONS**

17 6. Patterson brings this action both individually and on behalf of all other similarly
18 situated to him, pursuant to Code of Civil Procedure § 382.

19 7. Patterson was employed by Schell in San Joaquin County in 2019 and 2020.

20 8. Schell has failed and continues to fail to provide complete and accurate itemized wage
21 statements to Patterson and its other California employees, current and former.

22 9. Specifically, even though Schell merged two California LLC’s, Diamond Pet Food
23 Processors of Ripon, LLC, and Diamond Pet Food Processors of California, LLC, into Schell in
24 December of 2018, it has furnished and continues to furnish these individuals a wage statements that
25 fail to identify Schell as the employer and fail to identify the address of the legal entity that is the
26 employer. In so failing, Schell is in violation of Labor Code § 226(a)(8).

27 10. Patterson and these other California employees, current and former, were injured by
28 these failures, which are systematic and pervasive violations and not the result of an isolated or

1 unintentional error – Schell knowingly and intentionally failed and continues to fail to show the
2 required information, i.e., its name and/or address, on **each** wage statement furnished to **each** of these
3 individuals for **each** pay period for months, if not years – because a reasonable person would not be
4 able to readily ascertain the required information without reference to other documents or information.

5 11. The class (“the Class”) that Patterson seeks to represent is defined as follows:

6 All current and former California employees of Schell who received one or more wage
7 statements from 365 days prior to the filing of this Complaint and continuing to the date as
8 determined by the Court.

9 12. This action has been brought and may properly be maintained as a class action under
10 Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation
11 and the Class is easily ascertainable:

12 a. Numerosity: Patterson is informed and believes and based on such information
13 and belief alleges that the potential members of the Class are so numerous that
14 the joinder of all the members of the Class is impracticable. The exact number
15 of members of the Class is presently unknown to Patterson, but is believed to be
16 in excess of 300. The exact number and specific identities of the members of
17 the Class can be readily ascertained through inspection of Schell’s business
18 records, including copies of wage statements Schell furnished to each of these
19 members.

20 b. Commonality: There are questions of law and fact common to Patterson and to
21 the Class that predominate over any questions affecting only individual
22 members of the Class. These common questions of law and fact include,
23 without limitations:

- 24 i. Whether and, if so, when Schell has adopted a set of policies, practices,
25 and procedures that fully comply with Labor Code § 226;
26 ii. Whether Schell furnished wage statements that fail to show its name
27 and/or address; and
28

1 iii. Whether a reasonable person would be able to readily ascertain Schell's
2 name and/or address without reference to other documents or
3 information.

4 c. Typicality: Patterson's claims are typical of the claims of the Class. Schell's
5 common course of conduct in violation of law as alleged herein in relate to
6 furnishing wage statements has caused Patterson and members of the Class to
7 sustain the same "injury," as that term is defined in Labor Code § 226(e)(2).
8 Patterson's claims are therefore representative of, and co-extensive with, the
9 claims of the Class.

10 d. Adequacy of Representation: Patterson is a member of the Class, does not have
11 any conflicts of interest with other members of the Class, and will prosecute the
12 case vigorously on behalf of the Class. Counsel representing Patterson is
13 competent and experienced in litigating representative employment actions.
14 Patterson will fairly and adequately represent and protect the interest of
15 members of the Class.

16 e. Superiority of Class Action: A class action is superior to other available means
17 for the fair and efficient adjudication of this controversy. Individual joinder of
18 all members of the Class is not practicable, and questions of law and fact
19 common to the Class predominate over any questions affecting only individual
20 members of the Class. Each member of the Class has been injured and is
21 entitled to recovery by reason of Schell's illegal conduct. Class action treatment
22 will allow those similarly situated individuals to litigate their claims in the
23 manner that is most efficient and economical for the parties and the judicial
24 system.

25 **PAGA ALLEGATIONS**

26 The Private Attorneys General Act ("PAGA"), as set forth at California Labor
27 Code § 2698 *et seq.*, is and at all times relevant herein was applicable to Plaintiff's employment
28 with Defendants.

1 13. Pursuant to Labor Code § 2699(a) any provision of the Labor Code which provides
2 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
3 (“LWDA”) for violations of the Labor Code may, as an alternative, be recovered through a civil
4 action brought by an aggrieved employee on behalf of himself or herself and other current or former
5 employees pursuant to the procedures outlined in Labor Code § 2699.3. California Labor Code §
6 2699(a).

7 14. Pursuant to PAGA, an “aggrieved employee” is “any person who was employed by
8 the alleged violator and against whom one or more of the alleged violations was committed.”
9 Labor Code § 2699(c).

10 15. Plaintiff Patterson was employed by Defendants when the alleged violations were
11 committed against him. Plaintiff is therefore an aggrieved employee as defined by Labor Code §
12 2699(c). Other current and former employees are also aggrieved employees in that one or more of
13 the alleged violations were committed against them during their time of employment with
14 Defendants.

15 16. Pursuant to Labor Code § 2699(a), the civil penalty recoverable in a PAGA action is
16 that which is provided for by the Labor Code for a violation of that section. The penalty for each
17 such violation of Labor Code § 226 is \$250 pursuant to Labor Code § 226.3. The penalty for
18 violations of Labor Code provisions that do not provide for a specific penalty, are \$100 per pay
19 period per employee effected. *Labor Code § 2699(f)*.

20 17. Pursuant to California Labor Code § 2699(g), an aggrieved employee may recover
21 the civil penalty on behalf of himself or herself and other current or former employees against
22 whom one or more of the alleged violations was committed. Furthermore, any employee who
23 prevails in any action shall be entitled to an award of reasonable attorney's fees and costs.

24 18. Pursuant to Labor Code § 2699.3, an aggrieved employee, including Plaintiff, may
25 pursue a civil action arising under PAGA after the following requirements have been met:

- 26 a. The aggrieved employee shall give written notice by online filing to the
27 LWDA and by certified mail to the employer (hereinafter “Employee’s Notice”) of
28

1 the specific provisions of California Labor Code alleged to have been violated,
2 including the facts and theories to support the alleged violations;

3 b. The LWDA shall provide notice (hereinafter “LWDA’s Notice”) to the
4 employer and the aggrieved employee by certified mail that it does not intend to
5 investigate the alleged violation within 60 days of the postmark date of the
6 Employee’s Notice. Upon receipt of the LWDA’s Notice, or if the LWDA does not
7 provide notice with 65 calendar days of the postmark date of the Employee’s
8 Notice, the aggrieved employee may commence a civil action pursuant to California
9 Labor Code § 2699 to recover civil penalties in addition to any other penalties to
10 which the employee may be entitled.

11 c. For all alleged violations not enumerated in Labor Code § 2699.5, the
12 employer is given thirty-three (33) days to cure and notify the aggrieved employee
13 by certified mail that the violation has been cured. If the violation is not cured, the
14 aggrieved employee may commence a civil action pursuant to California Labor
15 Code § 2699 to recover civil penalties in addition to any other penalties to which the
16 employee may be entitled.

17 19. On November 3, 2020, Plaintiff Patterson provided written notice by certified mail
18 to Defendants and by online filing to the LWDA of the specific provisions of the Labor Code
19 alleged to have been violated, including the facts and theories to support the alleged violations. A
20 true and correct copy of Plaintiff’s LWDA notice is attached hereto as **Exhibit A** and incorporated
21 by this reference as though fully set forth herein.

22 20. As of the date of this complaint, which is more than sixty-five (65) days after the
23 November 3, 2020 letter, the LWDA has not responded to Plaintiff’s notification or otherwise
24 indicated an intention to investigate his claims. Plaintiff has therefore satisfied the administrative
25 prerequisites under Labor Code § 2699.3 to bring a civil action to recover penalties against
26 Defendants, in addition to other remedies, for violations of California Labor Code.

27 ///

28 ///

1 **FIRST CAUSE OF ACTION**
2 **VIOLATIONS OF LABOR CODE § 226 (CLASS ACTION ALLEGATIONS)**
3 **(Failure to Furnish Complete and Accurate Wage Statements)**
4 **Against Defendants**

5 21. Patterson hereby realleges and incorporates by reference Paragraphs 1 through 20
6 above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations
7 of this cause of action.

8 22. Pursuant to Labor Code § 226(a), every employer shall furnish each of its employees an
9 accurate itemized statement in writing showing, among other things, the name and address of the legal
10 entity that is the employer.

11 23. Defendants knowingly and intentionally failed to furnish complete and accurate
12 itemized wage statements to Patterson and other employees, current and former, in violation of Labor
13 Code § 226(a), as described above.

14 24. Labor Code § 226(e) provides for statutory penalties for injuries due to a knowing and
15 intentional failure by an employer to comply with Labor Code § 226(a). Patterson and the members of
16 the Class seek to recover these statutory penalties.

17 25. As a result of Defendants' conduct, Patterson and the members of the Class have
18 suffered "injury" as that term is defined in Labor Code § 226(e)(2).

19 Wherefore, Patterson seeks relief as set forth below.

20 **SECOND CAUSE OF ACTION**
21 **PRIVATE ATTORNEYS GENERAL ACT CLAIM FOR VIOLATIONS OF LABOR CODE**
22 **§§ 226(a)(8), 226(b), 432, and 1198.5**
23 **(Labor Code §§2698 *et seq.*)**
24 **Against Defendants**

25 26. Patterson hereby realleges and incorporates by reference Paragraphs 1 through 25
26 above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations
27 of this cause of action.

28 27. As set forth above, Plaintiff Patterson has completed the prerequisite notice process
to the LWDA to act as its proxy to prosecute Labor Code violations by Defendants on his behalf
and on behalf of other current and former employees.

28. Defendants violated Labor Code § 226(a)(8) by, as set forth above and in Plaintiff's LWDA notice, their failure to furnish each of their employees an accurate itemized statement in writing showing, among other things, the name and address of the legal entity that is the employer.

29. Defendants violated Labor Code § 226.7 by, as set forth in Plaintiff's LWDA notice, their failure to pay civil penalties for the missed meal periods by their California employees. *Kirby v. Immoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244.

30. Defendants violated Labor Code §§ 226(b), 432, and 1198.5 by failing to produce copies of or to permit inspection of Plaintiff Patterson's wages statements, documents signed by him, and his personnel records. As evidenced by Plaintiff's LWDA notice, on July 23, 2020, Patterson, through the undersigned, requested these records pursuant to certified letter. Yet, to date, no records have been provided.

31. As set forth above, Defendants have violated numerous Labor Code provisions, including §§ 226(a)(8), 226.7, 226(b), 432, and 1198.5.

32. Each violation as to any current or former employee results in a civil penalty assessment. Where a specific civil penalty exists, it applies to set the applicable penalty. Where none is applicable, the default penalty is \$100 per pay period per employee effected pursuant to Labor Code § 2699(f).

33. On information and belief, Defendants have not changed their unlawful practices; hence, ongoing civil penalties apply until such time as it stops its unlawful practices. Wherefore, Plaintiff Patterson seeks civil penalties pursuant to PAGA as set forth below.

PRAYER FOR RELIEF

WHEREFORE, the following relief is sought.

As to the First Cause of Action:

1. That this Court certify the Class;
2. That this Court certify Patterson as the representative of the Class;
3. That this Court certify Mayall Hurley, P.C. as attorneys for the Class;
4. For a declaratory judgment that Defendants have violated Labor Code § 226, as alleged herein;

5. For a permanent and mandatory injunction prohibiting Defendants from committing future violations of Labor Code § 226;
6. For and for an order imposing all statutory penalties, including but not limited to those available under Labor Code § 226(e);
7. For an order awarding statutory attorneys' fees and costs, including but not limited to those available under Code of Civil Procedure § 1021.5 and Labor Code § 226(e);
8. For prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including those available under Civil Code §§ 3287(a) and 3289(b); and
9. For such other and further relief as the court deems just and proper.

As to the Second Cause of Action:

1. For civil penalties, including but not limited to those available under Labor Code §§ 226.3, , and 2699(f);
2. For statutory attorneys' fees and costs, including but not limited to those available under Labor Code § 2699(g);
3. For prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including those available under Civil Code sections 3287(a) and 3289(b); and
4. For such other and further relief as the court deems just and proper.

DATED: January 8, 2021

MAYALL HURLEY P.C.

By /s/ William J. Gorham, III
WILLIAM J. GORHAM III
NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMAN
Attorneys for Plaintiff,
DAVID PATTERSON

Exhibit A

LAW OFFICES
MAYALL HURLEY

A PROFESSIONAL CORPORATION

SOUTHERN CALIFORNIA OFFICE
450 N. BRAND BLVD., SUITE 600
GLENDALE, CALIFORNIA 91203
(818) 646-6440

MAILING ADDRESS:
2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207

2453 GRAND CANAL BOULEVARD
STOCKTON, CALIFORNIA 95207-8253

FAX (209) 473-4818
TELEPHONE (209) 477-3833

WWW.MAYALLLAW.COM

VLADIMIR F. KOZINA
STEVEN A. MALCOUN
MARK E. BERRY
WILLIAM J. GORHAM III
NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMAN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA
RACHAEL ALLGAIER

OF COUNSEL
J. ANTHONY ABBOTT

November 3, 2020

SUBMITTED VIA ONLINE CLAIM NOTICE

<https://dir.tfaforms.net/295>

The State of California Labor and Workforce Development Agency

SENT VIA CERTIFIED MAIL

Schell & Kampeter, Inc.
942 S. Stockton Ave.
Ripon, CA 95366

Re: David Patterson

To Whom It May Concern:

This firm represents David Patterson relating to his former employment as an hourly, non-exempt, employee for Schell & Kampeter, Inc. ("Employer") at its facility in Ripon, California. Mr. Patterson was employed until his employment was terminated by Employer in July of 2020.

In accordance with California Labor Code § 2699.3, this letter shall serve as Mr. Patterson's written notice regarding the following violations, and facts and theories supporting the violations, on his behalf and, as a proxy for the Labor and Workforce Development Agency ("LWDA"), on behalf of current and other former California employees of Employer. Notice to the LWDA has been submitted online, in accordance with the process described on the California Department of Industrial Relations' website at <http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>.

In December of 2018, Employer merged its California subsidiaries Diamond Pet Food Processors of California, LLC, and Diamond Pet Food Processors of Ripon, LLC into Schell & Kampeter, Inc. It filed Certificate of Mergers with the California Secretary of State on December 21, 2018, and December 24, 2018, respectively. **Exhibits 1 & 2.** Nevertheless, Schell & Kampeter, Inc. failed to reflect its status as the employer on wage statements it issued to its California employees (both current and former) after said

Labor and Workforce Development Agency

Schell & Kampeter, Inc.

Re: David Patterson

November 3, 2020

Page 2 of 3

merger. **Exhibit 3.** Employer's failure to list the correct name of the employer on wage statements is in direct violation of Labor Code § 226(a), which provides:

(a) An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing . . . (8) the name and address of the legal entity that is the employer.

The penalty for each such violation is \$250 pursuant to Labor Code § 226.3.

Employer also violated Labor Code §§ 226(b), 432, and 1198.5 by failing to produce copies of or to permit inspection of David Patterson's wages statements, documents signed by Mr. Patterson, and his personnel records. On July 23, 2020, Mr. Patterson, through the undersigned, requested these records pursuant to certified letter. **Exhibit 4.** Nevertheless, in violation of Labor Code §§ 226(b), 432, and 1198.5, Schell & Kampeter, Inc. failed to respond in any way to this request. On information and belief, this is a practice that has been applied to other of Employer's California employees (both current and former).

In addition, Employer must pay civil penalties under Private Attorneys General Act of 2004 ("PAGA") due to missed or untimely meal breaks. Although Employer paid former and current California employees for missed or untimely meal periods, it has not paid civil penalties it incurred for these violations. According to the California Supreme Court decision *Kirby v. Immoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244, payment to the employee "does not excuse a section 226.7 violation" in an action brought pursuant to the PAGA. The penalty for this violation is \$100 per pay period per employee effected. *Labor Code § 2699(f)*.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or my client.

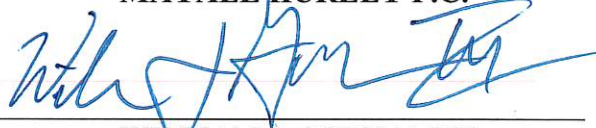
If the LWDA does not intend to investigate these violations, Mr. Patterson intends to file a civil complaint against Employer pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698 – 2699.5), on his behalf and, as a proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention in this matter.

Labor and Workforce Development Agency
Schell & Kampeter, Inc.
Re: David Patterson
November 3, 2020
Page 3 of 3

Sincerely,

MAYALL HURLEY P.C.

By



WILLIAM J. GORHAM III

cc: client

Exhibit 1

199815510080



State of California Secretary of State

OBE MERG

FILED *jm*
Secretary of State
State of California

DEC 21 2018 *im*

Certificate of Merger

(California Corporations Code sections

1113(g), 3203(g), 6019.1, 8019.1, 9640, 12540.1, 15911.14, 16915(b) and 17710.14)

EFFECTIVE
DATE

DEC 31 2018

IMPORTANT — Read all instructions before completing this form.

iCC This Space For Filing Use Only

1. NAME OF SURVIVING ENTITY Schell & Kampeter, Inc.	2. TYPE OF ENTITY Corporation	3. CA SECRETARY OF STATE FILE NUMBER N/A	4. JURISDICTION Missouri												
5. NAME OF DISAPPEARING ENTITY Diamond Pet Food Processors of California, LLC	6. TYPE OF ENTITY LLC	7. CA SECRETARY OF STATE FILE NUMBER 199815510080	8. JURISDICTION California												
9. THE PRINCIPAL TERMS OF THE AGREEMENT OF MERGER WERE APPROVED BY A VOTE OF THE NUMBER OF INTERESTS OR SHARES OF EACH CLASS THAT EQUALED OR EXCEEDED THE VOTE REQUIRED. (IF A VOTE WAS REQUIRED, SPECIFY THE CLASS AND THE NUMBER OF OUTSTANDING INTERESTS OF EACH CLASS ENTITLED TO VOTE ON THE MERGER AND THE PERCENTAGE VOTE REQUIRED OF EACH CLASS. ATTACH ADDITIONAL PAGES, IF NEEDED.)															
SURVIVING ENTITY <table border="1"> <thead> <tr> <th>CLASS AND NUMBER</th> <th>AND</th> <th>PERCENTAGE VOTE REQUIRED</th> </tr> </thead> <tbody> <tr> <td>Common - 120</td> <td></td> <td>100%</td> </tr> </tbody> </table>		CLASS AND NUMBER	AND	PERCENTAGE VOTE REQUIRED	Common - 120		100%	DISAPPEARING ENTITY <table border="1"> <thead> <tr> <th>CLASS AND NUMBER</th> <th>AND</th> <th>PERCENTAGE VOTE REQUIRED</th> </tr> </thead> <tbody> <tr> <td>Membership Interest</td> <td></td> <td>100%</td> </tr> </tbody> </table>		CLASS AND NUMBER	AND	PERCENTAGE VOTE REQUIRED	Membership Interest		100%
CLASS AND NUMBER	AND	PERCENTAGE VOTE REQUIRED													
Common - 120		100%													
CLASS AND NUMBER	AND	PERCENTAGE VOTE REQUIRED													
Membership Interest		100%													
10. IF EQUITY SECURITIES OF A PARENT PARTY ARE TO BE ISSUED IN THE MERGER, CHECK THE APPLICABLE STATEMENT. ☐ No vote of the shareholders of the parent party was required. ☒ The required vote of the shareholders of the parent party was obtained.															
11. IF THE SURVIVING ENTITY IS A DOMESTIC LIMITED LIABILITY COMPANY, LIMITED PARTNERSHIP, OR PARTNERSHIP, PROVIDE THE REQUISITE CHANGES (IF ANY) TO THE INFORMATION SET FORTH IN THE SURVIVING ENTITY'S ARTICLES OF ORGANIZATION, CERTIFICATE OF LIMITED PARTNERSHIP OR STATEMENT OF PARTNERSHIP AUTHORITY RESULTING FROM THE MERGER. ATTACH ADDITIONAL PAGES, IF NECESSARY. N/A															
12. IF A DISAPPEARING ENTITY IS A DOMESTIC LIMITED LIABILITY COMPANY, LIMITED PARTNERSHIP, OR PARTNERSHIP, AND THE SURVIVING ENTITY IS NOT A DOMESTIC ENTITY OF THE SAME TYPE, ENTER THE PRINCIPAL ADDRESS OF THE SURVIVING ENTITY. <table border="1"> <thead> <tr> <th>PRINCIPAL ADDRESS OF SURVIVING ENTITY</th> <th>CITY AND STATE</th> <th>ZIP CODE</th> </tr> </thead> <tbody> <tr> <td>103 North Olive</td> <td>Meta, MO</td> <td>65058</td> </tr> </tbody> </table>				PRINCIPAL ADDRESS OF SURVIVING ENTITY	CITY AND STATE	ZIP CODE	103 North Olive	Meta, MO	65058						
PRINCIPAL ADDRESS OF SURVIVING ENTITY	CITY AND STATE	ZIP CODE													
103 North Olive	Meta, MO	65058													
13. OTHER INFORMATION REQUIRED TO BE STATED IN THE CERTIFICATE OF MERGER BY THE LAWS UNDER WHICH EACH CONSTITUENT OTHER BUSINESS ENTITY IS ORGANIZED. ATTACH ADDITIONAL PAGES, IF NECESSARY. N/A															
14. STATUTORY OR OTHER BASIS UNDER WHICH A FOREIGN OTHER BUSINESS ENTITY IS AUTHORIZED TO EFFECT THE MERGER. Mo. Rev. Stat. Section 347.700 through Section 347.740		15. FUTURE EFFECTIVE DATE, IF ANY <table border="1"> <thead> <tr> <th>12</th> <th>31</th> <th>2018</th> </tr> </thead> <tbody> <tr> <td>(Month)</td> <td>(Day)</td> <td>(Year)</td> </tr> </tbody> </table>		12	31	2018	(Month)	(Day)	(Year)						
12	31	2018													
(Month)	(Day)	(Year)													
16. ADDITIONAL INFORMATION SET FORTH ON ATTACHED PAGES, IF ANY, IS INCORPORATED HEREIN BY THIS REFERENCE AND MADE PART OF THIS CERTIFICATE.															
17. I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT OF MY OWN KNOWLEDGE. I DECLARE I AM THE PERSON WHO EXECUTED THIS INSTRUMENT, WHICH EXECUTION IS MY ACT AND DEED.															
SIGNATURE OF AUTHORIZED PERSON FOR THE SURVIVING ENTITY <i>Michael Kampeter</i>		DATE 12/19/18													
SIGNATURE OF AUTHORIZED PERSON FOR THE SURVIVING ENTITY <i>Kenneth Wegman</i>		DATE 12/19/18													
SIGNATURE OF AUTHORIZED PERSON FOR THE DISAPPEARING ENTITY <i>Michael Kampeter</i>		DATE 12/19/18													
SIGNATURE OF AUTHORIZED PERSON FOR THE DISAPPEARING ENTITY <i>Mark Schell</i>		DATE 12/19/18													
TYPE OR PRINT NAME AND TITLE OF AUTHORIZED PERSON Michael Kampeter, President		TYPE OR PRINT NAME AND TITLE OF AUTHORIZED PERSON Kenneth Wegman, Secretary													
TYPE OR PRINT NAME AND TITLE OF AUTHORIZED PERSON Michael Kampeter, Manager		TYPE OR PRINT NAME AND TITLE OF AUTHORIZED PERSON Mark Schell, Manager													
For an entity that is a business trust, real estate investment trust or an unincorporated association, set forth the provision of law or other basis for the authority of the person signing:															

199815510080

The surviving entity hereby agrees that the entity may be served in California in a proceeding for the enforcement of an obligation of any merging entity and in a proceeding to enforce the rights of any holder of a dissenting interest or dissenting shares in a merging domestic limited liability company or domestic other business entity.

The surviving entity hereby makes an irrevocable appointment of the Secretary of State as the entity's agent for service of process, and process may be forwarded to the following address: 103 North Olive, Meta, MO 65058.

The surviving entity hereby agrees that the entity will promptly pay the holder of any dissenting interest or dissenting share in a merging domestic limited liability company or domestic other business entity the amount to which that person is entitled under California law.

Exhibit 2

201023110121



State of California Secretary of State

Certificate of Merger

(California Corporations Code sections

1113(g), 3203(g), 6019.1, 8019.1, 9640, 12540.1, 15911.14, 16915(b) and 17710.14)

OBE MERG

FILED *JHR*
Secretary of State
State of California

DEC 24 2018

EFFECTIVE
DATE

12-31-18

IMPORTANT — Read all instructions before completing this form.

100

This Space For Filing Use Only

1. NAME OF SURVIVING ENTITY Schell & Kampeter, Inc.	2. TYPE OF ENTITY Corporation	3. CA SECRETARY OF STATE FILE NUMBER N/A	4. JURISDICTION Missouri															
5. NAME OF DISAPPEARING ENTITY Diamond Pet Food Processors of Ripon, LLC	6. TYPE OF ENTITY LLC	7. CA SECRETARY OF STATE FILE NUMBER 201023110121	8. JURISDICTION California															
9. THE PRINCIPAL TERMS OF THE AGREEMENT OF MERGER WERE APPROVED BY A VOTE OF THE NUMBER OF INTERESTS OR SHARES OF EACH CLASS THAT EQUALED OR EXCEEDED THE VOTE REQUIRED. (IF A VOTE WAS REQUIRED, SPECIFY THE CLASS AND THE NUMBER OF OUTSTANDING INTERESTS OF EACH CLASS ENTITLED TO VOTE ON THE MERGER AND THE PERCENTAGE VOTE REQUIRED OF EACH CLASS. ATTACH ADDITIONAL PAGES, IF NEEDED.)																		
SURVIVING ENTITY <table border="1"> <thead> <tr> <th>CLASS AND NUMBER</th> <th>AND</th> <th>PERCENTAGE VOTE REQUIRED</th> </tr> </thead> <tbody> <tr> <td>Common - 120</td> <td></td> <td>100%</td> </tr> </tbody> </table>		CLASS AND NUMBER	AND	PERCENTAGE VOTE REQUIRED	Common - 120		100%	DISAPPEARING ENTITY <table border="1"> <thead> <tr> <th>CLASS AND NUMBER</th> <th>AND</th> <th>PERCENTAGE VOTE REQUIRED</th> </tr> </thead> <tbody> <tr> <td>Membership Interest</td> <td></td> <td>100%</td> </tr> </tbody> </table>		CLASS AND NUMBER	AND	PERCENTAGE VOTE REQUIRED	Membership Interest		100%			
CLASS AND NUMBER	AND	PERCENTAGE VOTE REQUIRED																
Common - 120		100%																
CLASS AND NUMBER	AND	PERCENTAGE VOTE REQUIRED																
Membership Interest		100%																
10. IF EQUITY SECURITIES OF A PARENT PARTY ARE TO BE ISSUED IN THE MERGER, CHECK THE APPLICABLE STATEMENT. ☐ No vote of the shareholders of the parent party was required. ☒ The required vote of the shareholders of the parent party was obtained.																		
11. IF THE SURVIVING ENTITY IS A DOMESTIC LIMITED LIABILITY COMPANY, LIMITED PARTNERSHIP, OR PARTNERSHIP, PROVIDE THE REQUISITE CHANGES (IF ANY) TO THE INFORMATION SET FORTH IN THE SURVIVING ENTITY'S ARTICLES OF ORGANIZATION, CERTIFICATE OF LIMITED PARTNERSHIP OR STATEMENT OF PARTNERSHIP AUTHORITY RESULTING FROM THE MERGER. ATTACH ADDITIONAL PAGES, IF NECESSARY. N/A																		
12. IF A DISAPPEARING ENTITY IS A DOMESTIC LIMITED LIABILITY COMPANY, LIMITED PARTNERSHIP, OR PARTNERSHIP, AND THE SURVIVING ENTITY IS NOT A DOMESTIC ENTITY OF THE SAME TYPE, ENTER THE PRINCIPAL ADDRESS OF THE SURVIVING ENTITY. <table border="1"> <thead> <tr> <th>PRINCIPAL ADDRESS OF SURVIVING ENTITY</th> <th>CITY AND STATE</th> <th>ZIP CODE</th> </tr> </thead> <tbody> <tr> <td>103 North Olive</td> <td>Meta, MO</td> <td>65058</td> </tr> </tbody> </table>				PRINCIPAL ADDRESS OF SURVIVING ENTITY	CITY AND STATE	ZIP CODE	103 North Olive	Meta, MO	65058									
PRINCIPAL ADDRESS OF SURVIVING ENTITY	CITY AND STATE	ZIP CODE																
103 North Olive	Meta, MO	65058																
13. OTHER INFORMATION REQUIRED TO BE STATED IN THE CERTIFICATE OF MERGER BY THE LAWS UNDER WHICH EACH CONSTITUENT OTHER BUSINESS ENTITY IS ORGANIZED. ATTACH ADDITIONAL PAGES, IF NECESSARY. N/A																		
14. STATUTORY OR OTHER BASIS UNDER WHICH A FOREIGN OTHER BUSINESS ENTITY IS AUTHORIZED TO EFFECT THE MERGER. Mo. Rev. Stat. Section 347.700 through Section 347.740		15. FUTURE EFFECTIVE DATE, IF ANY <table border="1"> <thead> <tr> <th>12</th> <th>-</th> <th>31</th> <th>-</th> <th>2018</th> </tr> <tr> <th>(Month)</th> <th></th> <th>(Day)</th> <th></th> <th>(Year)</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		12	-	31	-	2018	(Month)		(Day)		(Year)					
12	-	31	-	2018														
(Month)		(Day)		(Year)														
16. ADDITIONAL INFORMATION SET FORTH ON ATTACHED PAGES, IF ANY, IS INCORPORATED HEREIN BY THIS REFERENCE AND MADE PART OF THIS CERTIFICATE.																		
17. I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT OF MY OWN KNOWLEDGE. I DECLARE I AM THE PERSON WHO EXECUTED THIS INSTRUMENT, WHICH EXECUTION IS MY ACT AND DEED.																		
<i>Michael Kampeter</i> SIGNATURE OF AUTHORIZED PERSON FOR THE SURVIVING ENTITY		12/24/2018 DATE																
Michael Kampeter, President TYPE OR PRINT NAME AND TITLE OF AUTHORIZED PERSON																		
<i>Kenneth Wegman</i> SIGNATURE OF AUTHORIZED PERSON FOR THE SURVIVING ENTITY		12/24/2018 DATE																
Kenneth Wegman, Secretary TYPE OR PRINT NAME AND TITLE OF AUTHORIZED PERSON																		
<i>Mark Schell</i> SIGNATURE OF AUTHORIZED PERSON FOR THE DISAPPEARING ENTITY		12/24/2018 DATE																
Mark Schell, Manager TYPE OR PRINT NAME AND TITLE OF AUTHORIZED PERSON																		
<i>Michael Kampeter</i> SIGNATURE OF AUTHORIZED PERSON FOR THE DISAPPEARING ENTITY		12/24/2018 DATE																
Michael Kampeter, Manager TYPE OR PRINT NAME AND TITLE OF AUTHORIZED PERSON																		
For an entity that is a business trust, real estate investment trust or an unincorporated association, set forth the provision of law or other basis for the authority of the person signing:																		

201023110121

The surviving entity hereby agrees that the entity may be served in California in a proceeding for the enforcement of an obligation of any merging entity and in a proceeding to enforce the rights of any holder of a dissenting interest or dissenting shares in a merging domestic limited liability company or domestic other business entity.

The surviving entity hereby makes an irrevocable appointment of the Secretary of State as the entity's agent for service of process, and process may be forwarded to the following address: 103 North Olive, Meta, MO 65058.

The surviving entity hereby agrees that the entity will promptly pay the holder of any dissenting interest or dissenting share in a merging domestic limited liability company or domestic other business entity the amount to which that person is entitled under California law.

Exhibit 3

Statement of Earnings For: DAVID J. PATTERSON						DIAMOND PET FOODS								
Employee #: 20462		Division: 4		Period Begin: 6/27/2020		Check Date: 7/13/2020		942 S. Stockton Avenue Ripon, CA 95366						
Clock Number:		Department: 800		Period End: 7/10/2020		Pay Type: Hourly								
SSN: XXX-XX-2999		Federal Filing: Single		Exemptions:		Additional Tax:								
Company Id: 200188		State Filing: Head of		Exemptions:		Additional Tax:								
Voucher Id		Check Amount		Gross Pay		Net Pay		Check Message						
V708135		\$0.00		\$6,626.25		\$4,831.99								
EARNINGS						*Not included in Totals			TAXES			DEDUCTIONS		
Description	Rate	Hours	Dollars	YTD Hours	YTD Dollars	Description	Current	YTD	Description	Current	YTD			
Regular Pay	30.2500	68.00	2,057.00	335.12	10,066.98	SOC SEC EE	403.01	1,372.09	401(k)	397.58	1,365.65			
Overtime	45.3749	30.82	1,398.45	152.68	6,877.58	MED EE	94.25	320.89	401(k) Loan	435.08	2,385.81			
Holiday	30.2500	11.92	360.58	23.67	716.02	CALIFORNIA SDI	65.00	221.30	Dental Pre-Tax	73.44	367.20			
PTO	30.2500	71.00	2,147.75	80.00	2,420.00				Vision Pre-Tax	10.64	53.20			
Double Time	60.5000	10.45	632.22	22.20	1,343.10				VolLife Pre-Tax	38.78	193.90			
Hrs Not Wk	30.2500	1.00	30.25	3.00	90.75				Vol Life EE	170.60	853.00			
*401(k) Match		0.00	231.92	0.00	796.63				Vol Life SP	38.78	193.90			
*ER Medical		0.00	1,114.71	0.00	16,720.65				Vol Life CH	1.78	8.90			
*ER Dental		0.00	36.72	0.00	514.08				AD&D Post-Tax	19.40	97.00			
*ER Vision		0.00	5.32	0.00	74.48				Lasik / Hearing	3.24	16.20			
*ER Life		0.00	1.85	0.00	27.75				LifeLock	42.68	213.40			
*ER AD&D		0.00	0.69	0.00	10.35				Purchases	0.00	137.54			
*ER Life - Dep		0.00	2.47	0.00	37.05									
*ER LTD		0.00	4.37	0.00	62.07									
*ERLasik/Hearing		0.00	0.84	0.00	12.60									
*ER Life/Lock		0.00	1.73	0.00	25.95									
*ER Pharmacy		0.00	110.74	0.00	1,661.10									
Bonus		0.00	0.00	0.00	1,246.52									
*FMLA CFRA HRS		0.00	0.00	799.60	0.00									
Total:						Total:			Total:			Total:		
193.19 6,626.25 616.67 22,760.95						562.26 1,914.28			1,232.00			5,885.70		
CURRENT PERIOD LEAVE ACCRUAL						DISTRIBUTION OF NET PAY								
PTO		Accrued: 0.0000		Taken: 71.00		Balance: 0.00		Checking		Account: ###4088		Deposit Amount: 4,831.99		
Sick		Accrued: 0.0000		Taken: 0.00		Balance: 0.00								

DIAMOND PET FOODS
942 S. Stockton Avenue
Ripon, CA 95366

CHECK DATE	VOUCHER ID
7/13/2020	V708135

TOTAL NET PAY
*****\$4,831.99

20462 4 800
DAVID J. PATTERSON
10323 POINT REYES CIR
Stockton, CA 95209

NOT NEGOTIABLE

Exhibit 4

LAW OFFICES
MAYALL HURLEY

A PROFESSIONAL CORPORATION

2453 GRAND CANAL BOULEVARD
STOCKTON, CALIFORNIA 95207-8253

FAX (209) 473-4818

TELEPHONE (209) 477-3833

WWW.MAYALLLAW.COM

SOUTHERN CALIFORNIA OFFICE
450 N. BRAND BLVD., SUITE 600
GLENDALE, CALIFORNIA 91203
(818) 646-6440
MAILING ADDRESS:
2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207

VLADIMIR F. KOZINA
STEVEN A. MALCOUN
MARK E. BERRY
WILLIAM J. GORHAM III
NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMAN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA
RACHAEL ALLGAIER

OF COUNSEL
J. ANTHONY ABBOTT

July 23, 2020

VIA CERTIFIED MAIL

Diamond Pet Foods
942 S. Stockton Ave.
Ripon, CA 95366

Re: David Patterson

To Whom It May Concern:

This office represents David Patterson in connection with civil claims arising from his former employment with Diamond Pet Foods in Ripon, California.

Mr. Patterson hereby requests to inspect and obtain copies of the following items:

1. Mr. Patterson's itemized wage statements, pursuant to Labor Code § 226(b);
2. All documents signed by Mr. Patterson relating to the obtaining or holding of his employment, pursuant to Labor Code § 432; and
3. Mr. Patterson's personnel records, pursuant to Labor Code § 1198.5(b) and/or any applicable collective bargaining agreements.

Enclosed is a signed authorization from Mr. Patterson, designating this firm as his representative and authorizing it to obtain the items listed above on his behalf. Please direct copies of these items to me at my Stockton office at 2453 Grand Canal Blvd. If you have any questions concerning these requests, do not hesitate to contact me.

Sincerely,

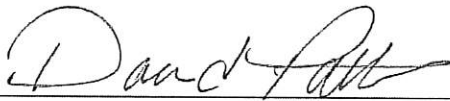
By 
MAYALL HURLEY P.C.
WILLIAM J. GORHAM, III

Enclosure

AUTHORIZATION OF CLIENT

I, DAVID PATTERSON, hereby authorize my attorneys, Mayall Hurley P.C., to request and obtain on my behalf the itemized statements and personnel records requested above pursuant to Labor Code §§ 226, 247.5, 432, and 1198.5.

Dated: 7-23-20

By 
DAVID PATTERSON

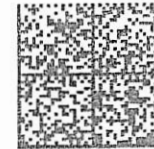
LAW OFFICES
MAYALL, HURLEY
A PROFESSIONAL CORPORATION
2453 GRAND CANAL BOULEVARD
SECOND FLOOR
STOCKTON, CALIFORNIA 95207-8253



9489 0090 0027 6152 3775 08

Diamond Pet Foods
942 S. Stockton Ave.
Ripon, CA 95366

Label 890-PB, Oct. 2015
Pitney Bowes



U.S. POSTAGE >> PITNEY BOWES



ZIP 95207 \$ 005.75⁰
02 4W
0000369527 JUL 23, 2020

LAW OFFICES
MAYALL, HURLEY
A PROFESSIONAL CORPORATION
2453 GRAND CANAL BOULEVARD
SECOND FLOOR
STOCKTON, CALIFORNIA 95207-8258



UNITED STATES
POSTAL SERVICE®

CERTIFIED MAIL®



9489 0090 0027 6152 7867 44

Label 890-PB, Oct. 2015
Pitney Bowes



U.S. POSTAGE >> PITNEY BOWES



ZIP 95207 \$ 006.05⁰
02 4W
0000369527 NOV. 03. 2020

Schell & Kampeter, Inc.
942 S. Stockton Ave.
Ripon, CA 95366



November 5, 2020

Dear Julie Zeyen:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6152 7867 44.

Item Details

Status:	Delivered, Left with Individual
Status Date / Time:	November 5, 2020, 11:46 am
Location:	RIPON, CA 95366
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™
	Return Receipt Electronic

Shipment Details

Weight:	5lb, 12.8oz
----------------	-------------

Recipient Signature

Signature of Recipient:

Address of Recipient:

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004