

DOUGLAS HAN (State Bar No. 232858)
SHUNT TATAVOS-GHARAJEH (State Bar No. 272164)
PHILLIP SONG (State Bar No. 326572)
JUSTICE LAW CORPORATION
751 N. Fair Oaks Ave., Suite 101
Pasadena, CA 91103
Telephone: (818) 230-7502
Facsimile: (818) 230-7259

Attorneys for Plaintiff Dyron Dorsey

JACKSON LEWIS P.C.
NATHAN W. AUSTIN (SBN 219672)
400 Capitol Mall, Suite 1600
Sacramento, California 95814
Telephone: (916) 341-0404
Facsimile: (916) 341-0141
Email: nathan.austin@jacksonlewis.com

JACKSON LEWIS P.C.
EMILY J. TEWES (SBN 318439)
333 W. San Carlos Street, Suite 1625
San Jose, California 95110
Telephone: (408) 579-0404
Facsimile: (408) 454-0290
Email: emily.tewes@jacksonlewis.com

Attorneys for Defendant
KRUGER FOODS, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN JOAQUIN

DYRON DORSEY, individually, and on behalf
of aggrieved employees pursuant to the Private
Attorneys General Act ("PAGA");

Plaintiffs,

vs.

KRUGER FOODS, INC., a California
corporation; and DOES 1 through 100, inclusive;

Defendants.

CASE NO. STK-CV-UOE-202-2099

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND RELEASE**

Complaint Filed:	08.04.20
FAC Filed:	05.26.21
Trial Date:	None Set

1 This Joint Stipulation of Class Action Settlement and Release (hereinafter “Stipulation of
2 Settlement” or “Settlement”) is made and entered into by and between Plaintiff DYRON DORSEY
3 (“Plaintiff”) on behalf of themselves and the Settlement Class (as defined below) and KRUGER
4 FOODS, INC. (“Defendant”).

5 This Stipulation of Settlement shall be binding on Plaintiff and those persons they seek to
6 represent, and on Defendant and its all past, present and future parent companies, subsidiaries and
7 affiliate including, without limitation, any corporation, limited liability company, partnership, trust,
8 foundation and non-profit entity which controls, is controlled by, or is under common control with
9 Defendant, including, but not limited to, the past, present and future shareholders, directors,
10 officers, agents, employees, attorneys, insurers, member, partner, manager, contractor, agent,
11 consultant, representative, administrator, fiduciary, benefit plan, transferee, predecessors,
12 successors and assigns of any of the foregoing, and any individual or entity which could be jointly
13 liable with any of the foregoing, and their respective counsel, subject to the terms and conditions
14 hereof and the Court’s approval.

15 THE PARTIES STIPULATE AND AGREE as follows:

- 16 1. Plaintiff and Defendant are collectively referred to herein as “the Parties.”
- 17 2. On February 10, 2020, Saranny Pho filed a class action complaint alleging violation
18 of California Business & Professions Code sections 17200, *et seq.* (“Unfair Business Practices”)
19 against Defendant in the San Joaquin County Superior Court in the State of California. Plaintiff
20 alleged a series of Labor Code violations as the basis for her claims of Unfair Business Practices
21 including: failure to pay overtime in violation of Labor Code sections 510 and 1198, failure to
22 provide meal periods in violation of Labor Code sections 226.7 and 512(a) and the Industrial
23 Welfare Commission (“IWC”) Wage Orders, failure to provide rest periods in violation of Labor
24 Code sections 226.7 and the IWC Wage Orders, failure to pay minimum wages in violation of Labor
25 Code sections 1194, 1197 and 1197.1 and the IWC Wage Orders, and failure to reimburse business
26 expenses in violation of Labor Code sections 2800 and 2801. Defendant filed an answer to the
27 complaint denying all material allegations and asserting affirmative defenses on March 12, 2020.
28 On May 25, 2021, a stipulation and order to file a First Amended Class Action Complaint was filed

1 with the Court adding substituting Plaintiff Dyron Dorsey for Saranny Pho, and adding claims under
2 the Labor Code and the Private Attorneys General Act. On February 24, 2021, the Court signed the
3 order granting the parties' stipulation. On May 26, 2021, Plaintiff Dorsey filed the First Amended
4 Class Action Complaint pursuant to the Parties' stipulation and the Court's order. The terms
5 "Action" or "Complaint" refer to Plaintiff Dorsey's First Amended Complaint. On _____, 2021,
6 Defendant filed an answer to the First Amended Complaint denying all material allegations and
7 asserting affirmative defenses.

8 3. Plaintiff Dorsey's First Amended Class Action Complaint alleges: (1) violation of
9 California Labor Code sections 510 and 1198 (Unpaid Overtime); (2) violation of California
10 Labor Code section 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) violation of California
11 Labor Code section 226.7 (Unpaid Rest Period Premiums); (4) violation of California Labor Code
12 section 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) violation of California Labor
13 Code section 201 and 202 (Final Wage Not Timely Paid); (6) violation of California Labor Code
14 section 226(a) (Non-Compliant Wage Statements); (7) Violation of California Labor Code
15 section 2800 and 2802 (Unreimbursed Business Expenses); (8) Violation of California Labor
16 Code section 2698, *et seq.* (Private Attorneys General Act of 2004); and (9) violation of
17 California Business & Professions Code sections 17200 *et seq.*

18 4. Plaintiff Dorsey has not filed a motion for class certification in this action, nor has
19 a date been set by the Court for the filing of such a motion.

20 5. This Action has been actively litigated. There have been on-going investigations,
21 and there has been an exchange of extensive documentation and information.

22 6. For purposes of this Settlement, the "Settlement Class" shall consist of all persons
23 who are or have been employed by Defendant the State of California as hourly workers from
24 February 10, 2016 through April 9, 2021 or the preliminary approval of the Settlement, whichever
25 date is earlier (individually referred to as "Class Member"). The Class Period is from February
26 10, 2016 through April 9, 2021 or the date of preliminary approval of the Settlement, whichever
27 occurs first (the "Class Period"). The Settlement Class shall not include any person who
28 previously settled or fully released all of the claims covered by this Settlement, any person who

1 previously was paid or received awards through civil or administrative actions for the claims
2 covered by this Settlement, or any person who opts out by submitting a timely and valid Request
3 for Exclusion as provided in this Settlement.

4 7. Solely for purpose of settling this case, the Parties stipulate and agree that the
5 requisites for establishing class certification with respect to the Settlement Class have been met
6 and are met. More specifically, the Parties stipulate and agree that:

7 a. The Settlement Class is ascertainable and so numerous as to make it
8 impracticable to join all Class Members.

9 b. There are common questions of law and fact including, but not limited to,
10 the following:

11 i. Whether Defendant's failure to pay wages, without abatement or
12 reduction, in accordance with the California Labor Code, was willful;

13 ii. Whether Defendant had a pattern and practice of failing to pay their
14 hourly-paid or non-exempt employees with the State of California for all hours worked, missed
15 (short, late interrupted, and/or missed altogether) meal periods and rest breaks in violation of
16 California law;

17 iii. Whether Defendant required Plaintiff and the other class members
18 to work over eight (8) hours per day and/or over forty (40) hours per week and failed to pay the
19 legally required overtime compensation to Plaintiff and the other class members;

20 iv. Whether Defendant properly calculated the regular rate for Plaintiff
21 and other class members who worked overtime and earned incentive pay;

22 v. Whether Defendant deprived Plaintiff and the other class members
23 of meal and/or rest periods or required Plaintiff and the other class members to work during meal
24 and/or rest periods without compensation;

25 vii. Whether Defendant failed to pay minimum wages to Plaintiff and
26 the other class members for all hours worked;

27 viii. Whether Defendant failed to pay all wages due to Plaintiff and the
28 other class members within the required time upon their discharge or resignation;

1 vi. Whether Defendant complied with wage reporting as required by
2 the California Labor Code, including, inter alia, section 226;

3 vii. Whether Defendant failed to reimburse Plaintiff and the other class
4 members for necessary business-related expenses and costs;

5 ix. Whether Defendant's conduct was willful or reckless;

6 x. Whether Defendant engaged in unfair business practices in
7 violation of California Business & Professions Code section 17200, *et seq.*;

8 xi. The appropriate amount of damages, restitution, and/or monetary
9 penalties resulting from the Defendant's violation of California law; and

10 xii. Whether Plaintiff and the other class members are entitled to
11 compensatory damages pursuant to the California Labor Code.

12 c. Plaintiff believes his claims are typical of the claims of the members of the
13 Settlement Class.

14 d. Plaintiff believes Plaintiff Dorsey will fairly and adequately protect the
15 interests of the Settlement Class, and that JUSTICE LAW CORPORATION should be "Class
16 Counsel," and will fairly and adequately protect the interests of the Settlement Class.

17 e. The prosecution of separate actions by individual members of the
18 Settlement Class would create the risk of inconsistent or varying adjudications, which would
19 establish incompatible standards of conduct.

20 f. With respect to the Settlement Class, Plaintiff believes that questions of
21 law and fact common to the members of the Settlement Class predominate over any questions
22 affecting any individual member in such Class, and a class action is superior to other available
23 means for the fair and efficient adjudication of the controversy.

24 8. Defendant denies any liability or wrongdoing of any kind whatsoever, and further
25 denies that, for any purpose other than settling this Action, this Action is appropriate for class or
26 representative treatment. With respect to Plaintiff's claims, Defendant contends, among other
27 things, that it complied with all applicable state, federal and local laws affecting Plaintiff and the
28 Settlement Class.

1 9. It is the desire of the Parties to fully, finally and forever settle, compromise and
2 discharge all disputes and claims arising from or related to the Action. To achieve a full and
3 complete release of Defendant, each Class Member acknowledges that this Stipulation of
4 Settlement is intended to include all claims based on the factual allegations made in the Action
5 and which could have been made based on the factual allegations in the Action and all Released
6 Claims against all Released Parties (as those terms are defined herein) under any federal, state or
7 local law, including any such claims which the Class Member does not know or suspect to exist
8 in his or his favor against Defendant as of the date of the Court's final approval of this Settlement.

9 10. It is the intention of the Parties that this Stipulation of Settlement shall constitute
10 a full and complete settlement and release of all claims arising from the allegations of this class
11 action case against Defendant, which release includes in its effect all past, present and future
12 parent companies, subsidiaries and affiliates including, without limitation, any corporation,
13 limited liability company, partnership, trust, foundation and non-profit entity which controls, is
14 controlled by, or is under common control with Defendant, including, but not limited to, the past,
15 present and future shareholders, directors, officers, agents, employees, attorneys, insurers,
16 member, partner, manager, contractor, agent, consultant, representative, administrator, fiduciary,
17 benefit plan, transferee, predecessors, successors and assigns of any of the foregoing, and any
18 individual or entity which could be jointly liable with any of the foregoing.

19 11. Counsel for the Settlement Class have conducted a thorough investigation into the
20 facts of this Action, and have diligently pursued an investigation of Class Members' claims
21 against Defendant. Based on their own independent investigation and evaluation, Class Counsel
22 are of the opinion that the Settlement with Defendant for the consideration and on the terms set
23 forth in this Stipulation of Settlement is fair, reasonable and adequate and is in the best interest
24 of the Settlement Class in light of all known facts and circumstances, including the risk of
25 significant delay, the risk the Settlement Class will not be certified by the Court, defenses asserted
26 by Defendant, and numerous potential appellate issues. Defendant and Defendant's counsel also
27 agree that the Settlement is fair and in the best interest of the Parties.

28 12. The Parties agree to cooperate and take all steps necessary and appropriate to

1 consummate this Settlement and for entry of judgment in accordance with this Stipulation of
2 Settlement.

3 13. This Settlement requires Defendant to pay Settlement Awards (defined below)
4 according to a specified formula to all participating Class Members. The maximum total payment
5 under the Settlement is up to One Million Dollars (\$1,000,000.00), including the Settlement
6 Awards, the attorneys' fees and costs to Class Counsel, the Enhancement Award to the Class
7 Representative, the settlement administration expenses, the penalty payment to the Labor and
8 Workforce Development Agency ("LWDA"), the employer's share of payroll taxes for the wage
9 portion of the Settlement Awards and any other payments provided by the Settlement. It is
10 understood and agreed that Defendant's maximum total liability under the Settlement shall not
11 exceed \$1,000,000.00. It is further understood and agreed that Defendant shall have no obligation
12 to pay any person, entity or organization more than the amount of its maximum total liability
13 under the Settlement.

14 TERMS OF SETTLEMENT

15 14. NOW THEREFORE, in consideration of the mutual covenants, promises and
16 agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

17 a. It is agreed by and among Plaintiff and Defendant that this Action and any
18 claims, damages or causes of action arising out of the disputes which are the subject of this
19 Action, be settled and compromised as between the Settlement Class and Defendant, subject to
20 the terms and conditions set forth in this Stipulation of Settlement and the approval of the Court.

21 b. Effective Date: The Settlement embodied in this Stipulation of Settlement
22 shall become effective when all of the following events have occurred: (i) this Stipulation of
23 Settlement has been executed by all Parties and by counsel for the Class and Defendant; (ii) the
24 Court has given preliminary approval to the Settlement; (iii) the notice has been given to the
25 Settlement Class, providing them with an opportunity to opt out of the Settlement; (iv) the Court
26 has held a final fairness hearing and entered a final order and judgment certifying the Settlement
27 Class and finally approving this Stipulation of Settlement; and (v) in the event there are written
28 objections filed prior to the formal fairness hearing which are not later withdrawn, the later of the

1 following events: when the period for filing any appeal, writ or other appellate proceeding
2 opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding
3 having been filed; or any appeal, writ or other appellate proceeding opposing the Settlement has
4 been dismissed finally and conclusively with no right to pursue further remedies or relief; or any
5 appeal, writ or other appellate proceeding has upheld the Court's final order with no right to
6 pursue further remedies or relief. In this regard, it is the intention of the Parties that the Settlement
7 shall not become effective until the Court's order approving the Settlement is completely final,
8 and there is no further recourse by an appellant or objector who seeks to contest the Settlement.
9 It is further agreed by the Parties that this Settlement will not become effective if Defendant,
10 contrary to Paragraph 13 above, is required to pay more than the total amount of its maximum
11 total liability under the Settlement as set forth in Paragraph 13 under any circumstances. It is
12 further agreed by and between the Parties that this Settlement shall not become effective, and
13 Defendant shall not have any obligation (monetary or otherwise) under the terms of this
14 Settlement, unless and until any objections, writs and/or appeals, and any rights of appeal with
15 respect to any objections or the judgment, have been finally exhausted and resolved upholding
16 the terms of this Settlement.

17 c. Maximum Settlement Amount and Net Settlement Amount: To implement
18 the terms of this Settlement, Defendant agrees to pay up to One Million Dollars \$1,000,000.00
19 ("Maximum Settlement Amount"). Under no condition will Defendant's aggregate liability exceed
20 the Maximum Settlement Amount. The Parties agree the Maximum Settlement Amount will be
21 distributed to the participating Class Members on a claims-made basis with a minimum of fifty
22 percent (50%) of the Net Settlement Amount paid out to Class Members who submit claims. At no
23 time shall Defendant have the obligation to segregate the funds comprising the Maximum
24 Settlement Amount, and Defendant shall retain exclusive authority over and responsibility for those
25 funds subject to the disbursement of funds necessary for the payment of claims, approved attorneys'
26 fees, approved attorneys' costs, approved Enhancement Award to the Class Representatives, the
27 settlement administration fees and expenses, the employer payroll taxes for the wage portion of the
28 Settlement Awards, and any other payments provided by this Settlement. The Settlement Awards

1 paid to Class Members, the attorneys' fees and costs to Class Counsel, the Enhancement Award to
2 the Class Representatives, the fees and expenses of the Settlement Administrator, the employer's
3 share of payroll taxes for the wage portion of the settlement award, and any other payments
4 provided by this Settlement, shall be paid out of the Maximum Settlement Amount. The amount
5 available for distribution to Class Members ("Net Settlement Amount") shall be calculated by
6 deducting from the Maximum Settlement Amount the following: (i) Class Counsel's attorneys' fees
7 and costs, (ii) the Enhancement Award of up to a maximum of Seven Thousand Five Hundred
8 Dollars (\$7,500), (iii) the PAGA civil penalty payment to the LWDA of Twelve Thousand Five
9 Hundred Dollars (\$12,500) ; (iii) the fees and expenses of the Settlement Administrator of up to
10 Seven Thousand Five Hundred Dollars (\$7,500); and (iv) the employer's share of payroll taxes for
11 the wage portion of the settlement award. Settlement Awards to the Class Members will be
12 calculated by the Settlement Administrator and paid out of the Net Settlement Amount as set forth
13 below. Defendant shall fund the settlement no later than ten (10) business days of the Effective
14 Date of the Settlement.

15 i. Settlement Awards to Class Members: For purposes of determining
16 Settlement Awards to Class Members who do not exclude themselves from this Settlement,
17 Defendant will provide the Settlement Administrator with information from Defendant's records
18 showing the number of weeks worked ("workweeks") by all Class Members during the Class
19 Period. Workweeks will be calculated by the Settlement Administrator for each Class Member by
20 dividing the total days employed as a Class Member during the Class Period by seven. Defendant's
21 workweek data will be presumed to be correct, unless a particular Class Member proves otherwise
22 to the Settlement Administrator by credible written evidence. All workweek disputes will be
23 resolved and decided by the Settlement Administrator, and the Settlement Administrator's decision
24 on all workweek disputes will be final and non-appealable. The amount to be paid per workweek
25 to eligible Class Members will be calculated by the Settlement Administrator by dividing the Net
26 Settlement Amount by the total number of workweeks for all Class Members; any person who opts
27 out of the Settlement is not a Class Member. In the event that fewer than 50% of the workweeks
28 are claimed by participating Class Members who submit valid, timely claim forms, the amount

1 claimed shall be grossed up to 50% of the Net Settlement Amount on a pro rata basis.

2 iii. Private Attorneys General Act Allocation: The Parties have agreed
3 to allocate \$50,000 to Plaintiff's claims under PAGA. Seventy-five percent (75%) of this amount,
4 or \$37,500.00, will be paid out of the Gross Settlement Fund to the Labor and Workforce
5 Development Agency ("LWDA") of the State of California. The remaining balance will remain
6 included in the Net Settlement Amount.

7 iv. Allocation of Settlement Awards: The Parties have agreed, based
8 on the allegations in the Action, that individual Settlement Awards payable to eligible Class
9 Members will be allocated from the Net Settlement Amount and paid as follows: one third (1/3)
10 will be allocated to alleged unpaid wages for which IRS Forms W-2 will issue; one third (1/3)
11 will be allocated to alleged unpaid penalties for which IRS Forms 1099-MISC will issue; and one
12 third (1/3) will be allocated to alleged unpaid interest for which IRS Forms 1099-MISC will issue.

13 v. Settlement Awards Do Not Trigger Additional Benefits: All
14 Settlement Awards to Class Members shall be deemed to be income to such Class Members solely
15 in the year in which such awards actually are received by the Class Members. It is expressly
16 understood and agreed that the receipt of such Settlement Awards will not entitle any Class
17 Member to additional compensation or benefits under any company bonus, contest or other
18 compensation or benefit plan or agreement in place during the period covered by the Settlement,
19 nor will it entitle any Class Member to any increased retirement, 401(k) benefits or matching
20 benefits, or deferred compensation benefits. It is the intent of this Settlement that the Settlement
21 Awards provided for in this Agreement are the sole payments to be made by Defendant to the
22 Class Members in connection with this Settlement, and that the Class Members are not entitled
23 to any new or additional compensation or benefits as a result of having received the Settlement
24 Awards (notwithstanding any contrary language or agreement in any benefit or compensation
25 plan document that might have been in effect during the period covered by this Settlement).

26 vi. Attorneys' Fees and Litigation Costs: Subject to Court approval or
27 modification, Defendant further agrees to pay Class Counsel's attorneys' fees and litigation costs
28 as set forth in Paragraph 16 below.

1 vii. Class Representative: The Parties agree to the designation of
2 Plaintiff Dyron Dorsey as “Class Representative.” Subject to Court approval, Defendant agrees
3 to pay Plaintiff Dyron Dorsey’s Enhancement Award at no additional cost to the Released Parties,
4 and subject to Class Representative’s execution of a separate and confidential general release of
5 all claims under California Code of Civil Procedure section 1542 prior to preliminary approval
6 of the Settlement. The Enhancement Award shall not exceed Seven Thousand Five Hundred
7 Dollars (\$7,500) for the Class Representative, and is in addition to any claimed individual
8 Settlement Award to which Plaintiff is entitled. The Enhancement Award is to be part of, and to
9 be deducted from, the Maximum Settlement Amount. The Settlement Administrator will issue
10 an IRS Form 1099-MISC for the Enhancement Award to Plaintiff for service as a Class
11 Representative, and Plaintiff will be responsible for correctly characterizing this compensation
12 for tax purposes and for paying any taxes on the amounts received. Should the Court approve an
13 Enhancement Award to the Class Representative in an amount less than that set forth above, the
14 difference between the lesser amount approved by the Court and the Enhancement Award set
15 forth above shall be added to the Net Settlement Amount.

16 viii. Settlement Administrator: The Settlement Administrator will be a
17 Settlement Administrator mutually agreed upon by the Parties and approved by the Court. All
18 Settlement Administrator’s expenses shall be paid out of the Maximum Settlement Amount, and
19 shall not exceed \$7,500.00.

20 ix. Mailing of Settlement Awards: The Settlement Administrator will
21 cause the Settlement Awards to be mailed to the Class Members within fifteen (15) calendar days
22 after the Settlement becomes effective as defined in Paragraph 14.

23 d. Enhancement Award to Plaintiff for his Service as Class Representative:
24 The Settlement Administrator will pay the Enhancement Award approved by the Court to
25 Plaintiffs within fifteen (15) calendar days after the Effective Date as defined in Paragraph 14.

26 e. Defendant’s Right to Rescission: If more than five percent (5%) of the
27 Settlement Class opts out of the Settlement Class by submitting valid and timely Requests for
28 Exclusion as set forth in the Notice of Proposed Class Action Settlement, Defendant shall have

1 the option to rescind and void the Settlement at its discretion, before final approval by the Court,
2 by providing written notice to Class Counsel at least fourteen (14) calendar days following the
3 opt-out deadline, provided the Settlement Administrator has previously furnished Defendant with
4 the number and percentage of valid and timely Requests for Exclusion. If Defendant exercises
5 this option, Defendant shall pay all costs of incurred by the Settlement Administrator incurred up
6 to that date.

7 SETTLEMENT ADMINISTRATION

8 15. The Parties agree to the appointment of Simpluris to perform the customary duties
9 of Settlement Administrator; provided, however, the Parties shall have the right to select or
10 substitute a different Settlement Administrator by mutual agreement and approval by the Court.
11 The Settlement Administrator will mail the Notice of Proposed Class Action Settlement to all
12 Class Members. The Settlement Administrator will calculate the workweeks and amounts due to
13 Class Members in accordance with this Stipulation of Settlement. The Settlement Administrator
14 shall report, in summary or narrative form, the substance of its findings. The Settlement
15 Administrator shall be granted reasonable access to Defendant's records to perform its duties. At
16 the request of Defendant, and upon receipt of funds from Defendant, the Settlement Administrator
17 will issue and send out Settlement Award checks to Class Members. Tax treatment of the
18 Settlement Awards will be as set forth herein, and in accordance with state and federal tax laws.
19 All disputes relating to the Settlement Administrator's performance of its duties shall be referred
20 to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions
21 of this Stipulation of Settlement until all payments and obligations contemplated by this
22 Stipulation of Settlement have been fully carried out.

23 ATTORNEYS' FEES AND LITIGATION COSTS

24 16. In consideration for settling this Action, in exchange for the release of claims by
25 the Settlement Class, and subject to final approval or modification by the Court, Defendant agrees
26 to pay Class Counsel attorneys' fees not to exceed thirty-five percent (35%) of the Maximum
27 Settlement Amount, or in other words up to Three Hundred Fifty Thousand Dollars (\$350,000),
28 and actual costs not in excess of Twenty Thousand Dollars (\$20,000) from the Maximum

1 Settlement Amount. Defendant will not object to Class Counsel's application for attorneys' fees
2 and litigation costs provided the application is in compliance with this Paragraph. The amount
3 set forth above will cover all work performed and all fees and costs incurred to date, and all work
4 to be performed and all fees and costs to be incurred in connection with the approval by the Court
5 of this Stipulation of Settlement, the administration of the Settlement, and obtaining the final
6 judgment. Settlement Administrator may purchase an annuity to utilize US treasuries and bonds
7 or other attorney fee deferral vehicles for Class Counsel. Should Class Counsel request a lesser
8 amount, or should the Court approve a lesser amount for attorneys' fees and litigation costs, the
9 difference between the lesser amount and the maximum amount set forth above shall be added to
10 the Net Settlement Amount.

11 17. The attorneys' fees and litigation costs approved by the Court shall be paid to
12 Class Counsel within fifteen (15) days after the Settlement becomes effective as defined in
13 Paragraph 14.

14 NOTICE AND CLAIM FORM TO THE CLASS

15 18. A Notice of Pendency of Class Action, Proposed Settlement and Hearing Date for
16 Final Court Approval ("Notice of Proposed Class Action Settlement") in substantially the form
17 attached hereto as **Exhibit A**, and as approved by the Court, shall be sent by the Settlement
18 Administrator to the Class Members by first class mail. Any returned envelopes from this mailing
19 with forwarding addresses will be used by the Settlement Administrator to forward the Notice to
20 the Class Members.

21 a. Within twenty (20) calendar days of preliminary approval of this Settlement
22 by the Court, Defendant shall provide to the Settlement Administrator a spreadsheet of the Class
23 Members' names, last-known home addresses, last-known home telephone numbers, Social
24 Security Numbers or Federal Employment Identification Numbers, and workweeks during the Class
25 Period ("Class Member Information"). Defendant shall make reasonable efforts to obtain Class
26 Member Information for employees who were assigned to work for Defendant by temporary
27 agencies or otherwise were temporary employees. The Parties agree the social security numbers
28 will be used only by the Settlement Administrator for the sole purpose of effectuating the Settlement

1 and will not be provided to Class Counsel at any time or in any form, except as may be specifically
2 necessary to address any issues with the claims process. Notwithstanding anything herein to the
3 contrary, neither the Settlement Administrator nor the Class Counsel will be entitled to receive
4 confidential information of Defendant (including non-public personal information of its
5 employees). To the extent Class Counsel possesses or comes to possess the Class Members' contact
6 information, Social Security Numbers and/or Federal Employment Identification Numbers, Class
7 Counsel shall return all such information (including copies and data or information derived
8 therefrom) within seven (7) calendar days from the date the Court grants final approval of the
9 Settlement, shall not retain copies of such information, and shall not maintain or use such
10 information for any purpose. The spreadsheet provided for above, shall be based on Defendant's
11 payroll and other business records and in a format acceptable to the Settlement Administrator.
12 Defendant agrees to consult with the Settlement Administrator prior to the production date to ensure
13 that the format will be acceptable to the Settlement Administrator. The Settlement Administrator
14 will run a check of the Class Members' addresses against those on file with the U.S. Postal Service's
15 National Change of Address List; this check will be performed only once per Class Member by the
16 Settlement Administrator. Within thirty (30) calendar days after the Court's preliminary approval
17 of this Settlement, the Settlement Administrator will mail the Notice and Claim Form to Class
18 Members.

19 b. With the Notice of Proposed Class Action Settlement, the Settlement
20 Administrator shall mail a Claim Form in substantially the form hereto as **Exhibit B**. In order to
21 receive a Settlement Award, Class Members must return valid Claim Forms postmarked and mailed
22 to the Settlement Administrator no later than thirty (30) calendar days after the Settlement
23 Administrator mails the Notice to the Class Members. To be valid, the Class Member must sign
24 and date his/her Claim Form. All Class Members who do not submit valid, timely Claim Forms
25 shall not receive Settlement Awards, but shall be bound by the terms of this Settlement unless such
26 Class Member submit a valid, timely Request for Exclusion pursuant to the requirements of
27 Paragraph 21.
28

1 c. Notices returned to the Settlement Administrator as non-delivered during the
2 thirty (30) calendar day period for the filing of claims shall be resent to the forwarding address, if
3 any, on the returned envelope. If there is no forwarding address, the Settlement Administrator will
4 do an NCOA check and will skip-trace return mail and re-mail within three (3) business days of
5 receipt using the Class Member's social security number; this search will be performed only once
6 per Class Member by the Settlement Administrator. Upon completion of these steps by the
7 Settlement Administrator, Defendant and the Settlement Administrator shall be deemed to have
8 satisfied their obligations to provide the Notice of Pendency of Class Action and Settlement and
9 Claim Form to the affected member of the Settlement Class. The affected member of the Settlement
10 Class shall remain a member of the Settlement Class and shall be bound by all the terms of the
11 Stipulation of Settlement and the Court's Order and Final Judgment.

12 c. The Notice of Pendency of Class Action and Settlement shall also identify
13 the procedures for submitting a claim form, opting out of or objecting to the Settlement.

14 d. Class Counsel shall provide to the Court, at least sixteen (16) court days
15 before the final fairness hearing, an initial declaration by the Settlement Administrator of due
16 diligence and proof of mailing with regard to the mailing of the Notice of Proposed Class Action
17 Settlement.

18 19. Uncashed Settlement award checks will not be re-issued, except for good cause
19 and as mutually agreed upon by the Parties in writing. Any checks that remain uncashed after 180
20 days of issuance will be sent to the State of California State Controller's Unclaimed Wages Fund.

21 20. The Settlement Administrator will be responsible for making appropriate
22 deductions, calculating, reporting and issuing the employer payroll taxes on the Settlement
23 Awards, paying to Class Counsel any Court-approved attorneys' fees and litigation costs, paying
24 to the Class Representative any Court-approved Enhancement Award, meeting tax reporting
25 obligations, and for issuing the individual Settlement Awards to Class Members. Proof of
26 payment will be filed with the Court and provided to Class Counsel and Defendant's Counsel
27 within the time frame requested by the Court.
28

1 OPTING OUT OF / OBJECTING TO THE SETTLEMENT

2 21. Opting Out of the Settlement. For those Class Members who do not wish to
3 participate in the Settlement, such Class Members may exclude themselves by submitting a timely
4 written request to the Settlement Administrator. The written request (“Request for Exclusion”)
5 should state that he/she has received the Notice of Proposed Class Action Settlement, decided not
6 to participate in the Settlement, and words to the effect that he/she desires to be excluded from
7 the Settlement. The Request for Exclusion must also state the individual’s full name, address,
8 date of birth, and generally the dates he/she was working as a non-exempt employee for
9 Defendant in California. The Request for Exclusion must be signed, dated and mailed by First
10 Class U.S. Mail, or the equivalent, to the Settlement Administrator. All Requests for Exclusion
11 must be postmarked and mailed to the Settlement Administrator no later than thirty (30) calendar
12 days after the Settlement Administrator mails the Notice to the Class Members. Any individual
13 who submits a Request for Exclusion will not be allowed to object to the terms of the Settlement.

14 22. Objecting to the Settlement. Any individual who does not exclude himself/herself
15 from the Settlement can object to the terms of the Settlement before the deadline to object to the
16 Settlement. To object, the individual must file a written objection and a notice of intention to
17 appear at the Final Approval hearing with the Settlement Administrator. Any written objection
18 must state each specific reason in support of the objection and any legal support for each
19 objection. The individual must state his/her full name, address, telephone number and the last
20 four digits of the individual’s Social Security Number, and the dates he/she worked as a non-
21 exempt employee in California with Defendant. To be valid and effective, any objections to
22 approval of the Settlement must be delivered to the Settlement Administrator, Class Counsel and
23 counsel for Defendant no later than thirty (30) calendar days after the Settlement Administrator
24 mails the Notice to the Class Members. If the Court rejects the objection, the individual will be
25 bound by the terms of the Settlement.

26 RELEASES BY THE CLASSES

27 23. Effective upon the date of final approval by the Court of this Stipulation of
28 Settlement, and except as to such rights or claims as may be created by this Stipulation of

1 Settlement, the Settlement Class and each member of the Settlement Class who has not submitted
2 a valid Request for Exclusion, fully releases and discharges (i) Defendant, Kruger Foods, Inc.; (ii)
3 each of Defendant's respective past, present and future parents, subsidiaries and affiliates including,
4 without limitation, any corporation, limited liability company, partnership, trust, foundation and
5 non-profit entity which controls, is controlled by, or is under common control with Defendant
6 Kruger Foods, Inc.; (iii) the past, present and future shareholders, directors, officers, agents,
7 employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants,
8 representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors and
9 assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable with
10 any of the foregoing, including, but not limited to, temporary agencies (collectively "Released
11 Parties"), from all claims based on the factual allegations made in the Complaint and which could
12 have been made based on the factual allegations in the Complaint for the period February 10, 2016
13 through April 9, 2021 or preliminary approval of the Settlement, whichever date is earlier. This
14 includes but is not limited to: (1) all claims for alleged failure to pay minimum wages, straight time,
15 overtime, or double time wages, failure to pay wages for off-the-clock work, and failure to pay
16 other wages of any kind during employment under Labor Code sections 510, 558, 1194, 1194.2,
17 1197, 1197.1, 1198, 1199 and Industrial Welfare Commission ("IWC") Order No. 3-2001; (2)
18 failure to provide meal periods or pay meal period premiums under Labor Code sections 512, 226.7,
19 and IWC Wage Order No. 3-2001; (3) failure to provide rest periods or pay rest period premiums
20 under Labor Code section 226.7, and IWC Wage Order No. 3-2001; (4) failure to provide accurate
21 and itemized wage statements under Labor Code section 226; (5) untimely wages and waiting time
22 penalties under Labor Code sections 201, 202, 203, 204 and 210; (6) unreimbursed business
23 expenses under Labor Code sections 2800 and 2802; (7) violation of Business & Professions Code
24 section 17200 *et seq.* including, but not limited to, all claims for unfair, unlawful and harmful
25 conduct to class members, the general public and Defendant's competitors and claims of unlawfully
26 gaining an unfair advantage over other businesses; (8) PAGA claims for civil penalties due to any
27 Labor Code violations by Defendant arising out of or related to events alleged in the complaint
28 including, but not limited to, Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 245,

1 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800 and 2802, and
2 IWC Wage Order No. 3-2001; (9) penalties of any nature; (10) interest; (11) attorneys' fees and
3 costs; (12) and any other claims arising out of or related to the respective Complaints filed in the
4 Action during the Class Period (collectively the "Released Claims"). In addition, as of the date of
5 final approval by the Court of this Stipulation of Settlement, the Class Representative and the
6 Settlement Class, and each member of the Settlement Class who has not submitted a valid Request
7 for Exclusion, is forever barred and enjoined from instituting or accepting damages or obtaining
8 relief against the Released Parties relating to the Released Claims.

9 DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

10 24. Plaintiff shall promptly submit this Stipulation of Settlement to the Court in
11 support of Plaintiffs' Motion for Preliminary Approval and determination by the Court as to its
12 fairness, adequacy and reasonableness. Before filing, Plaintiffs agree to provide Defendant the
13 opportunity to review and approve Plaintiffs' Motion for Preliminary Approval. Promptly upon
14 execution of this Stipulation of Settlement, Plaintiff shall apply to the Court for the entry of an
15 order preliminarily approving the Settlement, substantially in the following form and as attached
16 hereto as **Exhibit C**:

17 a. Scheduling a fairness hearing on the question of whether the proposed
18 Settlement, including payment of attorneys' fees and litigation costs, costs of administration and
19 the Class Representative's Enhancement Award should be finally approved as fair, reasonable
20 and adequate as to the members of the Settlement Class;

21 b. Certifying a Settlement Class, Plaintiff Dyron Dorsey as Class
22 Representative, and JUSTICE LAW CORPORATION as Class Counsel;

23 c. Approving as to form and content the proposed Notice of Proposed Class
24 Action Settlement and Claim Form;

25 d. Approving the manner and method for Class Members to request exclusion
26 from the Settlement as contained herein and within the Notice of Proposed Class Action
27 Settlement;

28 e. Directing the mailing of the Notice of Proposed Class Action Settlement

1 and Claim Form by first class mail to the Class Members; and

2 f. Preliminarily approving the Settlement subject only to the objections of
3 Class Members and final review by the Court; and

4 g. Enjoining Plaintiff and all Class Members from filing or prosecuting any
5 other cases, claims, suits or administrative proceedings (including filing claims with the Division
6 of Labor Standards Enforcement of the California Department of Industrial Relations) regarding
7 the Released Claims unless and until such Class Members have filed valid Requests for Exclusion
8 with the Settlement Administrator and the time for filing claims with the Settlement
9 Administrator has elapsed.

10 DUTIES OF THE PARTIES FOR FINAL COURT APPROVAL

11 25. Upon the Effective Date of the Settlement provided for in this Stipulation of
12 Settlement, Class Counsel will return to Defendant all company and employee documents, lists,
13 and electronic data in all forms and formats (originals and copies). Before filing, Plaintiff agrees
14 to provide Defendant the opportunity to review and approve Plaintiff's Motion for Final Approval
15 of Class Action Settlement. Class Counsel agrees to submit a proposed final order and judgment,
16 in substantially the form attached hereto as **Exhibit D**:

17 a. Approving the Settlement, adjudging the terms thereof to be fair,
18 reasonable and adequate, and directing consummation of its terms and provisions;

19 b. Approving Class Counsel's application for an award of attorneys' fees and
20 litigation costs;

21 c. Approving the Enhancement Award to the Class Representative; and

22 d. Entering judgment in accordance with California Rules of Court, Rule
23 3.769(h), dismissing this action on the merits and with prejudice and permanently barring and
24 enjoining all members of the Settlement Classes from prosecuting claims against the Released
25 Parties pursuant to Paragraphs 23 and 24 above, upon satisfaction of all payments and obligations
26 hereunder.

27 PARTIES' AUTHORITY

28 26. The signatories hereto hereby represent that they are fully authorized to enter into

1 this Stipulation of Settlement and bind the Parties hereto to the terms and conditions thereof.

2 MUTUAL FULL COOPERATION

3 27. The Parties agree to fully cooperate with each other to accomplish the terms of
4 this Stipulation of Settlement, including, but not limited to, execution of such documents and
5 taking such other action as reasonably may be necessary to implement the terms of this Stipulation
6 of Settlement. The Parties shall use their best efforts, including all efforts contemplated by this
7 Stipulation of Settlement and any other efforts that may become necessary by order of the Court,
8 or otherwise, to effectuate this Stipulation of Settlement and the terms set forth herein. As soon
9 as practicable after execution of this Stipulation of Settlement, Class Counsel shall, with the
10 assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the
11 Court's final approval of this Stipulation of Settlement.

12 28. The Parties and their respective counsel agree that they will not encourage Class
13 Members to file Requests for Exclusion.

14 NO PRIOR ASSIGNMENTS

15 29. The Parties and their counsel represent, covenant and warrant that they have not
16 directly or indirectly, assigned, transferred, encumbered or purported to assign, transfer or
17 encumber to any person or entity any portion of any liability, claim, demand, action, cause of
18 action or right herein released and discharged except as set forth herein.

19 NO ADMISSION

20 30. Nothing contained herein, nor the consummation of this Stipulation of Settlement,
21 is to be construed or deemed an admission of liability, culpability, negligence or wrongdoing on
22 the part of Defendant. Each of the Parties hereto has entered into this Stipulation of Settlement
23 solely with the intention to avoid further disputes and litigation with the attendant inconvenience
24 and expenses.

25 ENFORCEMENT ACTIONS

26 31. The Parties agree that the San Joaquin County Superior Court shall retain
27 jurisdiction to enforce the terms of this Settlement pursuant to California Code of Civil Procedure
28 section 664.6. In the event one or more of the Parties to this Stipulation of Settlement institutes

1 any legal action or other proceeding against any other Party or Parties to enforce the provisions
2 of this Stipulation of Settlement or to declare rights or obligations under this Stipulation of
3 Settlement, the successful party or Parties shall be entitled to recover from the unsuccessful Party
4 or Parties' reasonable attorneys' fees and litigation costs, including expert witness fees incurred
5 in connection with any enforcement actions.

6 NOTICES

7 33. Unless otherwise specifically provided herein, all notices, demands or other
8 communications given hereunder shall be in writing and shall be deemed to have been duly given
9 as of the third business day after mailing by United States registered or certified mail, return
10 receipt requested, addressed as follows:

11 **To Plaintiffs and the Settlement Class:**

12 Douglas Han
13 Shunt Tatavos-Gharajeh
14 Phillip Song
15 Justice Law Corporation
16 751 N. Fair Oaks Ave., Suite 101
17 Pasadena, CA 91103

16 **To Defendant:**

17 Nathan W. Austin
18 Jackson Lewis P.C.
19 400 Capitol Mall, Suite 1600
20 Sacramento, California 95814

19 NO PUBLIC COMMENT

20 34. The Class Representatives and Class Counsel will not make any public comment
21 about the Action or the Settlement, except by public court filings seeking preliminary and final
22 Court approval of the Settlement; the Parties will use their best efforts to reach agreement on all
23 Court filings. Class Counsel will take all steps necessary to ensure the Class Representatives are
24 aware of the restriction against public comment of the Settlement.

25 35. Following preliminary approval of the Settlement, the Class Representatives and
26 Class Counsel will not initiate any communications (directly or indirectly) with the media
27 regarding the Action. Notwithstanding the foregoing, the Class Representatives and Class
28 Counsel may, in response to a communication initiated by the media, direct the inquiring media

1 member to the public records of the Action on file with the Court. Class Counsel will take all
2 steps necessary to ensure the Class Representatives are aware of, and will instruct them to adhere
3 to, the restriction against any media comment on the Settlement and its terms.

4 CONSTRUCTION

5 36. The Parties hereto agree that the terms and conditions of this Stipulation of
6 Settlement are the result of lengthy, intensive arms-length negotiations between the Parties and
7 this Stipulation of Settlement shall not be construed in favor of or against any party by reason of
8 the extent to which any party or his, his or its counsel participated in the drafting of this
9 Stipulation of Settlement.

10 CAPTIONS AND INTERPRETATIONS

11 37. Paragraph titles or captions contained herein are inserted as a matter of
12 convenience and for reference, and in no way define, limit, extend or describe the scope of this
13 Stipulation of Settlement or any provision of it. Each term of this Stipulation of Settlement is
14 contractual and not merely a recital.

15 MODIFICATION

16 38. This Stipulation of Settlement may not be changed, altered or modified, except in
17 writing and signed by the Parties hereto and approved by the Court. This Stipulation of
18 Settlement may not be discharged except by performance in accordance with its terms or by a
19 writing signed by the Parties hereto.

20 INTEGRATION CLAUSE

21 39. This Stipulation of Settlement contains the entire agreement between the Parties
22 relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous
23 agreements, understandings, representations and statements, whether oral or written and whether
24 by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived
25 except in writing.

26 BINDING ON ASSIGNS

27 40. This Stipulation of Settlement shall be binding upon and inure to the benefit of the
28 Parties and the Released Parties hereto, and their respective heirs, trustees, executors,

administrators, successors and assigns.

CLASS MEMBER SIGNATORIES

41. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each member of the Class execute this Stipulation of Settlement. The Notice of Proposed Class Action Settlement, **Exhibit A** hereto, will advise all Class Members of the binding nature of the release, and the release shall have the same force and effect as if this Stipulation of Settlement were executed by each member of the Class.

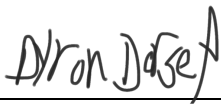
COUNTERPARTS

42. This Stipulation of Settlement may be executed in counterparts and by facsimile signatures, and when each party has signed and delivered at least one such counterpart, each counterpart, including e-mail and PDF versions, shall be deemed an original and, when taken together with other signed counterparts, shall constitute one Stipulation of Settlement binding upon and effective as to all Parties.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Settlement and Release between Plaintiff and Defendant as of the date(s) set forth below:

Plaintiff

Dated: 06/01/2021, 2021



Dyron Dorsey
Plaintiff and Class Representative

Defendant

Dated: _____, 2021

KRUGER FOODS, INC.

By: _____

Name:

Title:

1 administrators, successors and assigns.

2 CLASS MEMBER SIGNATORIES

3 41. It is agreed that because the members of the Class are so numerous, it is impossible
4 or impractical to have each member of the Class execute this Stipulation of Settlement. The
5 Notice of Proposed Class Action Settlement, **Exhibit A** hereto, will advise all Class Members of
6 the binding nature of the release, and the release shall have the same force and effect as if this
7 Stipulation of Settlement were executed by each member of the Class.

8 COUNTERPARTS

9 42. This Stipulation of Settlement may be executed in counterparts and by facsimile
10 signatures, and when each party has signed and delivered at least one such counterpart, each
11 counterpart, including e-mail and PDF versions, shall be deemed an original and, when taken
12 together with other signed counterparts, shall constitute one Stipulation of Settlement binding
13 upon and effective as to all Parties.

14 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this
15 Joint Stipulation of Settlement and Release between Plaintiff and Defendant as of the date(s) set
16 forth below:

17
18 **Plaintiff**

19 Dated: _____, 2021

Dyron Dorsey
Plaintiff and Class Representative

20
21
22 **Defendant**

23 Dated: June 7, 2021

KRUGER FOODS, INC.

24 By: 
25 Name: Leslie Kruger
26 Title: COO
27
28

1 Approved as to Form

2 Dated: 6/1/, 2021

JUSTICE LAW CORPORATION

4 By: 

Douglas Han
Shunt Tatavos-Gharajeh
Phillip Song
Attorneys for Plaintiff
DYRON DORSEY,
SETTLEMENT CLASS and AGGRIEVED
EMPLOYEES

9 Dated: June 7, 2021

JACKSON LEWIS P.C.

11 By: 

Nathan W. Austin
Emily J. Tewes
Attorneys for Defendant
KRUGER FOODS, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is arivera@justicelawcorp.com

On June 16, 21, I served the foregoing document described as

JOINT STIPULATION AND SETTLEMENT AGREEMENT

for the following case: **Dorsey v. Kruger Foods, Inc.**
LWDA/Court Case No.: **LWDA-CM-822246-21**
STK-CV-UOE-2020-0002099
San Joaquin County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

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

Executed on June 16, 2021, at Pasadena, California.



Allana Rivera