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Attorneys for Defendant DEL MONTE FOODS,
INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS**

JAIME MARTINEZ, an individual, on behalf of
himself and all others similarly situated,

Plaintiff,

vs.

DEL MONTE FOODS, INC., a Delaware
Corporation, and Does 1-50

Defendant.

Case No. CV-21-005893

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT**

[Assigned for all purposes to The Honorable
Sonny S. Sandhu, Dept. 24]

Action Filed: 2021-10-28
Trial Date: None Set

1 This Joint Stipulation of Class Action Settlement (“Agreement”) is made and entered into by
2 and between Plaintiff Jaime Martinez (“Plaintiff”), in his individual capacity, as a class
3 representative, and as a private attorney general, on the one hand, and Defendant Del Monte Foods,
4 Inc. (“Defendant”) on the other. This Joint Stipulation will be binding on Plaintiff and the class he
5 purports to represent, and Defendant, subject to the terms and conditions set forth below, and the
6 approval of the Court.

7 **I. DEFINITIONS**

8 To the extent any terms or phrases used in this Joint Stipulation are not specifically defined
9 in this section (i.e., Section I), but are defined elsewhere in this Joint Stipulation, they are
10 incorporated herein by reference.

11 “Action” means the lawsuit filed by the above-referenced Plaintiff against Defendant,
12 pending in the Superior Court of the State of California, County of Stanislaus, Case No. CV-21-
13 005893.

14 “Class” or “Class Members” means all persons who were classified as a seasonal employee
15 by Defendant in California at any time from October 28, 2018 through January 24, 2023.

16 “Class Counsel” means Jeremy F. Bollinger, Dennis F. Moss, Ari E. Moss, and Jorge A.
17 Flores of Moss Bollinger LLP.

18 “Class Period” means the period from October 28, 2018, through and including January 24,
19 2023.

20 “Complaint” means the operative Complaint Plaintiff filed in the Action and all amendments
21 thereto.

22 “Defendant” means Del Monte Foods, Inc.

23 “Effective Date” means the date by which the Court’s order granting Final Approval of this
24 Joint Stipulation becomes final. Such order becomes final upon the following events: (i) upon the
25 Court issuing an order granting Final Approval of this Joint Stipulation if no objections to the
26 settlement are filed, or if an objection is filed but is withdrawn prior to the Court’s Final Approval
27 Hearing; or (ii) in the event there are written objections filed prior to the final approval hearing which
28 are not thereafter withdrawn prior to the hearing, the later of the following events: (a) the day after

the last day by which a notice of appeal of the order may be timely filed with the California Court of Appeal, and none is filed; (b) if an appeal is filed and is finally disposed of by ruling, dismissal, denial, or otherwise, the day after the last date for filing a request for further review of the Court of Appeal's decision passes and no further review is requested; (c) if an appeal is filed and there is a final disposition by ruling, dismissal, denial, or otherwise by the Court of Appeal, and further review of the Court of Appeal's decision is requested, the day after the request for review is denied with prejudice and/or no further review of the order can be requested; or (d) if review is accepted, the day the Supreme Court of the State of California affirms the Settlement.

"Final Approval" means the date upon which the Court enters an order granting approval of this Joint Stipulation, after having determined that the settlement is fair, adequate, and reasonable to the Class following notice to the Class and a hearing on the fairness of the settlement.

"Final Approval Hearing" means the final hearing held to ascertain the fairness, reasonableness, and adequacy of the Joint Stipulation, after which the Court will enter its order approving the Joint Stipulation finally.

"Opt-Out" means Class Members who timely and validly request exclusion from the Class.

"PAGA Period" means the period from October 28, 2020, through and including, January 25, 2023.

"PAGA Settlement Members" means all persons who were classified as a seasonal employee by Defendant in California at any time during the PAGA Period.

"Parties" means Plaintiff and Defendant.

"Preliminary Approval" means the date upon which the Court enters an order granting preliminary approval of this Agreement.

"Released Claims" means (i) claims for "waiting time penalties" for alleged failures to timely pay wages upon separation of employment, including by reason of termination of seasonal employment (*e.g.*, alleged violations of Labor Code section 201-203); and (ii) claims for civil penalties, pursuant to the Private Attorneys General Act ("PAGA") (Cal. Labor Code §§ 2698, *et seq.*) predicated on the same or similar facts and/or claims alleged in the Action and/or any PAGA letter sent to the Labor and Workforce Development Agency ("LWDA").

1 “Released Parties” means Defendant and all of its past and present owners, officers, directors,
2 shareholders, employees, agents, assigns, attorneys, insurers, brands and concepts, parent companies,
3 subsidiaries, and affiliates, and their respective predecessors, successors, assigns, and any other
4 individual or entity that could be jointly liable with Defendant, without limitation.

5 “Settlement Administrator” means CPT Group, Inc., or such other entity as the Court may
6 approve.

7 “Settlement Administrator’s Fees” means all fees, costs, and expenses relating to the
8 administration of the settlement in this Action, including without limitation, printing and mailing
9 Class Notice Forms, receiving and processing Opt-Outs, calculating and determining payments and
10 percentages, regularly updating counsel on the status of administration, and the accounting and
11 maintenance of the Settlement Fund Account.

12 “Settlement Fund Account” means the bank account established under this Agreement from
13 which all monies payable under this Agreement shall be paid, as set forth herein.

14 “Gross Settlement Amount” means \$2,500,000 that Defendant will pay, in the aggregate, to
15 resolve the Action on a non-claims-made and non-reversionary basis. The Gross Settlement Amount
16 is all-inclusive. The following deductions shall be made from the Gross Settlement Amount: (i)
17 attorney fees and costs (Defendant will not oppose Class Counsel’s request for attorney fees not to
18 exceed 35% of the Gross Settlement Amount, or \$875,000, and a maximum of \$12,500 in litigation
19 costs as approved by the Court; (ii) Settlement Administrator Fees (approximately \$27,950); (iii) an
20 enhancement award to Plaintiff, as class representative, in the amount of \$15,000; and (iv) \$15,000
21 for penalties under PAGA (75% [\$11,250] of which will go to the LWDA and 25% (\$3,750) of
22 which will go to PAGA Settlement Members. Defendant’s portion of payroll taxes, if any, will be
23 paid outside of and in addition to the Gross Settlement Amount. Any deductions from the above
24 allocations will be deposited into the Settlement Fund Account and will be included in the Net
25 Settlement Amount for distribution to the Class.

26 “Net Settlement Amount” means the net amount available for payment of claims to Class
27 Members after deducting the above-referenced items from the Gross Settlement Amount. If the Court
28 approves a lesser amount of any of the above-referenced items, the Net Settlement Amount will

1 increase proportionately. In other words, any reductions from the above-referenced items will
2 increase the Net Settlement Amount proportionally – also referred to herein as the “Payout Fund.”

3 **II. PRE-TRIAL PROCEEDINGS AND NEGOTIATIONS**

4 **A. Discovery, Investigation, and Research**

5 The Parties investigated facts and law throughout the Action. Investigation included the
6 exchange of information under formal and informal discovery. It also included preparing for and
7 attending mediation with the Honorable Ronald Prager (Ret.). The Parties eventually reached a
8 settlement after additional exchanges of class member information, and additional negotiations
9 following the mediation.

10 The Parties investigated relevant law as applied to the facts of the case, potential defenses,
11 and damages claimed by Plaintiff on behalf of himself and the Class. Informal discovery primarily
12 focused on Plaintiff’s allegations that Class Members were not paid timely, pursuant to Labor Code
13 sections 201-203. Information and data exchanges included significant samplings of Class Members’
14 dates of employment, pay records, time records, and collective bargaining agreements. The Parties
15 conducted their evaluations of the potential recoveries based on the claims alleged and the defenses
16 at play.

17 **B. Class Representative Allegations and Benefits of Settlement**

18 The Parties entered into this Joint Stipulation after arm’s length bargaining by the Parties
19 with the assistance of an experienced mediator and after Class Counsel thoroughly reviewed the
20 available evidence. The information exchanged between the Parties allowed them to assess the merits
21 of the claims and defenses, and to reach a compromise of the issues.

22 Plaintiff and Class Counsel contend the claims asserted in the Action have merit. However,
23 they also acknowledge the expense and delay of continued litigation. Class Counsel considered the
24 uncertain outcome and risk of litigation, and the difficulties and delays inherent in such litigation.
25 Class Counsel also considered the potential difficulty maintaining the Action as a class action and
26 the likelihood of appeals. In addition, Class Counsel considered Defendant’s numerous defenses and
27 the defense arguments regarding alleged non-typical aspects of the Class Members’ jobs and job
28 duties.

1 Class counsel determined this Joint Stipulation confers substantial benefit to the Class and
2 respectfully submits an independent review by the Court will confirm this conclusion. Class Counsel
3 has determined that this Joint Stipulation is in the best interests of Plaintiff and the Class Members.

4 **C. Defendant's Denial of Wrongdoing, Defenses, and Benefits of Settlement**

5 Defendant generally denies all claims alleged in the Action and further denies class or
6 representative treatment is appropriate for any purpose other than this settlement. Defendant
7 contends it complied with all applicable laws. Defendant also contends that Plaintiff's "late pay"
8 claim is preempted and fails as a matter of law. Many Class Members are also union employees
9 whose employment is governed by one or more collective bargaining agreement. It is therefore also
10 Defendant's position that if litigation continued, class certification would not be granted, or if it were,
11 that it would be reversed. Defendant contends Plaintiff is not an adequate class representative, his
12 claims are not typical of the Class, and individual issues predominate over common ones. However,
13 Defendant has concluded further litigation would be protracted and expensive. Thus, Defendant
14 determined it is desirable to settle the Action in the manner and upon the terms and conditions herein.

15 **D. Intent of the Settlement**

16 This Joint Stipulation intends to achieve the following: (1) entry of an order approving the
17 Joint Stipulation, conditionally certifying the Class, and granting the monetary relief set forth herein;
18 (2) entry of judgment on Plaintiff's alleged claims; and (3) discharge of the Released Parties from
19 liability for all Released Claims.

20 **III. PROCEDURAL ISSUES**

21 **A. Amended Complaint**

22 By joint stipulation, Plaintiff will file an amended complaint with all of the claims set forth
23 in the PAGA Notice and Complaint, including, but not necessarily limited to, untimely payment of
24 wages. Plaintiff will assert all claims on a class basis and a PAGA basis. Plaintiff will file the
25 amended complaint as soon as practicable, but prior to petitioning the court for preliminary approval
26 of this Settlement.

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1 **B. Preliminary Approval**

2 Class Counsel will submit this Joint Stipulation to the Court with a Motion for Preliminary
3 Approval of Class Action Settlement. Defendant will not oppose the Motion.

4 **C. Settlement Administrator**

5 The Settlement Administrator will handle: (1) preparing, printing, and mailing
6 simultaneously the Notice of Class Action Settlement in substantially the same form as the attached
7 **Exhibit 1** (the “Class Notice”) and **Exhibit 2** (the “Opt Out Form”) in English and Spanish; (2)
8 receiving and reviewing any Opt-Outs; (3) calculating payments under the settlement; (4) handling
9 inquiries from Class Members concerning the Notice Packet; (5) resolving any disputes concerning
10 individual claims; (6) providing weekly status reports to Defendant’s counsel and Class Counsel
11 regarding the mailings, Opt-Outs, and settlement payments; (7) distributing settlement payments to
12 Class Members and payment to other parties under the terms of this Joint Stipulation; (8) providing
13 due diligence declarations for submission to the Court, as needed; (9) printing and providing Class
14 Members and Plaintiff with tax forms as required under this Joint Stipulation and applicable law, and
15 providing copies of the same to Defendant; (10) sending, and/or responding to submissions of Opt-
16 Outs, or contact information updates; and (11) such other tasks as the Parties mutually agree or the
17 Court orders the Settlement Administrator to perform.

18 The Settlement Administrator will skip trace and re-mail all returned, undeliverable mail
19 within seven (7) days of receiving notice the mailing was undeliverable. The Settlement
20 Administrator will also handle payments to Plaintiff for his Enhancement Award, payment of Class
21 Counsel’s attorney fees and costs as approved by the Court, and payment of PAGA penalties to the
22 LWDA. The Settlement Administrator will also handle the distribution of any remaining amounts
23 from uncashed checks in accordance with the procedures set forth below. (See Section IV.F.)
24 Settlement Administrator’s Fees are to be paid from the Gross Settlement Amount.

25 **D. Notice to Class Members**

26 Notice will be provided to Class Members through the following procedures. Within 30
27 calendar days following Preliminary Approval, Defendant will provide the Settlement Administrator
28 with the following information about each Class Member: (1) name; (2) last known mailing address

1 and telephone number; (3) Social Security Number; (4) dates of employment; and (5) total Breaks in
2 Service during the Class Period (collectively, "Class Data"). "Breaks in Service," means a period of
3 seven (7) or more days during which a seasonal employee performed no work, as indicated by
4 Defendant's records.

5 Within 14 calendar days after the Settlement Administrator's receipt of the Class Data, the
6 Settlement Administrator will calculate the estimated payout to the individual Class Members,
7 assuming all Class Members participate in the Settlement, and it will mail the Notice Packet to such
8 Class Members via first-class regular U.S. mail.

9 Prior to mailing, the Settlement Administrator will perform a search based on the National
10 Change of Address Database for information to update and correct any known or identifiable address
11 changes. If a Notice Packet is returned as undeliverable, the Settlement Administrator shall perform
12 a "skip trace" to obtain the most up-to-date contact information on the class member whose Notice
13 Packet was returned. If a new address is obtained by way of a returned Notice Packet or otherwise
14 on or before the close of the 60-day notice period, then the Settlement Administrator will promptly
15 forward the original Notice Packet to the updated address via first-class regular U.S. mail, indicating
16 on the original packet the date of such re-mailing within 3 business days of receipt.

17 Upon completion of these steps by the Settlement Administrator, the Parties will be deemed
18 to have satisfied their obligation to provide notice of the settlement to Class Members. Such persons
19 will be bound by all terms of the Joint Stipulation (including the release) and the Court's order and
20 final judgment, unless they validly Opt-Out of the Class. PAGA Settlement Members who opt out
21 will only be deemed to have released their PAGA claim.

22 Class Members who receive a re-mailed Notice Packet shall have an additional sixty (60)
23 calendar days (as indicated by post-marks) from the date the Class Notice was re-mailed to respond
24 (i.e. to submit a written objection, to submit a valid Opt-Out Request, or to dispute the number of
25 workweeks). Class Members who are also PAGA Settlement Members will also receive a provision
26 in their Notice with their estimated pro-rata share of the PAGA portion of the Settlement.

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1 **E. Procedure for Opting-Out of Class**

2 Class Members who wish to exclude themselves from the Class must mail the Settlement
3 Administrator a signed and dated Opt-Out Form (Exhibit 2) requesting exclusion from the Class
4 within 60 calendar days after the date the Notice Packet was mailed (the “Class Member Exclusion
5 Deadline”), unless the Court orders otherwise. All requests for exclusion must be made in writing,
6 signed by the Class Member, and must be submitted by postal mail. The delivery date is the date the
7 Opt-Out Form is deposited in the U.S. Mail as evidenced by the postmark.

8 A request to be excluded from the Class will be deemed valid only if the Class Member
9 completed, dated, and signed the Opt-Out Form by the Class Member Exclusion Deadline. The
10 written request to be excluded from the Class must indicate the Class Member’s intent to be excluded
11 from the settlement. The Parties have drafted the Opt-Out Form specifically for this purpose.

12 Any Class Member who timely submits a valid Opt-Out Form will not be entitled to recovery
13 under the settlement and will not be bound by the settlement, judgment, or order in this Action. Nor
14 will they be able to object, appeal, or comment on the settlement. Class Members who fail to properly
15 submit an Opt-Out Form will be bound by all the terms of this Joint Stipulation, and any judgment
16 and order entered in the Action.

17 The Settlement Administrator will provide counsel for the Parties with weekly updates about
18 Class Members who submit Opt-Out Forms. PAGA Settlement Members are not permitted to opt-
19 out of the PAGA portion of the Settlement.

20 **F. Procedure for Disputing Individual Settlement Amounts**

21 The Settlement Administrator’s determination of eligibility for, and the amounts of, any
22 settlement payment under this Joint Stipulation will be conclusive, final, and binding on all Parties,
23 including all Class Members. To dispute the settlement amount with which he or she has been
24 credited, a Class Member must timely produce evidence to the Settlement Administrator showing
25 that the information is inaccurate by the Class Member Exclusion Deadline. The delivery date is
26 deemed to be the date the dispute is deposited in the U.S. Mail as evidenced by the postmark. Class
27 Members shall have sixty (60) calendar days to dispute their individual settlement amounts. The
28 Settlement Administrator shall decide the dispute after notifying Class Counsel and Defendant’s

counsel of the dispute. Defendant's records will be presumed correct, but the Settlement Administrator will evaluate the evidence submitted by the Class Member and will make the final decision on the merits of the dispute. The Settlement Administrator may ask Defendant to produce the personnel and payroll files of the Class Member to resolve the dispute.

G. Procedure for Objecting to the Settlement

Any Class Member who seeks to object to the settlement may mail a copy of the objection to the Settlement Administrator. The written objection should be mailed within sixty (60) calendar days of mailing of the Class Notice. Any Class Member may also object by appearing either in person or by attorney at the Final Approval Hearing. Class Members may appear at the Final Approval Hearing to object to the Settlement regardless of whether they submitted a written objection. Neither the Parties nor their respective counsel will solicit or otherwise encourage any Class Member, directly or indirectly, to object to the Settlement, or appeal from the Judgment. The Settlement Administrator will provide counsel for the Parties with weekly updates about Class Members who object to the settlement. Any Class Member who timely submits an Opt-Out Form and objects to the Settlement shall be deemed to waive the objection.

H. Final Approval

At the Final Approval Hearing, Class Counsel will move the Court for the entry of judgment, incorporating the Joint Stipulation. Class Counsel will seek approval of the Joint Stipulation as being fair, adequate, and reasonable to the Class Members. Class Counsel and Defendant's counsel will submit to the Court such pleadings and evidence as required for the Court's determination.

No later than thirty (30) calendar days before the Final Approval Hearing, the Settlement Administrator will serve on Class Counsel and Defendant's counsel, for filing with the Court in support of Plaintiff's motion for final approval of the settlement, a declaration of due diligence setting forth its compliance with its obligations under this Joint Stipulation.

IV. SETTLEMENT TERMS

A. Gross Settlement Amount and Settlement Payments

To settle the Released Claims in the Action, Defendant will pay the aggregate Gross Settlement Amount on an all-inclusive, non-reversionary basis. Except as required herein, Defendant

will not be required to contribute additional sums to fund the settlement or otherwise resolve this action. All Class Members will be eligible to participate in the settlement. Class Members will receive a pro-rata share of the Net Settlement Amount, as set forth below.

B. Increase in Gross Settlement Amount

Defendant believes there are approximately 3,881 Class Members. If the number of Class Members exceeds 3,881 by more than five percent (5%), or 3,990, the Gross Settlement Amount will increase by a proportionate percentage for all additional Class Members above the five percent allowance. In other words, for each Class Member that does not Opt Out above 3,990, the Gross Settlement Amount will increase in proportion to the number of class members above 3,990.

C. Establishment of Settlement Fund

Within seven (7) days of Final Approval, the Settlement Administrator will establish the Settlement Fund Account in a non-interest-bearing transaction account at a FDIC-insured institution designated by Defendant with at least one branch in California.

D. Allocation of Settlement Proceeds

The Gross Settlement Amount is inclusive of and will be allocated as follows:

1. The Fee Award, which is the amount the Court awards to Class Counsel for their attorney fees, in an amount not exceeding 35% (\$875,000) of the Gross Settlement Amount;
2. The Cost Award, which is the amount the Court awards to Class Counsel for their reasonable litigation costs, in an amount not exceeding \$12,500.
3. The Enhancement Award, which comprises the amount the Court awards to Plaintiff as a class representative, in an amount not exceeding \$15,000;
4. The Settlement Administrator's Fees, as approved by the Court, in an amount not exceeding \$27,950;
5. PAGA penalties in an amount not to exceed \$15,000 (75% of which will go to the LWDA and 25% to PAGA Settlement Members);
6. The Payout Fund, which is the total money available for payout to Class Members who do not Opt Out, after deducting the above amounts;

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7. Payment to Class Members who do not Opt Out shall be allocated as follows: 1/3 as penalties, 1/3 as interest, and 1/3 as wages;

8. Payment to PAGA Settlement Members will be allocated as 100% penalties;

9. If the Court approves a lesser amount of any of the above-referenced costs or penalties, the Payout Fund will increase proportionately.

No funds will revert to Defendant.

E. Distribution of Settlement Proceeds

The Settlement Administrator will keep Defendant's counsel and Class Counsel apprised of all distributions from the Settlement Fund Account. No person will have any claim against Defendant, Defendant's counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on distributions and payments made under this Joint Stipulation. Distribution of the Gross Settlement Amount will be as follows:

1. Initial Payment

Within fourteen (14) calendar days after the Effective Date, Defendant shall provide the Settlement Administrator with the Gross Settlement Amount. Within ten (10) business days after receiving the Gross Settlement Amount from Defendant, the Settlement Administrator will pay the Fee Award, the Cost Award, the Incentive Award, the payment to the LWDA, and the Settlement Administrator's Fees, based on how the Court rules at the Final Approval Hearing. The remainder of the Gross Settlement Amount, known as the Payout Fund or the Net Settlement Amount, will be calculated and distributed as set forth below.

2. Payout to Class Members and PAGA Settlement Members

The Settlement Administrator will calculate the individual settlement payments to Class Members who do not submit valid Opt-Outs. The Settlement Administrator shall make payments to the Class based on the number of Breaks in Service experienced by each Class Member. In other words, the Settlement Administrator will calculate the value of each Break in Service by dividing the Net Settlement Amount by the total number of Breaks in Service, according to Defendant's records. Each Class Member will then receive a settlement payment equal to the number of Breaks in Service he or she experienced, multiplied by the value of each Break in Service.

1 The Class Members' settlement payments will be apportioned as follows: 1/3 as wages, 1/3
2 for interest, and 1/3 for penalties. The amounts paid as wages shall be subject to all tax withholdings
3 customarily made from employee's wages and all other authorized and required withholdings and
4 shall be reported by W-2 forms. The Settlement Administrator will issue the appropriate federal and
5 state tax forms.

6 The settlement payments to Class Members will be paid within ten (10) business days after
7 the Effective Date. It is expressly understood and agreed that the receipt of settlement payments will
8 not entitle any Class Member to additional or derivative compensation or benefits under any
9 company bonus, contest, or other compensation or benefit plan or agreement in place during the
10 Class Period, nor will it entitle any Class Member to any increased retirement, 401k benefits or
11 matching benefits, or deferred compensation benefits. It is the intent of the Parties that the settlement
12 payments provided for in this Joint Stipulation are the sole payments to be made by Defendant to the
13 Class Members for the Released Claims, and that the Class Members are not entitled to any additional
14 or derivative compensation or benefits as a result of having received the settlement payments
15 (notwithstanding any contrary language or agreement in any benefit or compensation plan document
16 that might have been in effect during the period covered by this Settlement).

17 PAGA Settlement Members will also receive a pro-rata share of the PAGA penalties. In other
18 words, the PAGA Settlement Members shall equally share in the PAGA portion of the Net Settlement
19 Amount. The payment formula is the total portion of the PAGA penalties to be distributed to PAGA
20 Settlement Members (\$3,750) divided by the total number of PAGA Settlement Members. PAGA
21 Settlement Members are not permitted to opt-out of the PAGA portion of the Settlement.

22 **F. Uncashed Checks**

23 Settlement checks issued to Class Members will expire one hundred and eighty (180) days
24 from the date they are issued by the Settlement Administrator. The Settlement Administrator will
25 provide the Parties with a report of uncashed checks. After 180 calendar days from the date of
26 mailing, the checks shall become null and void, and any monies remaining in the Payout Fund, plus
27 any interest accrued thereon, shall be distributed to California Rural Legal Assistance, for the benefit
28 of those Class Members who did not cash their checks until such time that they claim their property.

The Parties agree that this disposition results in no “unpaid residue” under California Civil Procedure § 384(b), as Individual Settlement Amounts will be paid out to Class Members, whether or not they cash their Settlement Checks within 180 days.

The Settlement Administrator shall post the Order and Judgment on the Settlement Administrator’s website within seven (7) calendar days after entry of Order and Judgement. The Settlement Administrator shall post a copy of the signed judgment for one hundred eighty (180) calendar days on its website in compliance with Rule 3.771(b) of the California Rules of Court in order to provide notice to the Class Members of this Judgment.

G. Fee Award

Defendant will not oppose a request for attorney fees up to 35% (\$875,000) of the Gross Settlement Amount. Defendant will not be obligated to pay any attorney fees of Class Counsel, Plaintiff, or Class Members above this amount. Class Counsel’s attorney fee application will be submitted and heard during the Final Approval Hearing. The Court will determine the Fee Award. If the Court believes the Fee Award should be reduced, the other terms of the settlement will remain in effect and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount.

H. Cost Award

Defendant will not oppose a request for reasonable litigation expenses not to exceed \$12,500. Defendant will not be obligated to pay any costs of Class Counsel, Plaintiff, or Class Members above the amount approved by the Court or \$12,500, whichever amount is less. Class Counsel’s request for costs must be submitted with its fee application and heard during the Final Approval Hearing. The Court will determine the Cost Award. If the Court believes the Cost Award should be reduced, the other terms of the settlement will remain in effect and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount.

I. Enhancement Award

Defendant will not object to an Incentive Award of \$15,000 to Plaintiff. Defendant will not be obligated to pay any Enhancement Award in the Action above this amount. The Enhancement Award will be considered miscellaneous income. The Settlement Administrator will issue a Form

1099, and any other tax forms, to Plaintiff relating to this award. The Court will determine the Enhancement Award. If the Court believes the Incentive Award should be reduced, the other terms of the settlement will remain in effect and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount.

Plaintiff acknowledges and agrees that Defendant and its attorneys have made no representations or warranties regarding the tax consequences of payment of the Enhancement Award, and Plaintiff has not relied on any such representations or warranties. Plaintiff agrees to pay and bear sole responsibility for all taxes, liens, levies, encumbrances, interest, and penalties that may be due or payable to any taxing authority as a result of the Enhancement Award. Furthermore, Plaintiff agrees to defend and indemnify Defendant in connection with any taxes, fines, interest, or penalties incurred as a result of any failure by Plaintiff to pay taxes due, if any, on the Enhancement Award paid.

J. Settlement Administrator Fees

The Parties agree settlement administration costs will be deducted from the Gross Settlement Amount, subject to approval by the Court, not to exceed \$27,950.

K. PAGA Penalties

The Parties agree to allocate \$15,000 of the Gross Settlement Amount to the resolution of all claims for penalties under PAGA during the PAGA Period. Under Labor Code § 2699(i), 75% of that amount will be paid to the LWDA. The Settlement Administrator will pay this amount within ten (10) business days after receiving the Gross Settlement Amount from Defendant. The other 25% will be equally distributed among the PAGA Settlement Members.

L. Defendant's Fees and Costs

Defendant will bear its own fees and costs.

V. RELEASE OF CLAIMS

A. Release of Claims by the Class Members

Upon payment of the Gross Settlement Amount by Defendant to the Settlement Administrator, Plaintiff and Class Members will be deemed to have released the Released Parties of and from all of the Released Claims during the Class Period. The Released Claims include all claims

1 which Plaintiff, the Class, and/or any Class Member alleged or could have alleged against any of
2 the Released Parties, arising out of the facts in the operative PAGA letter and/or the Complaint during
3 the Class Period, including claims, damages (of any kind), statutory penalties, and civil penalties for
4 violations of the California Labor Code in any way relating to timely payment of wages following
5 separation of employment, including termination of seasonal employment.

6 **B. Release of Claims by Plaintiff**

7 Upon the Effective Date, Plaintiff will be deemed to have released the Released Parties of
8 and from all of the Released Claims during the Class Period, as set forth above. Plaintiff's release
9 set forth herein also includes a waiver of all rights under California Civil Code section 1542, which
10 includes a release of all known and unknown claims against the Released Parties that have been
11 alleged or could have been alleged arising out of the facts, circumstances, causes of action, and
12 primary rights alleged in the Action. Civil Code section 1542 provides:

13 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
14 **THAT THE CREDITOR OR RELEASING PARTY DOES NOT**
15 **KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT**
16 **THE TIME OF EXECUTING THE RELEASE AND THAT, IF**
17 **KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY**
AFFECTED HIS OR HER SETTLEMENT WITH THE
DEBTOR OR RELEASED PARTY.

18 Upon the Effective Date, Plaintiff will be deemed to have waived his rights under Civil Code
19 section 1542, as set forth above.

20 **C. Release of Claims by the LWDA and PAGA Settlement Members**

21 Upon payment of the Gross Settlement Amount by Defendant to the Settlement
22 Administrator, the LWDA and PAGA Settlement Members, including Plaintiff, fully release and
23 forever discharge the Released Parties from any and all Released Claims during the PAGA Period.
24 The Parties agree that the settlement of this Action shall be effective as a full and final accord and
25 satisfaction, settlement of, and as a bar to, the claim alleged through PAGA, or that could have been
26 alleged through PAGA, by Plaintiff against Defendant arising out of the facts, circumstances, and
27 primary rights asserted in the PAGA Notice. The Parties further agree the settlement of this Action
28 shall be binding on Plaintiff, the PAGA Settlement Members, the LWDA, the State of California,

Defendants, and the Released Parties. As a result of this release, the PAGA Settlement Members will be unable to bring a claim under, or recover in any other claim brought under, the California Private Attorneys General Act, California Labor Code §§ 2698 *et seq.*, for any violations of the Released Claims that took place during the PAGA Period. Class Members who opt out will still release their PAGA claims and will still receive their portion of the PAGA payment. (*Robinson v. So. Counties Oil* (2020) 53 Cal. App. 5th 476.)

VI. NULLIFICATION OF THE JOINT STIPULATION

If (a) the Court should for any reason fails to approve this Joint Stipulation in the form agreed to by the Parties, or (b) the Court should for any reason fail to enter a judgment in the Action, or (c) the judgment is reversed, modified, or declared or rendered void, this Joint Stipulation will be null and void, and neither this Joint Stipulation, nor any of the related negotiations or proceedings, will be of any force or effect, and all Parties will stand in the same position, without prejudice, as if the Joint Stipulation had not been entered into or filed. Invalidation of any material portion of this Joint Stipulation will invalidate this Joint Stipulation in its entirety, unless the Parties subsequently agree in writing that the remaining provisions of the Joint Stipulation are to remain in full force and effect or unless as otherwise set forth above.

If the number of Class Members who submit valid Opt-Outs exceeds 10%, Defendant may rescind this Joint Stipulation. If Defendant rescinds, it must do so in writing to Class Counsel within fourteen (14) calendar days after the Settlement Administrator notifies the Parties of the total number of valid Opt-Outs received by the Class Member Exclusion Deadline. Defendant shall pay any costs incurred by the Settlement Administrator in the event that Defendant rescinds the Joint Stipulation or the Court does not approve it.

VII. DUTIES OF THE PARTIES

A. Mutual Full Cooperation

The Parties agree to cooperate to accomplish and implement the terms of this Joint Stipulation. Such cooperation will include, but is not necessarily limited to, execution of such other documents and taking such other actions as may be reasonably necessary to fulfill the terms of this Joint Stipulation. The Parties will use their best efforts, including all efforts contemplated by this

Joint Stipulation and any other efforts that may become necessary by court order, or otherwise, to effectuate this Joint Stipulation and the terms set forth herein. As soon as practicable after execution of this Joint Stipulation, Class Counsel, with the cooperation of Defendant and its counsel, will try to secure Preliminary Approval and Final Approval.

B. Duty to Support and Defend the Settlement

The Parties agree the settlement is fair, adequate, and reasonable and will so represent to the Court. In addition, mediator (Judge Prager) may execute a declaration supporting the settlement, and the Court may contact the mediator to discuss the settlement and whether or not the settlement is fair, adequate, and reasonable. The Parties agree to abide by all terms of the Joint Stipulation in good faith and to support the Agreement fully, and to use their best efforts to defend this settlement from any legal challenge, whether by appeal or collateral attack.

VIII. MISCELLANEOUS PROVISIONS

A. No Media Comments or Publicity

If contacted by the media, the Parties and Class Counsel will merely inform them that the case has been resolved, and refer them to the public filings. In addition, there shall be no public statements to the media or press releases with regard to the Action or the terms of this Agreement.

B. Waiver of Appeals

The Parties agree to waive any appellate rights; provided, however, Plaintiff may appeal any reduction in the attorney fees and/or cost award.

C. No Admission of Liability

This Agreement is not an admission of liability by Defendant or the Released Parties.

D. Non-Disparagement

Plaintiff agrees not to publicly disparage Defendant or any of the Released Parties.

E. Construction

The Parties agree this Agreement resulted from lengthy, intensive, arm's-length negotiations, and it is not to be construed for or against any party for any reason.

///

///

1 **F. Choice of Law**

2 This Agreement is intended to and will be governed by the laws of California, without regard
3 to conflicts of law principles. The Court will retain continuing jurisdiction to enforce the settlement.

4 **G. Captions and Interpretations**

5 Paragraphs, titles, or captions contained herein are inserted as a matter of convenience and
6 for reference only, and in no way define, limit, extend, or describe the scope of this Agreement or
7 any provision thereof.

8 **H. Modifications**

9 This Agreement may not be changed, altered, or modified, except in writing signed by
10 counsel for the Parties and approved by the Court. This Agreement may not be discharged except by
11 performance under its terms or by a writing signed by the Parties.

12 **I. Integration Clause**

13 All prior or contemporaneous agreements, understandings, representations, and statements,
14 whether oral or written, between the Parties are merged herein. No rights under this Agreement may
15 be waived except in writing. However, if there is a conflict between the terms of this Agreement and
16 the Memorandum of Understanding entered into between the Parties, the latter shall control.

17 **J. Successors and Assigns**

18 This Agreement will be binding upon and inure to the benefit of the Parties and their
19 respective heirs, trustees, executors, administrators, successors, and assigns.

20 **K. Class Counsel Signatories**

21 Because the Class Members are so numerous, the Parties agree it is impossible or impractical
22 to have each Class Member sign this Agreement. This Agreement may be executed on behalf of the
23 Class by Class Counsel and Plaintiff.

24 **L. Plaintiff's Waiver of Right to be Excluded or Object**

25 Plaintiff agrees not to Opt-Out of the Class and agree not to object to any terms of this
26 Agreement. Non-compliance by Plaintiff with this paragraph will be void and of no force or effect.
27 Any such request for exclusion or objection by Plaintiff will therefore be void and of no force or
28 effect.

M. Execution in Counterparts

This Agreement will become effective upon its execution by all of the undersigned. The Parties may execute this Agreement in counterparts, and execution of counterparts will have the same force and effect as if all Parties signed the same instrument.

[Signatures on Next Page]

PLAINTIFF AND CLASS COUNSEL

Dated: 1/26/2023

DocuSigned by:
Jaime Martinez
CAFCB8E5A0C041E...
Jaime Martinez

Dated: 1/27/2023

MOSS BOLLINGER LLP

DocuSigned by:
Dennis F. Moss
1E053882D0B04FC...
Dennis F. Moss
Ari E. Moss
Attorneys for Plaintiff and the Class

DEFENDANT AND DEFENDANT'S COUNSEL

Dated: January 30, 2023

William R. Sawyers
William R. Sawyers
Authorized to sign on behalf of Defendant
DEL MONTE FOODS, INC.

Dated: January 30, 2023

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

By: Spencer C. Skeen
Spencer C. Skeen
Nikolas T. Djordjevski
Attorneys for Defendant DEL MONTE FOODS,
INC.

EXHIBIT 1

to

Joint Stipulation of Class Action Settlement

NOTICE OF CLASS ACTION SETTLEMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA – COUNTY OF STANISLAUS
Jaime Martinez v. Del Monte Foods, Inc., Case No. CV-21-005893

Indicate Name/Address Changes, if any:

<<Name>>

«Address>>

<<City>>, <<State>> <<Zip Code>>

XX - XX - _ _ _ _

YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT.

THIS NOTICE AFFECTS YOUR RIGHTS. PLEASE READ IT CAREFULLY.

A California court authorized this notice. This is not a solicitation from a lawyer.

YOU WILL NOT BE RETALIATED AGAINST FOR PARTICIPATING IN THIS SETTLEMENT.

YOU ARE HEREBY NOTIFIED that a proposed settlement (“the Settlement”) of the above class action (hereinafter referred to collectively as “the Action”) filed in Stanislaus County Superior Court has been reached between Plaintiff Jaime Martinez, in his individual capacity, as a class representative, and as a private attorney general (hereinafter referred to as “Plaintiff”) on one hand, and Defendant Del Monte Foods, Inc. (“Defendant,” and collectively with Plaintiff, the “Parties”), and has been granted Preliminary Approval by the Court supervising the Action. The Stanislaus County Superior Court has ordered that this Class Notice be sent to you because you may be a Settlement Class Member. The purpose of this Class Notice is to inform you of the Settlement of this class action and your legal rights under the Settlement as follows:

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed Settlement of the lawsuit, and informs you of your legal rights under that proposed Settlement. You are receiving this notice because you may be a member of the class on whose behalf this lawsuit has been brought.

- The Settlement Class is defined as all persons who were classified as a seasonal employee by Defendant in California at any time from October 28, 2018, through January 24, 2023 (the “Class” or “Class Members”).
- The proposed Settlement resolves claims relating to the timing of wage payments following the termination of seasonal employment, including any associated penalties, including those pursuant to California’s Private Attorneys General Act (“PAGA”). Please see Section E below for further information regarding the claims you are releasing by participating in this Settlement.
- The Settlement avoids costs and risks to you from continuing the lawsuit, pays money to employees, and releases Defendant from liability for these claims.
- The two sides disagree on whether Defendant is liable for the allegations raised in this case and how much money could have been recovered if the employees won at trial.
- **Your legal rights may be affected. Read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

Get a Payment	If you are a Class Member, you will automatically receive a payment, unless you exclude yourself from the Settlement as described below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below.
Exclude Yourself	If you want to exclude yourself from the Settlement, you must send a completed Opt-Out Form to the Settlement Administrator as provided below. This is the only option that allows you to bring your own claims against Defendant regarding the legal claims in the Action. You will not be bound by the terms of the Settlement if you opt-out, nor will you receive a payment. However, you will still receive a check for the PAGA portion of the Settlement and release your PAGA claims.
Object	To object to the Settlement, mail a copy of the objection to the Settlement Administrator as provided below about why you do not agree with the Settlement. Any Class Member may also object by appearing remotely via audio or video, in person, or by attorney at the Final Approval Hearing. If you object, you may still participate in the Settlement and receive a Settlement payment. Additional information on how to appear remotely can be found at https://www.stanislaus.courts.ca.gov/online-services/remote-telephonic-hearings

WHAT IS THIS LAWSUIT ABOUT?

Plaintiff filed this lawsuit in Stanislaus County Superior Court on behalf of the Class. The lawsuit alleges that Defendant failed to timely pay all wages upon separation of employment with Defendant, including through the termination of seasonal employment. The lawsuit seeks recovery of wages, restitution, statutory penalties, and civil penalties under PAGA, interest, attorney fees, and costs.

Defendant denies any liability or wrongdoing of any kind and further denies that, for any purpose other than settling this lawsuit, the lawsuit is appropriate for class treatment. Defendant contends, among other things, that it complied at all times with the California Labor Code, the California Business and Professions Code, and all other applicable laws. The Court has made no ruling and will make no ruling on the merits of the Action and its allegations and claims.

SUMMARY OF THE SETTLEMENT**A. Why is there a Settlement?**

The Court did **not** decide in favor of Plaintiff or Defendant. There was no trial. Instead, both sides agreed to a Settlement. That way, they avoid the costs, risks, and uncertainty of a trial. Also, the Class Members will get compensation. Plaintiff and his attorneys believe the Settlement is fair, reasonable, and adequate and in the best interests of all Class Members. Thus far, the Court has only determined there is sufficient evidence to suggest the proposed Settlement might be fair, adequate, and reasonable. The Court will make a final determination of whether the Settlement is fair, adequate, and reasonable at the Final Approval Hearing.

B. Who is in the Class?

The Class consists of all employees who Defendant classified as “seasonal” during the class period.

C. What is the Class Period?

The term “Class Period” means the period from October 28, 2018, through and including January 24, 2023.

D. What does the Settlement provide?

1. Gross Settlement Amount.

Under the Settlement, Defendant will pay a total of Two Million, Five Hundred Thousand Dollars (\$2,500,000) (the “Gross Settlement Amount”) to settle the Action.

The following amounts will be paid from the Gross Settlement Amount: all Settlement payments to participating Class Members; attorney fees not to exceed 35% of the Gross Settlement Amount, or \$875,000; litigation expenses, not to exceed \$12,500; administrative costs, estimated not to exceed \$27,950; 75% of the \$15,000 PAGA payment (i.e., \$11,250) to be paid to the California Labor & Workforce Development Agency (“LWDA”); and an Enhancement Award to Plaintiff in the amount of \$15,000. The employer’s portion of payroll taxes will be paid outside of and in addition to the Gross Settlement Amount. No funds will revert to Defendant.

The funds used for the Gross Settlement Amount will be paid to the Settlement Administrator. The Settlement Administrator will distribute the Court approved Enhancement Award to Plaintiff, the Court approved attorney fees and litigation costs, the administration costs, and the PAGA payment to the LWDA at the same time as the settlement payments to participating Class Members.

2. Net Settlement Amount

“Net Settlement Amount” or “Payout Fund” means the Gross Settlement Amount minus the attorney fees, litigation expenses, administrative costs, 75% of the PAGA payment, and the Enhancement Award to Plaintiff.

3. Your Individual Payment Amount.

The Settlement Administrator will calculate the individual settlement payments to Class Members who do not submit valid Opt-Outs. The Settlement Administrator will make payments to each Class Member based upon the number of Breaks in Service he or she experienced. “Breaks in Service” means a period of seven (7) or more days during which a seasonal employee performed no work, as indicated by Defendant’s records. A Class Member who does not submit a valid Opt-Out will receive an individual settlement payment. A Class Member who submits a valid Opt-Out will only receive a check for their portion of the PAGA payment.

Currently, it is estimated that you will receive a total of approximately \$ [REDACTED], of which \$ [REDACTED] represents your PAGA Payment. If you opt out, you will only receive the PAGA Payment. This amount may change depending on how much the court awards in attorney fees, litigation expenses, the Enhancement Award to Plaintiff, and the number of Class Members who ask to be excluded from the Settlement. Payments to participating Class Members may vary. However, the range of payments is estimated to be between \$ [REDACTED] and \$ [REDACTED].

Settlement checks issued to Class Members will expire one hundred and eighty (180) days from the date they are issued by the Settlement Administrator. The money from the uncashed checks, plus any interest accrued thereon, will be paid to California Rural Legal Assistance, subject to Court approval.

4. Tax Matters.

The Settlement Administrator will distribute IRS Forms W-2 and 1099 (and the equivalent California forms) to participating Class Members reflecting the payments each Class Member receives under the Settlement. For tax purposes, payments will be allocated as follows: 1/3 as wages; 1/3 as interest; and 1/3 as penalties. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code.

Interest and penalties paid under this Settlement shall not be subject to federal, state and local payroll withholding taxes. The Settlement Administrator shall issue an IRS form 1099 for payments of interest and penalties. The usual and customary deductions will be taken out of the amounts attributable to unpaid wages. Class Members should consult with their tax advisors concerning the tax consequences of the payment they receive under the Settlement.

E. What are you giving up to get a payment or stay in the Class?

Upon payment of the Gross Settlement Amount by Defendant to the Settlement Administrator, Plaintiff and Class Members will be deemed to have released the Released Parties of and from all of the Released Claims during the Class Period. Released Parties means Defendant and all of its past and present owners, officers, directors, shareholders, employees, agents, assigns, attorneys, insurers, brands and concepts, parent companies, subsidiaries, and affiliates, and their respective predecessors, successors, assigns, and any individual or entity that could be jointly liable with Defendant, without limitation. The Released Claims include all claims which Plaintiff, the Class, and/or any Class Member alleged or could have alleged against any of the Released Parties, arising out of the facts asserted in the PAGA Notice and/or the operative Complaint during the Class Period, including claims, damages (of any kind), statutory penalties, and civil penalties for any violations of the California Labor Code governing the payment of wages upon separation from employment, including by termination of seasonal employment.

“Effective Date” means the date by which the Court’s order granting Final Approval of this Joint Stipulation becomes final. Such order becomes final upon the following events: (i) upon the Court issuing an order granting Final Approval of this Joint Stipulation if no objections to the settlement are filed, or if an objection is filed but is withdrawn prior to the Court’s Final Approval Hearing; or (ii) in the event there are written objections filed prior to the final approval hearing which are not thereafter withdrawn prior to the hearing, the later of the following events: (a) the day after the last day by which a notice of appeal of the order may be timely filed with the California Court of Appeal, and none is filed; (b) if an appeal is filed and is finally disposed of by ruling, dismissal, denial, or otherwise, the day after the last date for filing a request for further review of the Court of Appeal’s decision passes and no further review is requested; (c) if an appeal is filed and there is a final disposition by ruling, dismissal, denial, or otherwise by the Court of Appeal, and further review of the Court of Appeal’s decision is requested, the day after the request for review is denied with prejudice and/or no further review of the order can be requested; or (d) if review is accepted, the day the Supreme Court of the State of California affirms the Settlement.

THE FINAL APPROVAL HEARING

Presently, the Court has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, reasonable, and adequate. The Court will conduct a final approval hearing regarding the proposed Settlement (the “Final Approval Hearing”) on **DATE** at **TIME**, in Department 24 of the Stanislaus County Superior Court located at 801 10th Street, 4th Floor, Modesto, California 95354. The Court will determine: (i) whether the Settlement should be given the Court’s final approval as fair, reasonable, adequate and in the best interests of the participating Class Members; (ii) whether the participating Class Members should be bound by the terms of the Settlement; (iii) the amount of the attorneys’ fees and litigation costs that should be awarded to

Plaintiff's counsel; and (iv) the amount that should be awarded to Plaintiff as an Incentive Award. At the Final Approval Hearing, the Court will hear all objections, as well as arguments for and against the proposed Settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, or to enter an appearance and represent yourself. For more information on remote appearances, refer to: LA Court Connect (<https://www.lacourt.org/lacc/>). If you decide to hire an attorney to represent you, you will be solely responsible for paying any attorney fees and/or costs associated with that representation.

The Settlement Administrator will give notice to any objecting party of any continuance of the hearing on the Motion for Final Approval. Additionally, you may contact Plaintiff's counsel, listed at the end of this notice, to inquire into the date and time of the Final Approval hearing.

Condition of Settlement. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing fully and finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the participating Class Members.

WHAT ARE YOUR OPTIONS?

- **OPTION 1 – GET A PAYMENT**

IF YOU ARE A SETTLEMENT CLASS MEMBER AND WISH TO RECEIVE YOUR SHARE OF THE SETTLEMENT, THEN YOU DO NOT HAVE TO DO ANYTHING AND WILL AUTOMATICALLY RECEIVE A SETTLEMENT PAYMENT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE.

The estimated amount of your Settlement Payment is set forth above in this notice. If you believe that the amount stated is incorrect, you may dispute it by timely producing evidence to the Settlement Administrator showing that the workweek information is inaccurate. To be considered, your dispute must be sent by first class U.S. mail to the Settlement Administrator and must be postmarked no later than [REDACTED], 2023 or 60 days after mailing of this notice to you ("Class Member Exclusion Deadline"). The Settlement Payment you will receive will be a full and final Settlement of your Released Claims described above.

- **OPTION 2 – EXCLUDE YOURSELF FROM THE SETTLEMENT**

You have a right to exclude yourself ("Opt-Out") from the Settlement, but if you choose to do so, you will not receive any payment from the proposed Settlement as a Class Member. You will **not** be bound by a judgment in this case and you will have the right to file your own lawsuit against Defendant, subject to time limits called Statutes of Limitations and other potential defenses that Defendant may assert. You can Opt-Out of the Settlement by completing all of the information requested in the Opt-Out Form that accompanies this notice and sending it by first class U.S. mail to the Settlement Administrator at [ENTER ADMINISTRATOR ADDRESS]. The Form must be dated and signed by you. To be valid, your Opt-Out Form must be postmarked no later than [REDACTED], 2023 or 60 days after mailing of this notice to you.

However, whether or not you opt out from this Settlement, you will receive a check for the PAGA portion of the Settlement and shall release the PAGA claim herein. You cannot exclude yourself from the PAGA portion of the Settlement.

- **OPTION 3 – OBJECT TO THE SETTLEMENT**

If you wish to remain a Class Member and retain the ability to participate in any Settlement that is approved and receive a Settlement payment, but you wish to object to the proposed Settlement (or any of its terms) and wish

the Court to consider your objection at the Final Approval Hearing, you may object to the proposed Settlement in writing by mailing a copy of the written objection to the Settlement Administrator by first class U.S. mail. The written objection should be mailed to the Settlement Administrator, at [ENTER ADMINISTRATOR ADDRESS] and must be postmarked no later than [REDACTED], 2023, or 60 days after mailing of this notice to you. Class Members may appear at the Final Approval Hearing to object to the Settlement regardless of whether they submitted a written objection. You, or an attorney representing you, may also appear at the Final Approval Hearing to object to the Settlement.

PLEASE NOTE THAT IF YOU SUBMIT AN OBJECTION AND A REQUEST TO OPT-OUT, YOUR OBJECTION WILL BE WAIVED.

COUNSEL FOR THE PARTIES

COUNSEL FOR PLAINTIFFS/CLASS MEMBERS:

Dennis F. Moss
Ari E. Moss
MOSS BOLLINGER LLP
15300 Ventura Blvd., Ste. 207
Sherman Oaks, California 91403
Telephone: (310) 982-2984
Facsimile: (818) 963-5954

COUNSEL FOR DEFENDANT:

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.
Spencer C. Skeen, Esq.
Nikolas T. Djordjevski, Esq.
4370 La Jolla Village Drive, Suite 990
San Diego, CA 92122
Telephone: (858) 652-3100
Facsimile: (858) 652-3101

CHANGE OF ADDRESS

If you move after receiving this notice, if it was misaddressed, or if for any reason you want your Settlement Payment or future correspondence concerning this Action to be sent to a different address, you must supply your preferred address to the Settlement Administrator.

MORE DETAILS ABOUT THE SETTLEMENT AND ACTION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you may review the "Joint Stipulation of Class Action Settlement," which along with other court records regarding the Action, is available on the Court's website: <https://www.lacourt.org>.

ALL INQUIRIES REGARDING THIS LITIGATION SHOULD BE MADE TO THE SETTLEMENT ADMINISTRATOR OR CLASS COUNSEL.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT OR THE SETTLEMENT ADMINISTRATION PROCESS.

SETTLEMENT ADMINISTRATOR

[INSERT SETTLEMENT ADMINISTRATOR ADDRESS AND PHONE NUMBER]

EXHIBIT 2

to

Joint Stipulation of Class Action Settlement

Must Be Postmarked
No Later Than
XXXX, 2023

SUPERIOR COURT OF THE STATE OF CALIFORNIA – COUNTY OF STANISLAUS
Jaime Martinez v. Del Monte Foods, Inc., Case No. CV-21-005893

Indicate Name/Address Changes, if any:

<<Name>>

«Address»

<<City>>, <<State>> <<Zip Code>>

XX - XX - _____

**COMPLETE THIS FORM IF YOU DO NOT WANT TO RECEIVE A SETTLEMENT
PAYMENT AND BE BOUND BY THE SETTLEMENT**

Instructions

You have the right to opt-out (i.e., request exclusion) as a Class Member if you do not want to be part of the proposed settlement. **If you fill out this Opt-Out Form, you (a) will not receive any money under the settlement of this action;** (b) will not be bound by the terms of this settlement; and (c) may, subject to applicable statutes of limitations and other defenses, bring a separate individual legal action against the Defendant.

However, whether or not you opt out from this Settlement, you will receive a check for the Private Attorney's General Act ("PAGA") portion of the Settlement and shall release the PAGA claim herein. You cannot exclude yourself from the PAGA portion of the Settlement.

To opt-out, you must complete, sign, and mail this Opt-Out Form by first class U.S. mail or equivalent, postage prepaid, postmarked on or before **xxxxxx xx**, 2023, addressed as follows:

MAIL TO:

DMFI Class Action Settlement
c/o [CLASS ACTION ADMINISTRATOR]
address
California

By signing this Opt-Out Form, I acknowledge that I have read the Notice of Class Action Settlement (“Class Notice”) for this case and the information in the Class Notice pertaining to my right to opt out of or object to the proposed settlement. I also acknowledge that I understand that **I will not receive any money** as a Class Member under the settlement of this case and that I will not be bound by the terms of the settlement. However, I will receive a check for the PAGA portion of the Settlement and release my PAGA claim.

Dated:

Signature: _____

Print or Type Name: _____

Telephone Number: _____