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Attorneys for Plaintiffs and the proposed class

FILED
KERN COUNTY SUPERIOR COURT
05/28/2025
BY Evans, Gricelda
DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF KERN**

ESTELA PONCE PEREZ; ITZEL SOLANO
EMILIANO; as individuals, on behalf of
themselves and others similarly situated,

Plaintiffs,

vs.

WEST COAST BERRY FARMS, LLC; and
DOES 1 thru 50, inclusive,

Defendants.

CASE NO. BCV-25-100527

[Case Assigned for All Purposes to Hon.
Thomas S. Clark in Dept. 17]

**DECLARATION OF ERIC B. KINGSLEY
IN SUPPORT OF REQUEST FOR
DISMISSAL OF THE ENTIRE ACTION
WITHOUT PREJUDICE; ~~PROPOSED~~
ORDER THEREON**

Complaint Filed: February 13, 2025
Trial Set: None Set

DECLARATION OF ERIC B. KINGSLEY

I, Eric B. Kingsley, hereby declare as follows:

1. I am an attorney admitted before all courts of the State of California and a partner in the law firm of Kingsley Szamet Employment Lawyers, counsel of record for Plaintiffs ESTELA PONCE PEREZ and ITZEL SOLANO EMILIANO (“Plaintiffs”) in this action. I make this Declaration from my own personal knowledge, and, if called upon, would and could competently testify to the following:

2. This Declaration is submitted pursuant to California Rule of Court (CRC) 3.770(a). Plaintiffs request dismissal of the individual claims without prejudice as to Plaintiffs ESTELA PONCE PEREZ and ITZEL SOLANO EMILIANO—including all causes of action, allegations, and prayers for relief—against Defendant WEST COAST BERRY FARMS, LLC (“Defendant”).

3. On February 13, 2025, Plaintiffs filed a putative class action Complaint, against Defendant in the Kern County Superior Court, Case No. BCV-25-100527, entitled *ESTELA PONCE PEREZ; ITZEL SOLANO EMILIANO; as individuals, on behalf of themselves and others similarly situated, v. WEST COAST BERRY FARMS, LLC; and DOES 1 thru 50, inclusive* (the “Action”).

4. On February 6, 2025, pursuant to Labor Code § 2699.3(a)(1), Plaintiffs uploaded a notice letter to the Labor Workforce Development Agency (“LWDA”) regarding their intent to seek civil penalties for the same Labor Code violations above.

5. On February 13, 2025, Plaintiff Itzel Solano Emiliano uploaded a notice letter to the LWDA and mailed a letter by certified mail to Defendant, as proscribed by the Code, formally withdrawing her participation in her PAGA claim against Defendant.

6. On April 29, 2025, Plaintiffs filed a First Amended Class and Representative Action Complaint adding an additional cause of action for penalties pursuant to Labor Code § 2699, *et seq.*, the Private Attorneys General Act (“PAGA”) based on the underlying Labor Code violations already pled.

7. Defendants, at all times material, performed business operations Santa Maria, California, in the County Santa Barbara. Plaintiffs’ Complaint involves conduct occurring in the

1 County of Santa Barbara.

2 8. The Parties are unaware of any documents, witnesses or evidence located in the
3 County of Kern.

4 9. Accordingly, Plaintiffs ESTELA PONCE PEREZ and ITZEL SOLANO EMILIANO
5 now seek to dismiss the above-captioned action claims including all causes of action, allegations, and
6 prayers for relief—against Defendant WEST COAST BERRY FARMS, LLC without prejudice.

7 10. Plaintiffs have not and will not receive any separate consideration for the dismissal of the
8 action.

9 11. Plaintiffs' Counsel is not aware of anyone who is relying on the pendency of this
10 action to protect their interests.

11 12. A [Proposed] Order Granting Request for Dismissal of the Case Without Prejudice is
12 being concurrently filed with the Clerk of this Court.

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

15
16 Dated: May 27, 2025

KINGSLEY SZAMET EMPLOYMENT
LAWYERS

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18 By:

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20 Eric B. Kingsley
21 Attorneys for Plaintiffs and the proposed
22 class
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~~PROPOSED~~ ORDER

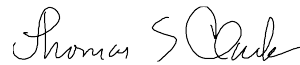
The Court having considered Plaintiffs' Declaration of Eric B. Kingsley in Support of Request for Dismissal Without Prejudice As To Entire Case.

Good cause being shown, IT IS HEREBY ORDERED that Plaintiffs' Request for Dismissal WITHOUT PREJUDICE as to the Entire Action hereby GRANTED. Given that Plaintiffs and their counsel are not aware of anyone who is relying on the pendency of this action to protect their interests, notice of this dismissal is not required to be provided to aggrieved employees pursuant to Rule 3.770(a) and (c) of the California Rules of Court. Each party is to bear its own costs, expenses, and attorneys' fees associated with this action.

IT IS ORDERED THAT

Dated: 05/28/2025

Signed: 5/28/2025 01:41 PM



By: _____

Hon. Thomas S. Clark, Judge of the
Superior Court of the State of California

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

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 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On May 27, 2025, I served all interested parties in this action the following documents described as: **DECLARATION OF ERIC B. KINGSLEY IN SUPPORT OF REQUEST FOR DISMISSAL OF THE ENTIRE ACTION WITHOUT PREJUDICE; ORDER THEREON** by placing a true copy thereof enclosed in a sealed envelope addressed as stated on the attached service list:

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[XX] (BY MAIL) I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage fully prepaid at Encino, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 27, 2025, at Chino, California.



Leslie Sanchez