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Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SONOMA

JOSE VASQUEZ RUIZ, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

PERDUE FOODS, LLC., a Maryland
limited liability company; and DOES 1
through 50, inclusive,

Defendants.

Case No.: SCV 264649

**DECLARATION OF KRISTEN M. AGNEW IN
SUPPORT OF PLAINTIFF JOSE VASQUEZ
RUIZ'S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: TBD
Time: TBD
Dept.: 16

1 **DECLARATION OF KRISTEN M. AGNEW**

2 I, KRISTEN M. AGNEW, declare under penalty of perjury as follows:

3 1. I am an attorney at law duly admitted to practice before all courts in the State of
4 California and am a member of the law firm Diversity Law Group, P.C., attorneys of record for
5 Plaintiff Jose Vasquez Ruiz (“Plaintiff”), as an individual and on behalf of all others similarly
6 situated, in the above entitled action. I have personal knowledge of the matters set forth herein, and
7 if called upon as a witness to testify thereto, I could and would do so competently.

8 **PROCEDURAL HISTORY**

9 2. From the inception of the case, Plaintiff’s counsel has zealously represented the
10 interests of the putative class and aggrieved employees.

11 3. On May 17, 2019, Plaintiff submitted his written notice of Defendant Perdue Foods,
12 LLC’s (“Defendant”) alleged violation of Labor Code section 226 (the “PAGA Notice”) to the
13 California Labor and Workforce Development Agency (“LWDA”) and Defendant. As set forth in
14 the PAGA Notice, Plaintiff alleged that Defendant failed to provide accurate, itemized wage
15 statements to employees who were paid overtime/double time wages.

16 4. On June 18, 2019, Plaintiff, on behalf of himself and all others similarly situated,
17 filed suit against Defendant in the Superior Court of California for the County of Sonoma. The
18 complaint alleged two causes of action: (1) violation of Labor Code section 226(a); and (2)
19 violation of Labor Code section 2698, *et seq.*, based on the facts described in the PAGA Notice.

20 5. On August 2, 2019, Defendant filed a Demurrer to Plaintiff’s Complaint based on
21 the existence of previously-filed class action against the same Defendant in the matter of *Angelica*
22 *Gutierrez, et al., vs. Petaluma Acquisition, LLC, et al.*, Sonoma County Superior Court, Case No.
23 SCV-260813. The *Gutierrez* action was filed on June 9, 2017, more than two years prior to
24 Plaintiff’s lawsuit, and included class and representative PAGA claims for violation of Labor Code
25 section 226(a). The putative class definition in *Gutierrez*, which encompassed all non-exempt
26 employees who worked for Defendant within the State of California within four years of the filing
27 of the lawsuit, subsumed the putative class alleged in Plaintiff’s Complaint.

28 6. The Parties met and conferred regarding the *Gutierrez* action. Defense counsel

1 advised that his client had settled the *Gutierrez* action, and that the release period extended through
2 May 25, 2019.

3 7. Based on the settlement in *Gutierrez*, on August 24, 2019, Plaintiff filed the First
4 Amended Class and Representative Action Complaint and limited the putative class to current and
5 former non-exempt employees of Defendant in the State of California who were paid overtime or
6 double overtime wages at any time from May 26, 2019, through the present.

7 8. The First Amended Complaint is the operative complaint. As set forth in the First
8 Amended Complaint, Plaintiff alleges that, as a matter of company policy and practice, Defendant
9 violated Labor Code section 226(a). More specifically, Plaintiff alleges that whenever Defendant
10 paid overtime and double overtime wages to Plaintiff and other putative class members, the wage
11 statements did not identify the correct rate of overtime pay. Plaintiff alleges that the wage
12 statements incorrectly identified the overtime rate as half (.5) the employee's regular hourly rate of
13 pay, rather than one and one-half (1.5) times the regular hourly rate. Plaintiff further alleges that
14 the wage statements incorrectly identified the double overtime rate as the employee's regular
15 hourly rate of pay, rather than two (2) times the regular hourly rate. As a result of such alleged
16 violations, Plaintiff seeks various statutory and civil penalties.

17 **HISTORY OF DISCOVERY AND INVESTIGATION**

18 9. Thereafter, the Parties engaged in extensive formal and informal discovery,
19 including propounding and responding to written discovery and engaging in extensive meet and
20 confers.

21 10. On October 24, 2019, Plaintiff served Special Interrogatories (Set One) and
22 Requests for Production of Documents (Set One). Among other things, the discovery called for
23 Defendant to identify the number of putative class members and wage statements at issue, and
24 provide the contact information of putative class members.

25 11. On or about April 3, 2020, Defendant served its Supplemental Response to
26 Plaintiff's Special Interrogatories (Set One). Defendant represented that it had issued
27 approximately 17,184 wage statements to 518 putative class members during the period of May
28

26, 2019 to April 3, 2020. Defendant, however, refused to provide the contact information of putative class members.

12. The Parties engaged in robust meet and confer effort regarding the disputed discovery. Unable to reach an agreement, on April 8, 2020, Plaintiff filed a Motion to Compel Further Responses to Special Interrogatory No. 4. On July 1, 2020, the Court issued a tentative ruling granting Plaintiff's Motion to Compel.

13. On July 2, 2020, the Parties reached a class-wide resolution in principle. The Parties thereafter worked out a long form agreement over the following weeks. The settlement was obtained for the benefit of the Class, not for the individual Plaintiff.

SUMMARY OF SETTLEMENT NEGOTIATIONS

14. In light of the narrow claims at issue, the Parties agreed to direct their resource to exploring the possibility of an early settlement. During the approximate period of November 15, 2019 to July 2, 2020, the Parties engaged in arm's length negotiations.

15. In connection with these negotiations, Defendant provided updated payroll data regarding the number of putative class members and wage statements at issue. Defendant represented that it employed approximately 576 putative class members during the Class Period (May 26, 2019 to July 17, 2020). Defendant further represented that putative class members received 22,913 wage statements for overtime or double overtime work performed during the Class Period. Using the data provided by Defendant, I performed a comprehensive damages analysis, and negotiated the settlement amount based on a clear understanding of the maximum exposure in this case.

16. Through the negotiation process the Parties gained valuable insight and exchanged significant information about their respective positions. Defense counsel shared its opinion that Plaintiff would be unable to establish a class-wide injury and/or a "knowing and intentional" violation of Labor Code section 226(a), as required by Section 226(e). As contended by defense counsel, there was no injury because employees could promptly and easily determine from the wage statements alone the applicable overtime and double overtime hourly rates. Counsel argued that an employee only needed to do simple math to determine his or her overtime rate. Defense

1 counsel further argued that no employees were underpaid for any hours worked, that Defendant's
2 "technical" violation would not support an award of maximum penalties, and that any award of
3 PAGA penalties would be subject to significant reduction.

4 17. Defense counsel further advised that, as of July 17, 2020, Defendant corrected the
5 alleged errors on its wage statements. I was able to verify this representation by reviewing the
6 wage statements produced by Defendant.

7 **SUMMARY OF THE PROPOSED MONETARY TERMS OF THE SETTLEMENT**

8 18. Attached hereto as **Exhibit A** is true and correct copy of the Joint Stipulation of
9 Class Action and PAGA Settlement and Release of Claims (the "Settlement Agreement" or "Joint
10 Stipulation")

11 19. As defined by the Joint Stipulation, the proposed Class consists of: "all current and
12 former non-exempt employees of Defendant in the State of California who were paid overtime or
13 double overtime wages at any time from May 26, 2019 through July 17, 2020." Joint Stip.
14 (Definitions) § F. Based upon Defendant's records, the estimated number of Class Members is
15 approximately 576. *Id.* Class Members received 22,913 wage statements reflecting the payment
16 overtime or double overtime wages during the Class Period. Joint Stip. (Definitions) § Y.

17 20. The Joint Stipulation requires Defendant to pay the Maximum Settlement Amount
18 of Eight Hundred Fifty-Nine Thousand Two Hundred Thirty-Seven Dollars and Fifty Cents
19 (\$859,237.50). Joint Stip. (Definitions) § Q. The Net Settlement Amount (calculated after
20 deduction of the Class Representative Service Payment Award, the Class Counsel Award, PAGA
21 Payment and the Settlement Administrator's Costs) will be paid to all Class Members who do not
22 opt out of the settlement. Joint Stip. (Definitions) § R, (Terms) § K-7-c. The amount allocated to
23 each Class Member will be based on the number of pay periods in which the employee received a
24 wage statement for overtime or double overtime wages during the Class Period. Joint Stip.
25 (Definitions) § Y. This is fair, as it directly allocates greater penalties to individual Class
26 Members who have allegedly suffered greater harm.

27 21. The Joint Stipulation allocates Twenty Thousand Dollars (\$20,000) of the
28 Maximum Settlement Amount to PAGA penalties. Joint Stip. (Terms) § L-5. Pursuant to the

PAGA, 75% of this amount, i.e. the sum of Fifteen Thousand Dollars (\$15,000.00), shall be paid to the LWDA. *Id.* The remaining 25%, i.e. the sum of Five Thousand Dollars (\$5,000.00), shall be distributed to Settlement Class Members. *Id.*

22. As part of the Joint Stipulation, Defendant does not object to Plaintiff's Counsel's request for attorney's fees up to thirty-three and one-third percent of the Maximum Settlement Amount, i.e. the sum of Two Hundred Eight-Six Thousand Four Hundred Twelve Dollars and Fifty Cents (\$286,412.50), plus up to Ten Thousand Dollars (\$10,000.00) for reimbursement of actual litigation costs, subject to the Court finally approving this Settlement. Joint Stip. (Terms) § L-4.

23. Also, as part of the Joint Stipulation, Defendant does not object to Plaintiff's request for a Class Representative Service Award of Ten Thousand Dollars (\$10,000.00). Joint Stip. (Terms) § L-3. Both Plaintiff and Class Counsel expressly acknowledge that the Court has final discretion in any fee award or Class Representative Service Award. *See* Joint Stip. (Terms) §§ L-3 and L-4.

24. Finally, the Joint Stipulation provides for the payment of the fees and expenses reasonably incurred by the Settlement Administrator. Joint Stip. (Terms) § L-6. The Parties have received a quote from Phoenix Settlement Administrators for a fee of approximately Nine Thousand Five Hundred Dollars (\$9,500.00) to administer the settlement. *Id.* Any portion of the Settlement Administration Costs not used or approved by the Court shall be added to the Net Settlement Amount. The Parties believe that the administration fee is reasonable and should be approved.

INDIVIDUAL PAYMENTS TO CLASS MEMBERS

25. Assuming that the Court approves the PAGA Payment to the LWDA (\$15,000), Class Representative Service Payment Award (\$10,000), Class Counsel's requested attorneys' fees (\$286,412.50), actual litigation costs (\$10,000) and the Settlement Administrator's costs (\$9,500), I estimate that the Net Settlement Amount will total at least \$528,325.

26. Based on the number of Class Members (576), employees will be entitled to recover, on average, up to \$917.23 each or \$23.05 per qualifying wage statements (i.e. a wage

statement that reflects the payment of overtime or double overtime wages). The amount any particular Class Member will be entitled to recover will be greater or lower than this average, depending on the number of qualifying wage statements each respective Class Member received during the Class Period and the number of opt-outs received.

POTENTIAL STATUTORY AND CIVIL PENALTIES

27. The potential Labor Code section 226(e) penalties total approximately \$2,262,500.00 ($576 \times \$50$) + ($(22,913 - 576) \times \$100$). This calculation assumes that the Court would find that the Class suffered “injury” as a result of the alleged violation, and also that the violation was “knowing and intentional.” As explained above, Defendant strongly disputes that Plaintiff can establish either on a class-wide basis. Defendant could have moved for summary judgment on these issues. Should Defendant have prevailed, the Class would have been left with zero recovery.

28. The maximum potential PAGA penalties are \$5,728,250.00. The payroll data indicates that there were 22,913 pay periods in which Defendant issued defective wage statements to Class Members during the Class Period. Pursuant to Labor Code section 226.3, I applied the \$250 penalty per violation.

29. Assuming that Plaintiff prevailed on liability, under the facts of this case, I appreciate the substantial risk that Defendant could present a persuasive argument to reduce the amount of PAGA penalties at trial. Defendant, for example, has argued that even if the Court ultimately found that the wage statements violate Labor Code section 226, the alleged violation is a technical one. Defendant has also argued that the award of both statutory and civil penalties for the same “technical” violation would be confiscatory.

30. I am also aware that Courts routinely award far less than the statutory maximum amount of civil penalties, even where an underlying violation of the Labor Code is found. For example, just very recently, in the matter of *Magadia v. Wal-Mart Assocs. et al.*, while the trial court imposed substantial PAGA penalties upon the defendant, such amount still represented reductions of 67% and 80% of the potential PAGA penalties at issue. 384 F. Supp. 3d 1058, 1069 (N.D. Cal. 2019). Similarly, in *Fleming v. Covidien, Inc.*, 2011 U.S. Dist. LEXIS 154590 (C.D.

1 Cal. Aug. 12, 2011), while the plaintiff ultimately prevailed in a PAGA trial predicated on a
2 violation of Labor Code section 226(a), *i.e.*, inaccurate wage statements, the Court assessed only
3 17% of the maximum penalties. Additionally, Judge Carville of the Alameda Superior Court in the
4 matter of *Parr v. Golden State Overnight*, Alameda Superior Court Case No. RG12618103,
5 assessed PAGA penalties upon Defendant of approximately 7% of the total maximum penalties—
6 again, this was only after plaintiff had prevailed at trial.

7 31. Thus, the \$5,728,250.00 figure does not factor in the likelihood that the Court
8 would reduce the amount of penalties at trial.

9 32. Based on the class data provided by Defendant, I estimate that Defendant's
10 maximum liability exposure is approximately \$7,990,750.00. However, this number assumes that
11 Section 226(e) statutory penalties and full PAGA penalties are awarded.

12 **THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

13 33. I strongly believe that a class can be certified and that Plaintiff can prevail at trial.
14 However, after taking into account sharply disputed factual and legal issues involved in this
15 litigation, the risks attending further prosecution, and the substantial benefits to be received
16 pursuant to the compromise and settlement of the litigation, I have concluded that settlement on
17 the terms set forth in the Settlement Agreement is appropriate and in the best interests of Plaintiff
18 and the Class.

19 **ATTORNEY EXPERIENCE**

20 34. My firm has a great deal of experience in wage and hour class action litigation and
21 has been approved as class counsel in a number of class actions.

22 35. My qualifications are as follows: I was the 2003 recipient of the Spelman
23 Presidential Scholarship to Emory University School of Law. During law school, I was a summer
24 associate at the law firm of Sonnenschein, Nath and Rosenthal, and clerked with the Atlanta office
25 of the Equal Employment Opportunity Commission. I received my J.D. from Emory University in
26 2006 and was admitted to the California Bar in December 2006. Following law school, I was an
27 associate at Sonnenschein from September 2006 to May 2009.

28 36. Since 2009, my primary area of practice has been employment litigation. I have

1 practiced law at two preeminent employment defense firms. From May 2009 to June 2011, I was
2 an associate at Ogletree, Deakins, Nash, Smoak & Stewart, P.C. I was also an associate, and then
3 senior associate, in the labor and employment practice group of Seyfarth Shaw, LLP from June
4 2011 to May 2016. At both Ogletree and Seyfarth, I represented a wide array of fortune 500
5 companies in employment litigation in both state and federal courts, as well as before government
6 agencies, including the California Department of Labor. My practice included the defense of single
7 plaintiff and multi-plaintiff lawsuits involving claims under the California Fair Employment and
8 Housing Act, the California Labor Code and the Fair Labor Standards Act. I also handled a
9 number of wage and hour class actions.

10 37. In June 2016, I joined Diversity Law Group, P.C. where I spend most of my time
11 handling employment cases. I primarily represent employees.

12 38. I served as the lead associate on a number of wage and hour class actions, including
13 *Martha Cardenas v. Gold's Gym*, Los Angeles County Superior Court Case No. BC445112;
14 *Nathaniel Werner v. Crown Equipment Corporation*, Los Angeles County Superior Court Case
15 No. BC439428; *Christopher Williams v. Allstate Insurance Co.*, Los Angeles County Superior
16 Court Case No. BC382577; *Hwang v. Caltech*, Los Angeles County Superior Court Case No.
17 BC464894; *Melissa Roberts v. Zale Delaware, Inc.*, Los Angeles Superior Court Case No.
18 BC523610; *Michael Oliver v. Konica Minolta Business Solutions U.S.A., Inc.*, Santa Clara County
19 Superior Court Case No. 114-CV-263183; *Tessa Hodge v. Zale Delaware, Inc., d/b/a Piercing*
20 *Pagoda*, San Bernardino Superior Court Case No CIVVS1301632; *Warren v. Paychex, Inc.*, N.D.
21 Cal. Case No. 3:10-cv-02006; *Tapia v. Zale Delaware Inc. et al*, S.D. Cal. Case No. 3:13-cv-
22 01565; and *Benjamin Burgess et al v. Tesoro Refining and Marketing Company et al*, C.D. Cal.
23 Case No. 2:10-cv-05870.

24 39. I have been approved as class counsel in a number of class actions by the Superior
25 Courts of California and United States District Courts, including: *Antonio Becerra-Mata v. PSC*
26 *Industrial Outsourcing, LP*, San Benito County Superior Court Case No. CU-15-00030; *Andrew*
27 *Vasquez v. Earthbound Farm, LLC*, San Benito County Superior Court Case No. CU-17-00171;
28 *Fransisco Pulido v. Westrock Services, Inc.*, San Benito County Superior Court Case No. CU-18-

00074; *Kosal So v. Owens-Brockway Glass Container, Inc.*, Los Angeles County Superior Court Case No. BC608609; *John Obiols v. Lockheed Martin Corporation*, Santa Clara County Superior Court Case No. 17CV314178; *Eric Chavez v. Converse, Inc.*, N.D. Cal. Case No. 15-cv-03746-NC.; *Sarah Rodriguez v. Manpower, Inc.*, Santa Clara County Superior Court Case No. 1-16-CV-294904; *Shannon Sanchez v. American Para Professional Systems, Inc.*, Santa Clara County Superior Court Case No. 17CV306751; *Foaad Hanna v. Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Alicia Harris v. 24 Seven LLC*, Los Angeles County Superior Court Case No. BC720144; *Mary Della Maggiora v. Watsonville Community Hospital*, Santa Cruz Superior Court Case No. 18CV00191; and *Michael Randolph v. Pacific Racing Association*, Alameda County Superior Court Case No. RG18908139.

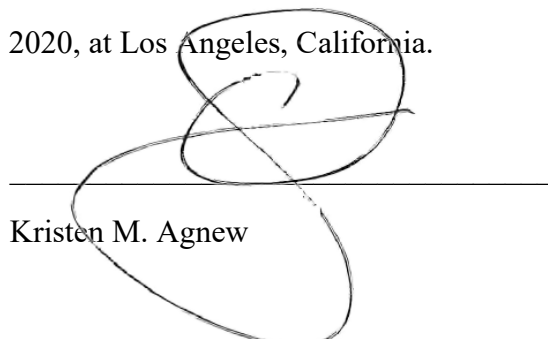
40. I also second chaired two jury trials where I represented the prevailing defendant. Both cases involved employees who brought claims against their former employers pursuant to the Fair Employment & Housing Act. The cases are: *Jeff Cowell v. Eaton Aerospace LLC et al*, Los Angeles County Superior Court Case No. BC401543; and *Richard Gulden v. Pratt & Whitney Rocketdyne Inc. et al.*, Los Angeles County Superior Court Case No. BC468909.

NOTICE TO THE LWDA

41. Concurrent with the filing of the Motion for Preliminary Approval of Class Action and PAGA Settlement, my office uploaded the Motion, Settlement Agreement, and proposed order to the LWDA's website.

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

Executed this 14th day of September, 2020, at Los Angeles, California.



Kristen M. Agnew

EXHIBIT A

Larry W. Lee (State Bar No. 228175)
Kristen M. Agnew (State Bar No. 247656)
Nicholas Rosenthal (State Bar No. 268297)
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Attorneys for Plaintiff and the Class

(Additional Attorneys on Following Page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SONOMA

JOSE VASQUEZ RUIZ, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

PERDUE FOODS, LLC., a Maryland
limited liability company; and DOES 1
through 50, inclusive,

Defendants.

Case No.: SCV 264649

(Assigned to the Honorable Patrick M. Broderick,
Dept. 16)

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

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12 Attorneys for Defendant

13 PERDUE FOODS, LLC

1 IT IS HEREBY STIPULATED, by and between Plaintiff Jose Vasquez Ruiz
2 (“Plaintiff”), individually and on behalf of the Settlement Class, and Defendant Perdue Foods,
3 LLC (“Defendant”), and subject to the approval of the Court, that the Action is hereby
4 compromised and settled pursuant to the terms and conditions set forth in this Joint Stipulation of
5 Class Action and PAGA Settlement and Release of Claims (“Agreement”) and that the Court
6 shall make and enter judgment subject to the definitions, recitals and terms set forth herein which
7 by this reference become an integral part of this Agreement.

8 DEFINITIONS

- 9 A. “Action” or “Lawsuit” shall mean, the civil action entitled *Jose Vasquez Ruiz v.*
10 *Perdue Foods, LLC*, filed on June 18, 2019, in the Sonoma County Superior
11 Court, and assigned Case No. SCV 264649.
- 12 B. “Agreement” or “Settlement Agreement” means this Joint Stipulation of
13 Settlement of Class Action and Release of Claims.
- 14 C. “Class Counsel” means the attorneys of record for the Class Representative and
15 Class Members, *i.e.*, Larry W. Lee, Kristen Agnew, and Nicholas Rosenthal of
16 Diversity Law Group, P.C., 515 S. Figueroa St., Suite 1250, Los Angeles,
17 California 90071 and William L. Marder of the Polaris Law Group LLP, 501
18 San Benito Street, Suite 200, Hollister, California 95023.
- 19 D. “Class Counsel Award” means an award of attorneys’ fees, expenses and costs
20 granted to Class Counsel and paid from the Maximum Settlement Amount in
21 recognition of their efforts and risks in assisting with the prosecution of the
22 Action
- 23 E. “Class Data” means information regarding Class Members that Defendant will
24 compile from its available, existing, electronic records and provide to the
25 Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet
26 and shall include: (i) each Class Member’s full name; (ii) each Class Member’s
27 last known address; (iii) each Class Member’s Social Security number; and (iv)
28 the number of Qualified Pay Periods worked by each Class Member (if any).

- 1 F. “Class Members” means all current and former non-exempt employees of
2 Defendant in the State of California who were paid overtime or double overtime
3 wages at any time from May 26, 2019 through July 17, 2020. Defendant
4 represents that there are approximately 576 Class Members.
- 5 G. “Class Period” shall mean the time period from May 26, 2019, through July 17,
6 2020.
- 7 H. “Class Representative Service Award” means the amount that the Court
8 authorizes to be paid to Plaintiff from the Maximum Settlement Amount, in
9 addition to his Individual Settlement Payment, in recognition of his efforts and
10 risks in assisting with the prosecution of the Action and in exchange for executing
11 a General Release of Defendant.
- 12 I. “Class Representative” means the named Plaintiff in this lawsuit, Jose Vasquez
13 Ruiz.
- 14 J. “Complaint” means the operative complaint in this Action, the First Amended
15 Class and Representative Action Complaint for Damages, filed on August 23,
16 2019.
- 17 K. “Court” means the Superior Court for the State of California, County of Sonoma.
- 18 L. “Defendant” means Perdue Foods, LLC.
- 19 M. “Defense Counsel” shall mean Aaron H. Cole of Ogletree, Deakins, Nash, Smoak
20 & Stewart, P.C., 400 South Hope Street, Suite 1200, Los Angeles, California
21 90071 and Michael J. Nader of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.,
22 500 Capitol Mall, Suite 2500, Sacramento, California 95814.
- 23 N. “Effective Date” shall be the later of the following: (i) if no objections to the
24 settlement have been filed, or the timely objections have been filed and then
25 withdrawn, then the date the Court enters judgment granting Final Approval; (ii)
26 if an objection to the settlement has been filed, then the date on which time
27 expires to file an appeal of the Court’s grant of Final Approval of settlement; or if
28 an objection was filed and a Notice of Appeal of the Court’s grant of Final

Approval of settlement was timely filed, then the date the appeal is finally resolved, with the final approval unaffected.

O. “Final Approval Order” means the Court’s order granting final approval of the Settlement.

P. “Individual Settlement Payment” means the amount payable from the Net Settlement Amount to each Settlement Recipient.

Q. “Maximum Settlement Amount” means Eight Hundred Fifty-Nine Thousand Two Hundred Thirty-Seven Dollars and Fifty Cents (\$859,237.50), which sum includes all payments contemplated by this Agreement, including but not limited to: the Individual Settlement Payments, the Class Representative Service Payment Award, the Class Counsel Award, PAGA Payment, and the Settlement Administration Costs, and any award of costs or reimbursements to Class Counsel or Plaintiff. This is a non-reversionary settlement. In no event shall Defendant be liable for more than \$859,237.50 as a result of this Settlement.

R. “Net Settlement Amount” means the Maximum Settlement Amount, less the Class Representative Service Payment Award, the Class Counsel Award, PAGA Payment, and the Settlement Administration Costs, and any award of costs or reimbursements to Class Counsel or Plaintiff.

S. “Notice of Class Action Settlement” means the form substantially similar to the form attached hereto as Exhibit 1.

T. “PAGA” means the California Labor Code Private Attorneys General Act of 2004.

U. “PAGA Payment” means the payment made hereunder to the California Labor and Workforce Development Agency pursuant to PAGA.

V. “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either Plaintiff or Defendant, individually.

W. “Plaintiff” shall mean the named Plaintiff in this action, Jose Vasquez Ruiz.

X. “Preliminary Approval Date” means the date the Court enters an order granting

preliminary approval of the Settlement.

Y. “Qualified Pay Periods” means any pay periods (as reflected in the Class Data) in which Class Members received a wage statement for overtime or double overtime work performed for Defendant during the Class Period. Defendant has determined and represents that Class Members received 22,913 wage statements for overtime or double overtime work performed during the Class Period.

Z. “Qualified Settlement Fund” or “QSF” means the qualified settlement fund set up by the Settlement Administrator into which the Gross Settlement Fund shall be deposited and disbursements from it shall be made.

AA. “Released Claims” means: (a) all claims, including penalties, costs and attorneys’ fees related thereto, that could have been brought under the facts and allegations made in the operative First Amended Class and Representative Action Complaint, including claims for violation of Labor Code section 226, that accrued during the Class Period; and (b) all claims for penalties under the California Private Attorneys General Act, including costs and attorneys’ fees related thereto, that could have been brought under the facts and allegations made in the operative First Amended Class and Representative Action Complaint, including claims for violation of Labor Code section 226, that accrued during the Class Period (collectively, the “Released Claims”). The period of the Release shall extend to the limits of the Class Period. The *res judicata* effect of the Judgment will be the same as that of the Release. The definition of Released Claims shall not be limited in any way by the possibility that Plaintiff or Settlement Class Members may discover new facts, legal theories, or legal arguments not alleged in the Complaint but which might serve as an alternative basis for pursuing the same claims, causes of action, or legal theories of relief falling within the definition of Released Claims.

BB. “Released Parties” shall mean Defendant Perdue Foods, LLC and all of Defendant’s past, present and/or future, direct and/or indirect, officers, directors,

employees, agents, representatives, partners, investors, shareholders, administrators, parent companies, partners, subsidiaries, affiliates, divisions, predecessors, successors, assigns, benefits plans, and joint venturers.

CC. “Request for Exclusion” refers to a formal request to be excluded from the Settlement as described in detail in Paragraph III(K)(7).

DD. “Response Deadline” means the date forty-five (45) days after the Settlement Administrator first mails the Notice of Class Action Settlement to Class Members and is the last date on which Class Members may submit Requests for Exclusion or file a Notice of Objection to the Settlement.

EE. “Settlement” means the disposition of the Action pursuant to this Agreement.

FF. “Settlement Administrator” means Phoenix Class Action Administration Solutions.

GG. “Settlement Class Members” means all Class Members that do not submit a valid Request for Exclusion. Settlement Class Members will release all of the Released Claims and be bound by all terms of the Settlement and any final judgment entered in this Action.

RECITALS

A. Class Certification. The Parties stipulate and agree to certification for purposes of this Settlement only. This Agreement is subject to the approval of the Court and is made for the sole purpose of consummating settlement of the Action. Should the Settlement not become final and effective as herein provided, class certification shall immediately be set aside and the Settlement Class immediately decertified (subject to further proceedings on motion of any party to certify or deny certification thereafter). The Parties stipulate and agree that this stipulation to certification for this Settlement only does not constitute an admission by either parties that any class should be certified in the non-settlement context in this Action or in connection with any other lawsuit.

B. Procedural History. On June 18, 2019, Plaintiff filed a putative class action

1 complaint asserting claims against Defendant for alleged violations of the
2 California Labor Code, including failure to provide complete, accurate, or
3 properly formatted wage statements, civil penalties under PAGA, and claims for
4 attorneys' fees and costs. The action was filed in the California Superior Court,
5 County of Sonoma and assigned case number SCV 264649. Plaintiff filed an
6 amended complaint on August 23, 2019. The First Amended Complaint is the
7 operative Complaint.

8 C. Discovery. Subsequent to the filing the First Amended Complaint, Plaintiff
9 propounded written discovery consisting of Requests for Production of
10 Documents and Special Interrogatories. In response to the discovery requests,
11 Defendant provided data relating to the number of Class Members and wage
12 statements issued to each Class Member, which allowed Class Counsel to conduct
13 a full damage analysis.

14 D. Settlement Negotiations. The Parties engaged in extensive informal settlement
15 negotiations. The negotiations resulted in the Settlement described herein to
16 resolve this Action in its entirety. The Settlement was negotiated at arms' length
17 between experienced counsel and guided by the verified discovery responses
18 provided by Defendant.

19 E. Benefits of Settlement to Settlement Class Members. Plaintiff and Class Counsel
20 recognize the expense and length of continued proceedings necessary to litigate
21 their disputes through trial and through any possible appeals. Plaintiff has also
22 taken into account the uncertainty and risk of the outcome of further litigation,
23 and the difficulties and delays inherent in such litigation. Plaintiff and Class
24 Counsel are also aware of the burdens of proof necessary to establish liability for
25 the claims asserted in the Action, both generally and in response to Defendant's
26 defenses thereto, and the difficulties in establishing damages for the Class
27 Members. Based on the foregoing, Plaintiff and Class Counsel have determined
28 that the terms set forth in this Agreement is a fair, adequate, and reasonable

settlement, and is in the best interests of the Settlement Class Members.

F. Defendant's Reasons for Settlement. Defendant has concluded that any further defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of Defendant's time and resources have been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff and Class Members. Defendant has also taken into account the risks of further litigation in reaching its decision to enter into this Settlement. Despite continuing to contend that it is not liable for any of the claims set forth by Plaintiff, Defendant has, nonetheless, agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the claims as set forth in the Action.

G. Class Members' Claims. The Class Representative claims that his allegations have merit and give rise to liability on the part of Defendant. This Agreement is a compromise of disputed claims. The monies being paid as part of the settlement are genuinely disputed and the Parties agree that the provisions of Labor Code section 206.5 are not applicable to this Settlement, including because this settlement pertains solely to claims for Labor Code penalties and not wages.

H. Defendant's Defenses. Defendant claims that the Released Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. The monies being paid as part of the settlement are genuinely disputed and the Parties agree that the provisions of Labor Code section 206.5 are not applicable to this Settlement, including because this settlement pertains solely to claims for Labor Code penalties and not wages.

TERMS OF AGREEMENT

A. Settlement Consideration by Defendant. Defendant shall pay the monetary sums as specified in this Agreement, up to the Maximum Settlement Amount. The Maximum Settlement Amount was calculated with, and is premised on, Defendant's representation that the maximum number of Qualified Pay Periods is

22,913. If the number of Qualified Pay Periods exceeds 22,913, the Maximum Settlement Amount shall proportionally increase.

B. Limited Release by All Settlement Class Members. Upon the Effective Date, in exchange for the consideration set forth in this Settlement Agreement, Settlement Class Members will be deemed to have, and by operation of the Final Approval Order and Judgment, will have, expressly waived and released the Released Parties of the Released Claims (as defined above) to the fullest extent permitted by the law. Additionally, Settlement Class Members will be bound by a limited release of claims under California Civil Code Section 1542, which provides: “*A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.*” The limited Section 1542 waiver provided for herein releases all claims against the Released Parties, whether known or unknown, within the definition of “Released Claims.” However, to be clear, the scope of the Section 1542 waiver is limited to the Released Claims only. The parties to this Settlement understand and specifically agree that the limited Section 1542 waiver described above is a material part of the consideration for this Settlement, was critical in justifying the agreed upon economic value of this Settlement, and, without it, Defendant would not have agreed to the consideration provided for herein. The limited Section 1542 waiver is narrowly drafted and necessary to ensure that Defendant is obtaining peace of mind regarding the resolution of claims that were or could have been alleged based on the facts and legal theories contained in the Complaint.

C. General Release by Plaintiff. As of the Effective Date, in consideration for the consideration set forth in this Agreement, Plaintiff, for himself and his heirs, successors and assigns, hereby waive, release, acquit and forever discharge the Released Parties, from any and all claims, actions, charges, complaints, grievances

1 and causes of action, of whatever nature, whether known or unknown, which exist
2 or may exist on Plaintiff's behalf as of the date of this Agreement, including but
3 not limited to any and all tort claims, contract claims, wage claims, wrongful
4 termination claims, disability claims, benefit claims, public policy claims,
5 retaliation claims, statutory claims, personal injury claims, emotional distress
6 claims, invasion of privacy claims, defamation claims, fraud claims, quantum
7 meruit claims, and any and all claims arising under any federal, state or other
8 governmental statute, law, regulation or ordinance, including, but not limited to
9 claims for violation of the Fair Labor Standards Act, the California Labor Code,
10 the Wage Orders of California's Industrial Welfare Commission, other state wage
11 and hour laws, the Americans with Disabilities Act, the Age Discrimination in
12 Employment Act (ADEA), the Employee Retirement Income Security Act, Title
13 VII of the Civil Rights Act of 1964, the California Fair Employment and Housing
14 Act, the California Family Rights Act, the Family Medical Leave Act, California's
15 Whistleblower Protection Act, California Business & Professions Code Section
16 17200 et seq., and any and all claims arising under any federal, state or other
17 governmental statute, law, regulation or ordinance. Plaintiff hereby expressly
18 waives and relinquishes any and all claims, rights or benefits that they may have
19 under California Civil Code § 1542, which provides as follows: *A general release*
20 *does not extend to claims that the creditor or releasing party does not know or*
21 *suspect to exist in his or her favor at the time of executing the release and that, if*
22 *known by him or her, would have materially affected his or her settlement with the*
23 *debtor or released party.* Plaintiff may hereafter discover claims or facts in
24 addition to, or different from, those which he now knows or believes to exist, but
25 he expressly agrees to fully, finally and forever settle and release any and all
26 claims against the Released Parties, known or unknown, suspected or unsuspected,
27 which exist or may exist on behalf of or against the other at the time of execution
28 of this Agreement, including, but not limited to, any and all claims relating to or

1 arising from Plaintiff's employment with or separation of employment from
2 Defendant. The Parties further acknowledge, understand, and agree that this
3 representation and commitment is essential to the Agreement and that this
4 Agreement would not have been entered into were it not for this representation and
5 commitment.

6 D. Conditions Precedent: This Settlement will become final and effective only upon
7 the occurrence of all of the following events:

- 8 1. The Court enters an order granting preliminary approval of the Settlement;
- 9 2. The Court enters an order granting final approval of the Settlement and a
10 Final Judgment;
- 11 3. The Final Effective Date occurs; and,
- 12 4. Defendant does not invoke its right to revoke the Settlement as described
13 in Paragraph III.P herein.

14 E. Nullification of Settlement Agreement. In the event that this Settlement
15 Agreement is not preliminarily or finally approved by the Court, fails to become
16 effective, or is reversed, withdrawn or modified by the Court, or in any way
17 prevents or prohibits Defendant from obtaining a complete resolution of the claims
18 as described herein:

- 19 1. This Settlement Agreement shall be void ab initio and of no force or
20 effect;
- 21 2. The conditional class certification (obtained for any purpose) shall be void
22 ab initio and of no force or effect; and
- 23 3. None of the Parties to this Settlement will be deemed to have waived any
24 claims, objections, defenses or arguments in the Action, including with
25 respect to the issue of class certification.

26 F. Certification of the Settlement Class. The Parties stipulate to conditional class
27 certification of the Settlement Class for the Class Period for purposes of settlement
28 only as follows:

1. Plaintiff Jose Vasquez Ruiz shall be appointed as Class Representative.
2. The Parties stipulate that Larry W. Lee, Kristen Agnew, and Nicholas Rosenthal of Diversity Law Group, P.C., and William L. Marder of the Polaris Law Group LLP shall be appointed as Class Counsel.
3. In the event that this Settlement is not approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court, or in any way prevents or prohibits Defendant from obtaining a complete resolution of the claims as described herein, the conditional class certification (obtained for any purpose) shall be void ab initio and of no force or effect.

G. Tax Liability. The Parties make no representations as to the tax treatment or legal effect of the payments called for hereunder, and Settlement Class Members are not relying on any statement or representation by the Parties in this regard. Settlement Class Members understand and agree that they will be responsible for the payment of any taxes and penalties assessed on the Individual Settlement Payments described herein and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of Individual Settlement Payments.

H. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section, the “acknowledging party” and each Party to this Agreement other than the acknowledging party, an “other party”) acknowledges and agrees that: (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department circular 230 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement, (b)

1 has not entered into this Agreement based upon the recommendation of any other
2 Party or any attorney or advisor to any other Party, and (c) is not entitled to rely
3 upon any communication or disclosure by any attorney or advisor to any other
4 party to avoid any tax penalty that may be imposed on the acknowledging party,
5 and (3) no attorney or advisor to any other Party has imposed any limitation that
6 protects the confidentiality of any such attorney's or adviser's tax strategies
7 (regardless of whether such limitation is legally binding) upon disclosure by the
8 acknowledging party of the tax treatment or tax structure of any transaction,
9 including any transaction contemplated by this Agreement.

10 I. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file
11 with the Court a Motion for Order Granting Preliminary Approval and supporting
12 papers, which shall include this Settlement Agreement.

13 J. Settlement Administrator. By accepting the role as Settlement Administrator, the
14 Settlement Administrator is bound to all of the terms, conditions and obligations
15 described in this Settlement Agreement. Among these obligations, the Settlement
16 Administrator shall have sole and exclusive responsibility for: calculating
17 Individual Settlement Payments; processing and mailing payments to the Class
18 Representative, Class Counsel, LWDA and Settlement Class Members; printing
19 and mailing the Notice of Class Action Settlement to the Class Members as
20 directed by the Court; receiving and reporting Requests for Exclusion; processing
21 and mailing any tax payments to the appropriate state and federal taxing
22 authorities; distributing tax forms; providing declaration(s) as necessary in support
23 of preliminary and/or final approval of this Settlement; and other tasks the Court
24 orders the Settlement Administrator to perform. The Settlement Administrator
25 shall keep the Parties timely apprised of the performance of all Settlement
26 Administrator's responsibilities. Defendant and Defense Counsel shall have no
27 responsibility for validating or ensuring the accuracy of the Settlement
28 Administrator's work. Plaintiff, Class Counsel, Defendant, and Defense Counsel

1 shall not bear any responsibility for errors or omissions in the calculation or
2 distribution of the Individual Settlement Payments or any other distribution of
3 monies contemplated by this Agreement.

4 K. Notice Procedure.

5 1. Class Data. Prior to preliminary approval, the Settlement Administrator
6 will provide the Parties with sufficient and reasonable assurance that the
7 Settlement Administrator will maintain the confidentiality of Class Data
8 No later than ten (10) calendar days after the Preliminary Approval Date,
9 Defendant shall provide the Settlement Administrator with the Class Data
10 for purposes of preparing and mailing Notice of Class Action Settlement
11 to Settlement Class Members. The Settlement Administrator shall be
12 obligated to keep the Class Data confidential and take reasonable and
13 necessary precautions to maintain the confidentiality of the data. The
14 Settlement Administrator shall not use the Class Data or any information
15 contained therein for any purpose other than to administer this Settlement.

16 2. Notice of Class Action Settlement.

- 17 a) The Notice of Class Action Settlement shall be in a form
18 substantially similar to the form attached hereto as **Exhibit 1**. The
19 Notice of Class Action Settlement shall inform Class Members to
20 keep the Settlement Administrator apprised of their current mailing
21 addresses, to which the Settlement Payments will be mailed
22 following the Effective Date. The Notice of Class Action
23 Settlement shall set forth the release to be given by all members of
24 the Settlement Class who do not request to be excluded from the
25 Settlement Class in exchange for an Individual Settlement
26 Payment.
- 27 b) The Notice of Class Action Settlement shall be individualized by
28 inclusion of the Settlement Class Member's number of Qualified

1 Pay Periods and the Settlement Administrator's calculation of their
2 estimated Individual Settlement Payment if they do not request to
3 be excluded from the Settlement.

4 3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
5 Settlement Administrator will perform a search based on the National
6 Change of Address Database to update and correct any known or
7 identifiable address changes. No later than ten (10) calendar days after
8 receiving the Class Data from Defendant as provided herein, the
9 Settlement Administrator shall mail copies of the Notice of Class Action
10 Settlement to all Class Members via regular First Class U.S. Mail. The
11 Settlement Administrator shall exercise its best judgment to determine the
12 current mailing address for each Class Member. The address identified by
13 the Settlement Administrator as the current mailing address shall be
14 presumed to be the best mailing address for each Class Member.

15 4. Undeliverable Notices. Any Notices of Class Action Settlement returned
16 to the Settlement Administrator as non-delivered on or before the
17 Response Deadline shall be re-mailed to the forwarding address affixed
18 thereto. If no forwarding address is provided, the Settlement
19 Administrator shall promptly attempt to determine a correct address by
20 lawful use of skip-tracing, or other search using the name, address and/or
21 Social Security number of the Class Member involved, and shall then
22 perform a re-mailing, if another mailing address is identified by the
23 Settlement Administrator. In addition, if any Notices of Class Action
24 Settlement, which are addressed to Class Members who are currently
25 employed by Defendant, are returned to the Settlement Administrator as
26 non-delivered and no forwarding address is provided, the Settlement
27 Administrator shall notify Defendant. Defendant will request that the
28 currently employed Class Member provide a corrected address, and

transmit to the Administrator any corrected address provided by the Class Member.

5. Disputes Regarding Individual Settlement Payments. Class Members will have the opportunity, should they disagree with the number of Qualified Pay Periods stated on their Notice of Settlement, to provide documentation and/or an explanation to show contrary Pay Periods. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be binding upon the Settlement Class Member and the Parties.

6. Disputes Regarding Administration of Settlement. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

7. Requests for Exclusions.

a) The Notice of Class Action Settlement shall state that Class Members who wish to exclude themselves from the Settlement must submit a written Request for Exclusion by the Response Deadline. The written Request for Exclusion must state that the Settlement Class Member wishes to exclude himself or herself from the Settlement and (1) must contain the name and address of the person requesting exclusion; (2) must be signed by the Settlement Class Member; (3) must be postmarked by the

1 Response Deadline and returned to the Settlement Administrator at
2 the specified address; and (4) contain a typewritten or handwritten
3 notice stating in substance: "I wish to opt out of the settlement of
4 the class action lawsuit entitled *Vasquez Ruiz v. Perdue Foods,*
5 *LLC*, Case No. SCV 264649, filed in the Superior Court of
6 California, County of Sonoma."

7 b) The Request for Exclusion will not be valid if it is not timely
8 submitted, if it is not signed by the Settlement Class Member, or if
9 it does not contain the name and address of the Settlement Class
10 Member. The date of the postmark on the return mailing envelope
11 for the Request for Exclusion shall be the exclusive means used to
12 determine whether the Request for Exclusion was timely
13 submitted. Class Members who fail to submit a valid and timely
14 written Request for Exclusion on or before the Response Deadline
15 shall be Settlement Class Members who are bound by all terms of
16 the Settlement and any final judgment entered in this Action if the
17 Settlement is approved by the Court.

18 c) Any Class Member who requests to be excluded from the
19 Settlement Class will not be entitled to any recovery under the
20 Settlement and will not be bound by the terms of the Settlement or
21 have any right to object, appeal or comment thereon. Nothing in
22 this Settlement or Settlement Agreement will constitute or be
23 construed as a waiver of any defense that Defendant or the
24 Released Parties have or could assert against anyone who timely
25 serves a Request for Exclusion.

26 d) No later than five (5) calendar days after the Response Deadline,
27 the Settlement Administrator shall provide counsel for the Parties
28 with a final list of the Class Members who have timely submitted

1 written Requests for Exclusion.

- 2 e) At no time shall any of the Parties or their counsel seek to solicit or
3 otherwise encourage members of the Settlement Class to submit
4 Requests for Exclusion from the Settlement.

5 8. Objections.

- 6 a) The Notice of Class Action Settlement shall state that Settlement
7 Class Members who wish to object to the Settlement must file with
8 the Court a written statement of objection (“Notice of Objection”) by the Response Deadline. Class Members who wish to object to
9 the Settlement must also mail copies of their Notice of Objection
10 to counsel for both Parties. The filing date of the objection shall be
11 deemed the exclusive means for determining that a Notice of
12 Objection was served timely.

- 13 b) Settlement Class Members who file a timely Notice of Objection
14 will have a right to appear at the Final Approval/Settlement
15 Fairness Hearing in order to have their objections heard by the
16 Court. The Notice of Objection must be signed by the Settlement
17 Class Member and state: (1) the case name and number; (2) the
18 name of the Settlement Class Member; (3) the address of the
19 Settlement Class Member; (4) the basis for the objection; and (5) if
20 the Settlement Class Member intends to appear at the Final
21 Approval/Settlement Fairness Hearing. Settlement Class Members
22 who fail to make objections in the manner specified above shall be
23 deemed to have waived any objections and shall be foreclosed
24 from making any objections (whether by appeal or otherwise) to
25 the Settlement.

- 26 c) At no time shall any of the Parties or their counsel seek to solicit or
27 otherwise encourage Settlement Class Members to file or serve
28

1 written objections to the Settlement or appeal from the Order and
2 Final Judgment.

- 3 d) Class Members who submit a written Request for Exclusion are
4 not entitled to object to the Settlement. In the event that a Class
5 Member submits both a Request for Exclusion and a Notice of
6 Objection, the Notice of Objection will be invalid, while the
7 Request for Exclusion will remain valid.
- 8 e) Plaintiff and/or Defendant may file oppositions to any properly
9 filed Notices of Objection no later than nine (9) court days prior to
10 the date of the Final Approval/Settlement Fairness Hearing.
- 11 f) Defendant shall not be responsible for the fees, costs, or expenses
12 incurred by Plaintiff, Class Counsel or Settlement Class Members
13 arising from or related to any objection to the Settlement
14 Agreement or related to any appeals thereof.

15 L. Funding and Allocation of the Maximum Settlement Amount. This is a non-
16 reversionary settlement in which Defendant is required to pay the entirety of the
17 Maximum Settlement Amount. No amount of the Maximum Settlement Fund
18 will revert to Defendant. Upon satisfaction of the preconditions described in this
19 Settlement and pursuant to the timeline and instructions below, Defendant will
20 deposit the Maximum Settlement Amount into a Qualified Settlement Fund
21 (“QSF”) to be established by the Settlement Administrator. In no event shall
22 Defendant be responsible for any payments in excess of the Maximum Settlement
23 Amount. Defendant shall remain liable until the obligations to be paid from the
24 QSF are satisfied and a satisfaction of judgment is filed.

- 25 1. Funding Due Date. No later than ten (10) calendar days after the Effective
26 Date, Defendant shall provide the Maximum Settlement Amount to the
27 Settlement Administrator to fund the Settlement as set forth in this
28 Agreement.

2. Individual Settlement Payments. Individual Settlement Payments shall be paid from the Net Settlement Amount and shall be paid pursuant to the formula set forth herein.

a) Calculation of Individual Settlement Payments.

(1) Class Members will receive a pro rata share of the Net Settlement Amount based on each Class Member's Qualified Pay Periods as a proportion of the total of Qualified Pay Periods for all Class Members.

(2) The Parties recognize and agree that the formula for allocating the proceedings from the Net Settlement Fund to the Settlement Class Members provided herein are reasonable and that the payments are designed to provide a fair settlement to the Settlement Class Members.

b) Tax Allocation. For tax purposes, Individual Settlement Payments shall be allocated and treated as 100% penalties and interest for which an IRS Form 1099 will be issued.

c) Mailing. Individual Settlement Payments shall be mailed by regular First Class U.S. Mail to Settlement Class Members' last known mailing address no later than twenty-five (25) calendar days after the Effective Date.

d) Uncashed Checks. Any checks issued to Settlement Class Members shall remain valid and negotiable for one hundred and eighty (180) days from the date of their issuance. Funds represented by settlement checks returned as undeliverable and those settlement checks remaining un-cashed for more than 180 days after issuance shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et seq., for the benefit of those Settlement Class members who did not cash their

1 checks until such time that they claim their property. The Parties agree
2 that this disposition results in no “unpaid residue” under California Civil
3 Procedure Code § 384, as the entire Net Settlement Amount will be paid
4 out to Settlement Class members, whether or not they all cash their
5 Settlement Checks. . The Settlement Administrator shall prepare a report
6 regarding the distribution plan pursuant to California Code Civil
7 Procedure Section 384, including and not limited to the unused funds as
8 set forth in this Paragraph, and the report shall be presented to the Court
9 by Class Counsel.

10 3. Class Representative Service Award.

- 11 a) Defendant agrees not to oppose or object to any application or
12 motion by Plaintiff for a Class Representative Service Award of up
13 to Ten Thousand Dollars (\$10,000.00) in exchange for the
14 Released Claims and a General Release and for his time, effort and
15 risk in bringing and prosecuting this matter. The Class
16 Representative Service Award shall be in addition to the Plaintiff’s
17 Individual Settlement Payment as a Settlement Class Member.
- 18 b) The Settlement Administrator shall pay the Class Representative
19 Service Award to Plaintiff from the Maximum Settlement Amount
20 no later than twenty-five (25) calendar days after the Effective
21 Date. Any portion of the requested Class Representative Service
22 Award that is not awarded to the Class Representative shall
23 become part of the Net Settlement Amount.
- 24 c) The Settlement Administrator shall issue an IRS Form 1099 —
25 MISC to Plaintiff for his Class Representative Service Award.
26 Plaintiff shall be solely and legally responsible to pay any and all
27 applicable taxes on his Class Representative Service Award and
28 shall hold harmless Defendant and the Released Parties from any

claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Service Award.

- d) In the event that the Court reduces or does not approve the requested Class Representative Service Award, Plaintiff shall not have the right to revoke the Settlement, and it will remain binding, nor will Plaintiff seek, request, or demand an increase in the Maximum Settlement Amount.

4. Class Counsel Award.

- a) In consideration for settling the Action and in exchange for the release of the Released Parties for all Released Claims and the General Release by Plaintiff, Class Counsel intends to apply for an award of attorneys' fees not to exceed thirty-three and one-third percent (33 & 1/3%) of the Maximum Settlement Amount, *i.e.* the sum of Two Hundred Eight-Six Thousand Four Hundred Twelve Dollars and Fifty Cents (\$286,412.50), plus actual costs and expenses supported by declaration not to exceed Ten Thousand Dollars (\$10,000.00), from the Maximum Settlement Amount.

- b) Class Counsel, Plaintiff and the Settlement Class Members will not apply to the Court for any payment of attorneys' fees and costs that are in addition to the foregoing or that exceed the Maximum Settlement Amount. The Parties agree that, over and above the Court-approved Class Counsel Award, each of the Parties, including all Settlement Class Members, shall bear their own fees and costs, including, but not limited to, those related to the investigation, filing, prosecution, or settlement of the Action; the negotiation, execution, or implementation of this Agreement; and/or the process of obtaining, administering, or challenging an Order Granting Preliminary Approval and/or Final Approval.

- 1 c) Any portion of the requested Class Counsel Award that is not
2 awarded to Class Counsel shall be part of the Net Settlement
3 Amount and shall be distributed to Settlement Class Members as
4 provided in this Agreement.
- 5 d) The Settlement Administrator shall pay the Class Counsel Award
6 to Class Counsel from the Maximum Settlement Amount no later
7 than twenty-five (25) calendar days after the Effective Date.
- 8 e) Class Counsel shall be solely and legally responsible to pay all
9 applicable taxes on the payment made pursuant to this Paragraph.
10 The Settlement Administrator shall issue an IRS Form 1099 —
11 MISC to Class Counsel for the payments made pursuant to this
12 Paragraph.
- 13 f) In the event that the Court reduces or does not approve the
14 requested Class Counsel Award, Plaintiff and Class Counsel shall
15 not have the right to modify or revoke the Settlement, or to appeal
16 such order, and the Settlement will remain binding, nor will
17 Plaintiff or Class Counsel seek, request, or demand an increase in
18 the Maximum Settlement Amount.

19 5. PAGA Payment. Twenty Thousand Dollars (\$20,000) shall be allocated
20 from the Maximum Settlement Amount for settlement and release of
21 claims for civil penalties under the Private Attorneys General Act of 2004.
22 The Settlement Administrator shall pay seventy-five percent (75%) of that
23 \$20,000 payment, or \$15,000 to the California Labor and Workforce
24 Development Agency (the “PAGA Payment”) no later than twenty-five
25 (25) calendar days after the Effective Date. The remainder of that \$20,000
26 payment, twenty-five (25%) or \$5,000, will be part of the Net Settlement
27 Amount and distributed as described in this Agreement. Class Counsel
28 will take all action required by California Labor Code section 2699(l).

1 6. Settlement Administration Costs. The Settlement Administrator shall be
2 paid for the costs of administration of the Settlement from the Maximum
3 Settlement Amount. The estimate of the Settlement Administration Costs
4 is Nine Thousand Five Hundred Dollars (\$9,500). The Settlement
5 Administrator shall be paid the Settlement Administration Costs no later
6 than fourteen (14) calendar days after Defendant provides funds to the
7 Settlement Administrator for disbursement under this Agreement.

8 M. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
9 accomplish the terms of this Settlement Agreement, including but not limited to,
10 execution of necessary actions as may reasonably be necessary to implement the
11 terms of this Settlement Agreement. As soon as practicable after execution of this
12 Settlement Agreement, Class Counsel shall, with the assistance and cooperation of
13 Defendant and Defense Counsel, take all necessary steps to secure the Court's
14 Preliminary and Final Approval of this Settlement Agreement. The Parties also
15 agree to cooperate in the Settlement administration process. The Parties each
16 represent they do not have any financial interest in the Settlement Administrator or
17 otherwise have a relationship with the Settlement Administrator that could create a
18 conflict of interest. Class Counsel will also notify Defense Counsel if subpoenaed
19 or upon receipt of any other request for documents or information regarding any
20 other action filed or potential action against the Released Parties that covers or
21 includes any Settlement Class Members and the Released Claims.

22 N. Preliminary Approval Hearing. Plaintiff shall obtain a hearing before the Court to
23 request the preliminary approval of the Settlement, and the entry of a Preliminary
24 Approval Order for: (i) conditional certification of the Class under California Code
25 of Civil Procedure section 382 for settlement purposes only, (ii) preliminary
26 approval of the proposed Agreement, and (iii) setting a date for a Final
27 Approval/Settlement Fairness Hearing. The Preliminary Approval Order shall
28 provide for the Notice of Class Action Settlement to be sent to all Class Members

as specified herein. In conjunction with the Preliminary Approval Hearing, Plaintiff shall submit this Agreement, which sets forth the terms of this Settlement, and will include the proposed Notice of Class Action Settlement.

O. Final Approval Motion. At the earliest practicable time following the expiration of the Response Deadline, Plaintiff shall file with the Court a Motion for Order Granting Final Approval and Entering Judgment, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Class Representative Service Award, the Class Counsel Award, the PAGA Payment, the Settlement Administration Costs.

1. Declaration by Settlement Administrator. The Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notices of Class Action Settlement mailed and re-mailed to Class Members, the number of undeliverable Notices of Class Action Settlement, the number of timely Requests for Exclusion, the amount of the average Individual Settlement Payment, the Settlement Administration Costs, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

2. Final Approval Order and Judgment. The Parties shall present an Order Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment thereon consistent with the terms and conditions of this Agreement.

P. Option to Revoke Settlement. Defendant has the unilateral right to revoke the Settlement if, after the Response Deadline, the number of Class Members who submitted timely and valid written Requests for Exclusion from the Settlement equals at least 5% of all Class Members, Defendant shall have, in its sole discretion, the option to terminate this Settlement. If Defendant exercises the option to terminate this Settlement, Defendant shall: (a) provide written notice to

1 Class Counsel within seven (7) calendar days after the Response Deadline and (b)
2 pay all Settlement Administration Costs incurred up to the date or as a result of the
3 termination; and the Parties shall proceed in all respects as if this Agreement had
4 not been executed.

5 Q. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the
6 Action, except such proceedings necessary to implement and complete the
7 Settlement, pending the Final Approval/Settlement Fairness Hearing to be
8 conducted by the Court.

9 R. Nullification of Settlement Agreement. In the event: (i) the Court does not grant
10 preliminary approval and requires changes to the Agreement that would
11 substantially alter the terms of the Agreement; (ii) the Court does not grant final
12 approval; (iii) the Court does not enter a final judgment as provided herein; or (iv)
13 the Settlement does not become final for any other reason, this Agreement shall be
14 null and void and any order or judgment entered by the Court in furtherance of this
15 Settlement shall be treated as void from the beginning. In such a case, the Parties
16 and any funds to be awarded under this Settlement shall be returned to their
17 respective statuses as of the date and time immediately prior to the execution of
18 this Agreement, and the Parties shall proceed in all respects as if this Agreement
19 had not been executed, except that any costs already incurred by the Settlement
20 Administrator shall be paid by equal apportionment among the Parties, except as
21 other specified in Paragraph III.P. In the event an appeal is filed from the Court's
22 final judgment, or any other appellate review is sought, administration of the
23 Settlement shall be stayed pending final resolution of the appeal or other appellate
24 review, but any fees incurred by the Settlement Administrator prior to it being
25 notified of the filing of an appeal from the Court's Final Judgment, or any other
26 appellate review, shall be paid to the Settlement Administrator within thirty (30)
27 days of said notification.

28 S. No Effect on Employee Benefits. Amounts paid to Plaintiff or other Settlement

1 Class Members pursuant to this Agreement shall be deemed not to be pensionable
2 earnings and shall not have any effect on the eligibility for, or calculation of, any
3 of the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the
4 Plaintiff or Settlement Class Members.

5 T. Exhibits and Headings. The terms of this Agreement include the terms set forth in
6 the attached Exhibit 1, which is incorporated by this reference as though fully set
7 forth herein. The exhibit to this Agreement is an integral part of the Settlement.
8 The descriptive headings of any paragraphs or sections of this Agreement are
9 inserted for convenience of reference only and do not constitute a part of this
10 Agreement.

11 U. Amendment or Modification. This Agreement may be amended or modified only
12 by a written instrument: (1) signed by counsel for all Parties or their successors-in-
13 interest; (2) signed by the Parties or their successors-in-interest; and (3) as may be
14 approved by the Court.

15 V. Entire Agreement. This Agreement and any attached Exhibits constitute the entire
16 Agreement among these Parties, and no oral or written representations, warranties
17 or inducements have been made to any Party concerning this Agreement or its
18 Exhibits other than the representations, warranties and covenants contained and
19 memorialized in the Agreement and its Exhibit.

20 W. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant
21 and represent they are expressly authorized by the Parties whom they represent to
22 negotiate this Agreement and to take all appropriate actions required or permitted
23 to be taken by such Parties pursuant to this Agreement to effectuate its terms, and
24 to execute any other documents required to effectuate the terms of this Agreement.
25 The person signing this Agreement on behalf of Defendant represents and warrants
26 that he is authorized to sign this Agreement on behalf of Defendant. Plaintiff
27 represents and warrants that he is authorized to sign this Agreement and that he has
28 not assigned, transferred, or encumbered any claim, or part of a claim, demand,

1 cause of action or any rights herein released and discharged or covered by this
2 Settlement to any third-party.

3 X. Binding on Successors and Assigns. The provisions of this Settlement Agreement
4 shall run in perpetuity. This Agreement shall be binding upon, and inure to the
5 benefit of, the successors or assigns of the Parties hereto, as previously defined.

6 Y. California Law Governs. All terms of this Agreement and the Exhibits hereto and
7 any disputes arising hereunder shall be governed by and interpreted according to
8 the laws of the State of California.

9 Z. Counterparts. This Agreement may be executed in one or more counterparts. All
10 executed counterparts and each of them shall be deemed to be one and the same
11 instrument provided that counsel for the Parties to this Agreement shall exchange
12 among themselves copies or originals of the signed counterparts.

13 AA. This Settlement is Fair, Adequate, and Reasonable. The Parties believe this
14 Settlement is a fair, adequate, and reasonable settlement of this Action and have
15 arrived at this Settlement after extensive arm's-length negotiations, taking into
16 account all relevant factors, present and potential. The Parties further agree
17 that this Settlement Agreement shall not be construed in favor of or against any
18 party by reason of the extent to which any party or his or its counsel participated in
19 the drafting of this Settlement Agreement.

20 BB. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction
21 with respect to the interpretation, implementation and enforcement of the terms of
22 this Agreement and all orders and judgments entered in connection therewith, and
23 the Parties and their counsel hereto submit to the jurisdiction of the Court for
24 purposes of interpreting, implementing and enforcing the settlement embodied in
25 this Agreement and all orders and judgments entered in connection therewith.

26 CC. Invalidity of Any Provision. Before declaring any provision of this Agreement
27 invalid, the Court shall first attempt to construe the provisions valid to the fullest
28 extent possible consistent with applicable precedents so as to define all provisions

1 of this Agreement valid and enforceable.

2 DD. Publicity. Plaintiff and Class Counsel agree not to publicize the Settlement except
3 to potential class members in the manner required under the terms of this
4 Agreement. Plaintiff and Class Counsel further agree not to disclose the
5 negotiations underlying the Settlement, in any manner or form, directly or
6 indirectly, to any person or entity, except potential class members. For the
7 avoidance of doubt, this section does not mean that Plaintiff or Class Counsel are
8 required to keep the Settlement confidential, but it means Plaintiff and Class
9 Counsel agree not to issue press releases, promote the settlement on Class
10 Counsel's websites, social media accounts or in any attorney advertising, or
11 communicate with or respond to any media or publication entities to publicize or
12 promote the Settlement, which shall in no way limit the Parties from
13 communicating about the Settlement with putative class members or as
14 contractually required to effectuate the terms of the Settlement as set forth herein.
15 In addition, for the limited purpose of allowing Class Counsel to prove adequacy
16 as class counsel in other actions, Class Counsel may disclose the name of the
17 Parties in this action, the venue/case number of this action, and the fact this action
18 settled on a class-wide basis (but not any other settlement details) for such
19 purposes.

20 EE. No Unalleged Claims. Plaintiff and Class Counsel represent that they, as of the
21 date of execution of this Settlement, have no current intention of pursuing any
22 claims against Defendant in any judicial, administrative, or arbitral forum,
23 including, but not limited to, any and all claims relating to or arising from
24 Plaintiff's employment with Defendant, and that Class Counsel is not currently
25 aware of any facts or legal theories upon which any claims or causes of action
26 could be brought against Defendant, excepting those facts or legal theories alleged
27 in the Complaint. Plaintiff and Class Counsel further represent and agree that they
28 do not currently know of or represent any persons who have expressed any interest

1 in pursuing litigation or seeking any recovery against Defendant. The Parties
2 further acknowledge, understand and agree that this representation is essential to
3 the Agreement and that this Agreement would not have been entered into were it
4 not for this representation. Nothing in this Paragraph will be construed as a
5 restraint on the right of any counsel to practice.

6 FF. Waiver of Certain Appeals. The Parties agree to stipulate to class certification for
7 purposes of implementing this Settlement only and agree to waive all appeals from
8 the Court's final approval of the Settlement, unless the Court modifies the
9 Settlement.

10 GG. No Admissions by the Parties. Plaintiff has claimed and continues to claim that
11 the Released Claims have merit and give rise to liability on the part of Defendant.
12 Defendant claims that the Released Claims have no merit and do not give rise to
13 liability. This Agreement is a compromise of disputed claims. To the fullest
14 extent permissible under the law, nothing contained in this Agreement and no
15 documents referred to herein and no action taken to carry out this Agreement may
16 be construed or used as an admission by or against the Defendant or Plaintiff or
17 Class Counsel as to the merits or lack thereof of the claims asserted.

18 HH. Notice of Settlement to LWDA. Plaintiff will provide submit this Agreement and
19 proposed settlement to the Labor Workforce Development Agency ("LWDA") as
20 required by Labor Code Section 2699(1)(2) at the same time that it is submitted to
21 the Court.

22 The Parties indicate by signing below their approval of the form of this Settlement
23 Agreement (and exhibits thereto).

24 IN WITNESS WHEREOF, this Joint Stipulation of Class Action and PAGA Settlement is
25 executed by the Parties and their duly authorized attorneys as of the day and year herein set forth.

26 ///

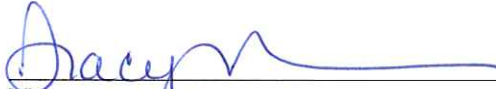
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28 ///

1 **IT IS SO AGREED:**

2
3 Dated: SEPTEMBER 8, 2020

PERDUE FOODS, LLC

4 

5 Name: TRACY MORRIS
6 Title VP of HR
7 On Behalf of Defendant

8 Dated: _____, 2020

JOSE VASQUEZ RUIZ

9
10 Jose Vasquez Ruiz, Plaintiff

11 **APPROVED AS TO FORM:**

12 Dated: _____, 2020

DIVERSITY LAW GROUP, P.C.

13
14 Larry W. Lee
15 Kristen M. Agnew
16 Nicholas Rosenthal
17 Counsel for Plaintiff and Proposed Class Counsel

18 Dated: _____, 2020

POLARIS LAW GROUP

19 William L. Marder
20 Counsel for Plaintiff and Proposed Class Counsel

21 Dated: September 8, 2020

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

23 

24 Aaron H. Cole
25 Michael J. Nader
26 Counsel for Defendant Perdue Foods, LLC

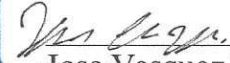
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Name:
Title
On Behalf of Defendant

Dated: 8/26/2020, 2020

JOSE VASQUEZ RUIZ

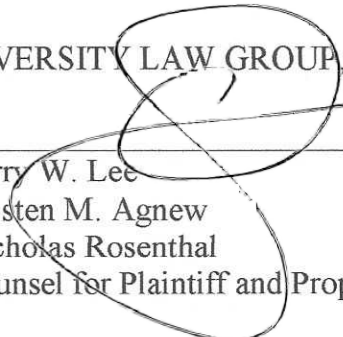
DocuSigned by:


Jose Vasquez Ruiz, Plaintiff

APPROVED AS TO FORM:

Dated: 9/8/20, 2020

DIVERSITY LAW GROUP, P.C.


Larry W. Lee
Kristen M. Agnew
Nicholas Rosenthal
Counsel for Plaintiff and Proposed Class Counsel

Dated: August 27, 2020

POLARIS LAW GROUP


William L. Marder
Counsel for Plaintiff and Proposed Class Counsel

Dated: _____, 2020

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

Aaron H. Cole
Michael J. Nader
Counsel for Defendant Perdue Foods, LLC

43803141.2

EXHIBIT 1

Jose Vasquez Ruiz v. Perdue Foods, LLC
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA
(CASE NO. SCV 264649)

NOTICE OF CLASS-ACTION SETTLEMENT (“NOTICE”)

IF YOU ARE A CURRENT OR FORMER NON-EXEMPT EMPLOYEE OF PERDUE FOODS, LLC (“DEFENDANT”) IN THE STATE OF CALIFORNIA AND RECEIVED OVERTIME OR DOUBLE OVERTIME WAGES DURING THE PERIOD OF MAY 26, 2019 THROUGH JULY 17, 2020, YOU MAY BE ABLE TO COLLECT MONEY FROM A CLASS ACTION SETTLEMENT.

The Sonoma County Superior Court (“Court”) authorized this Notice to be sent by Phoenix Class Action Administration Solutions (“Settlement Administrator”). This is not an advertisement. This is not a solicitation from a lawyer.

DEFENDANT CANNOT AND WILL NOT RETALIATE AGAINST YOU IN ANY WAY FOR PARTICIPATING IN THIS SETTLEMENT.

«BarcodeString»
SIMID «SIMID»

ATTN: «FirstName» «LastName»
«Address1» «Address2»
«City» «Abbrev» «Zip»

**YOU ARE ESTIMATED TO RECEIVE
APPROXIMATELY
\$«MERGED_EstSettAmnt_CALC»
THROUGH THIS CLASS ACTION
SETTLEMENT**

- Former employee Jose Vasquez Ruiz (“Named Plaintiff”), has sued Defendant on behalf of himself and all other similarly situated employees.
- Defendant denies any wrongdoing.
- The parties to the lawsuit have reached a tentative settlement, and the Court has preliminarily approved it.
- The settlement resolves the lawsuit.
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

You Can DO NOTHING	You will receive a payment from the settlement. If you do nothing, you continue your participation in this lawsuit, and you will be impacted by the outcome of this case. You will receive a settlement payment; however, you will lose any rights to sue Defendant separately for the same legal claims made in the lawsuit. The estimated amount of your settlement payment is shown above. To receive your settlement payment, all you need to do is keep the Settlement Administrator informed of your current mailing address. Once the Court grants final approval of the settlement, the Settlement Administrator will mail your check to the address on file for you.
You Can ASK TO BE EXCLUDED FROM THE SETTLEMENT	If you ask to be excluded from the settlement, you will get no payment from the settlement, but you will keep any rights to sue Defendants

(Deadline: _____, 2020)	separately for the same legal claims made in this lawsuit. Important: You cannot ask to be excluded <u>and</u> still get a settlement payment.
You Can OBJECT TO THE SETTLEMENT (Deadline: _____, 2020)	If you do not like the settlement, you can send a written objection to the Settlement Administrator by the deadline. If your objection is overruled, you will still be bound by the terms of the settlement and will receive a settlement payment. Important: If you object to the settlement, you cannot also ask to be excluded.

THESE RIGHTS AND OPTIONS—AND THE DEADLINES TO EXERCISE THEM—ARE EXPLAINED IN THIS NOTICE.

The Court is in charge of this lawsuit and still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after appeals, if any, are resolved. **Please be patient.**

1. Why Should You Read This Notice?

You should read this Notice because you may be entitled to money from a class-action settlement.

2. What Is This Lawsuit About?

In the lawsuit, the Named Plaintiff alleges that Defendant failed to provide accurate wage statements identifying the applicable hourly rate for overtime and double overtime wages in violation of California Labor Code section 226(a). Defendant denies the allegations in the lawsuit and denies it has engaged in any wrongdoing. Defendant asserts that it complied with all legal requirements, but is resolving this action in order to avoid the costs of further legal proceedings.

3. Why Is This A Class Action?

This lawsuit is a class action. In a class action, one or more persons, called a class representative (in this case, Jose Vasquez Ruiz), sue on behalf of people who allegedly have similar claims. All these people are a class or class members. One case resolves the issues for all class members, except for those who exclude themselves from the class. The Sonoma County Superior Court is in charge of the case. The lawsuit is known as *Jose Vasquez Ruiz v. Perdue Foods, LLC*, Case No. SCV 264649.

4. Why Is There A Settlement?

The Court did not decide in favor of the Named Plaintiff or Defendant. The Named Plaintiff thinks he could have won at trial. Defendant thinks that it would have won at trial. But there was no trial. Instead, both parties agreed to a settlement. That way, they avoid the cost of litigation, and the individuals potentially affected will get compensation. The class representatives and the attorneys think the settlement is best for class members.

5. How Do I Know If I Am Part Of The Settlement?

The Court has decided that any current and former non-exempt employee of Defendant in the State of California who received payment for overtime or double overtime wages at any time from May 26, 2019, through July 17, 2020 (the “Class Period”) is a class member.

6. What Does The Settlement Provide?

The proposed settlement provides for a cash payment by Defendant of \$859,237.50 to fully and finally resolve all claims in the lawsuit (referred to as the “Class Settlement Amount”). The total amount to be distributed to class members who can be located and who do not exclude themselves from the settlement will be the value of the Class Settlement Amount after deducting the following (the “Net Settlement Amount”): (a) settlement-administration costs not to exceed \$9,500.00; (b) class representative service award to Named Plaintiff not to exceed \$10,000.00 for his work and efforts in prosecuting this case, and for undertaking the risks of costs (in the event the outcome of this lawsuit was not favorable); (c) Class Counsel’s attorneys’ fees not to exceed \$286,412.50; (d) Class Counsel’s actual litigation costs and expenses as supported by declaration not to exceed \$10,000.00; and (f) payment of \$15,000.00 to the Labor and Workforce Development Agency. **Class Counsel’s attorneys’ fees and costs, and Named Plaintiff’s class representative service award, remain subject to Court approval.**

No portion of the Net Settlement Amount will be returned to Defendant under any circumstances.

7. How Much Will My Payment Be?

Your estimated share of the settlement is shown above and is based on the number of pay periods you were paid wages from Perdue Foods, LLC that included payment for overtime and/or double overtime wages during the Class Period as compared to the total pay periods all class members were paid overtime and/or double overtime wages in that same period. Based upon Defendant’s records, the number of pay periods you were paid overtime or double overtime wages is determined to be **. If this information appears correct, you do not need to do anything further to receive your settlement payment. If you disagree with the number of pay periods with payment for overtime and/or double overtime wages, see below (Question 9).

8. How Do I Get A Payment?

To qualify for payment, you need not do anything. The Settlement Administrator will mail you a check within about fifteen business days after the Court enters a judgment based on this settlement, but possibly later depending on whether there is any appeal of the judgment entered by the Court.

9. What If I Believe The Information Is Inaccurate?

If you believe the number of pay periods you were paid overtime and/or double overtime wages during the Class Period is inaccurate, you may dispute it by sending a letter to [REDACTED] [ADMINISTRATOR’S ADDRESS] no later than _____, 2020. Be sure to include your name, address, telephone number, last four digits of your Social Security Number, and a statement as to what and why you are disputing. Also attach a copy of any documentation you want to include to support your dispute.

10. What Am I Giving Up To Get A Settlement Payment?

Unless you request to be excluded from the settlement, you remain a part of the settlement class, and that means you cannot sue, continue to sue, or be part of any other lawsuit against Defendant for any legal claims arising during the Class Period that are based on the facts alleged by Named Plaintiffs in the lawsuit, or any claims that could have been brought under the facts and allegations made in the lawsuit. Specifically, you will be giving up or “releasing” the claims described below:

Release of Claims: After the Court has approved the settlement, each class member who has not submitted a

timely and valid request to be excluded from the settlement will be bound by the approval and judgment, and will thereby release, Perdue Foods, LLC, and its past, present and/or future, direct and/or indirect, officers, directors, employees, agents, representatives, partners, investors, shareholders, administrators, parent companies, partners, subsidiaries, affiliates, divisions, predecessors, successors, assigns, benefits plans, and joint venturers (“Released Parties”) from the following:

- a. All claims, including penalties, costs and attorneys’ fees related thereto, that could have been brought under the facts and allegations made in the operative First Amended Class and Representative Action Complaint, including claims for violation of Labor Code section 226, that accrued during the Class Period; and
- b. (b) all claims for penalties under the California Private Attorneys General Act, including costs and attorneys’ fees related thereto, that could have been brought under the facts and allegations made in the operative First Amended Class and Representative Action Complaint, including claims for violation of Labor Code section 226, that accrued during the Class Period (collectively, the “Released Claims”).

11. How Do I Exclude Myself From The Settlement?

To exclude yourself from the settlement (also referred to as “opt-out”), you must mail a letter to the Settlement Administrator saying that you want to be excluded from the *Jose Vasquez Ruiz v. Perdue Foods, LLC* settlement.

Be sure to include your name, address, telephone number, last four digits of your Social Security Number, and your signature. You must mail your exclusion letter postmarked no later than _____, 2020, to the Settlement Administrator at *****.

If you submit a timely and valid “opt-out” request, you will no longer be a member of the class and you will not receive any money from the settlement, or be able to object to the settlement, but you will not be legally bound by anything that happens in this lawsuit. You will keep any rights to sue (or continue to sue) Defendant in the future for the same legal claims made in this lawsuit, at your own expense.

12. If I Don’t Exclude Myself, Can I Sue Defendant Or Get Money From The Settlement?

If you do not exclude yourself from the settlement, you cannot sue Defendant for any of the claims that this settlement resolves. If you have a pending lawsuit against Defendant, speak to your lawyer in that case immediately. You may have to exclude yourself from this case to continue on with your own lawsuit. Remember, the exclusion deadline is _____, 2020.

Again, if you exclude yourself from this settlement, you cannot get money from this settlement.

13. How Do I Tell The Court That I Don’t Believe That The Settlement Is Fair?

If you are a class member and you do not exclude yourself from the settlement, you can object to the settlement if you believe that the settlement is unfair, or inadequate. You can give reasons why you think the Court should not approve the settlement. If you object and follow the procedures set out in this section, your objection will be considered.

If you decide to object to the proposed settlement, you must do so in writing. Upon the submission of your objection, you may then also appear at the final approval hearing for the settlement (see section 17 below for details as to when this hearing will take place), either in person or through an attorney at your own expense.

All objections must be signed by you and must include: (1) your full name, address, and telephone number; (2) a written statement of the basis for your objection; and (3) any copies of papers, briefs, or documents upon which the objection is based. You must mail your objection postmarked no later than _____, 2020, to the Settlement Administrator at *****.

14. What Is The Difference Between Objecting And Excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the class. Excluding yourself, on the other hand, is telling the Court that you don't want to be part of the class. If you exclude yourself, you have no basis to object because the case no longer affects you. However, if you file an objection, you will still receive settlement benefits under the settlement if it is approved by the Court.

15. Do I Have A Lawyer In This Case?

The Court decided that the law firms of Diversity Law Group and Polaris Law Group, which represent the Named Plaintiff, are also qualified to represent you and all class members. You will not be charged for these lawyers. These law firms are referred to as "Class Counsel." If you want to be represented by your own lawyer, you may hire one at your own expense.

16. How Will The Attorneys For The Class And The Class Representative Be Paid?

The attorneys for the Named Plaintiff and the class will be paid from the Class Settlement Amount. Class Counsel will ask for up to \$286,412.50 in attorneys' fees and for actual litigation costs incurred up to a maximum of \$10,000.00, the actual amount of which will be determined by the Court at the final approval hearing (see section 17 below for details as to when this hearing will take place). Class members (like you) do not have to pay the fees and costs of Class Counsel. **If you elect, however, to hire your own lawyer, you have to make your own arrangements to compensate your lawyer.**

If approved by the Court, a service payment for the Named Plaintiff of an amount up to \$10,000.00 will be paid from the Class Settlement Amount for his work and efforts in prosecuting this case, and for undertaking the risks of costs (in the event the outcome of this lawsuit was not favorable).

17. Notice Of Hearing On Final Approval And Objections To Class-Action Settlement.

The Court has preliminarily approved the settlement and will hold a final approval hearing to decide whether to give final approval to the settlement. This hearing will be held before the Honorable Patrick M. Broderick on _____, 2020, at ____ a.m., in Courtroom 16 of the Superior Court of California for the County of Sonoma, located at 600 Administration Drive, Santa Rosa, California 95403, to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the settlement. We do not know how long this decision will take. The final approval hearing may be continued without further notice. The Court may adjourn or continue the hearing from time to time, without further notification, as the Court may direct.

Once final approval is granted by the Court, the Court will enter judgment against Defendant, and all class members who have not requested exclusion will be deemed to have waived the Released Claims set forth above.

18. How Do I Get More Information?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by contacting Class Counsel.

19. What Is The Contact Information For The Court, Class Counsel, And Defendant's Counsel?

The addresses for the Court, Class Counsel, and Defendant's counsel are as follows:

COURT	CLASS COUNSEL	DEFENSE COUNSEL
Clerk of Court Sonoma County Superior Court 600 Administration Drive Santa Rosa, California 95403	DIVERSITY LAW GROUP, P.C. Larry W. Lee Kristen M. Agnew Nicholas Rosenthal 515 S. Figueroa Street, Suite 1250 Los Angeles, CA 90071 Telephone: (213) 488-6555 Fax: (213) 488-6554 POLARIS LAW GROUP William L. Marder 501 San Benito Street, Suite 200 Hollister, CA 95023 Telephone: (831) 531-4214 Fax: (831) 634-0333	OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C. Aaron H. Cole 400 S. Hope Street, Suite 1200 Los Angeles, CA 90071 Telephone: (213) 239-9800 Fax: (213) 239-9045 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C. Michael J. Nader 500 Capitol Mall, Suite 2500 Sacramento, CA 95814 Telephone: (916) 840-3150 Fax: (916) 840-3159

WHAT IF I HAVE QUESTIONS?

If you have any questions about the settlement, you may contact the Settlement Administrator:

Jose Vasquez Ruiz v. Perdue Foods, LLC
c/o Phoenix Class Action Administration Solutions
Address
City, CA, Zip
Toll-Free Phone Number: [insert]

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

PLEASE DO NOT CONTACT DEFENDANT, ITS MANAGERS, OR ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS.