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16
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18 on behalf of himself and others similarly situated
19
20 *[Additional counsel listed on the following page]*

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13
14 **FOR THE COUNTY OF STANISLAUS**

15 OLEGARIO HERNANDEZ, an individual
16 on behalf of himself and all others similarly
17 situated,

18 Plaintiff,

19 vs.

20 GROWER DIRECT NUT COMPANY,
21 INC. a California corporation; and DOES 1
22 through 50, inclusive,

23 Defendants.

Case No. CV-23-003518

Assigned for All Purposes To:
Hon. John R. Mayne

**DECLARATION OF ENOCH J. KIM IN
SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF PAGA
SETTLEMENT**

[filed concurrently with Plaintiff's Notice of
Motion and Motion; Declaration of Kimberly
Sutherland; and [Proposed] Order]

Hearing Information:
Date: April 7, 2026
Time: 8:30 a.m.
Dept.: 21

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9 on behalf of himself and others similarly situated

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1 Plaintiff filed a request for dismissal of class claims without prejudice, which the Court granted on
2 September 10, 2025.

3 6. Plaintiff alleged claims for civil penalties under PAGA for unpaid minimum wages and
4 overtime, failure to provide meal and rest breaks, failure to provide accurate wage statements,
5 failure to reimburse business expenses, and failure to pay all wages due upon termination.

6 7. Prior to mediation, as part of the informal discovery process, Defendant provided
7 Plaintiff with all of the relevant written policies and procedures, an accurate list of all non-exempt
8 hourly positions, descriptions of various pay codes, and samples of time records and pay records
9 of the Aggrieved Employees. Defendant further furnished Plaintiff with accurate data points for the
10 PAGA Period, showing the number of Aggrieved Employees and the number of pay periods
11 worked by Aggrieved Employees, representing a 39.8% sampling of time and pay records. PAGA
12 Counsel was informed by a data sample produced by Defendant. Accordingly, the data sample is
13 statistically reliable, and the information and data exchanged prior to and during mediation and
14 settlement negotiations were sufficient to reliably assess the merits of the Parties' respective
15 positions, to compromise the issues on a fair and equitable basis, and to devise a formula for
16 distribution of civil penalties among the Aggrieved Employees that took into consideration the
17 strength of the PAGA claims.

18 **SETTLEMENT NEGOTIATIONS AND TERMS**

19 8. On August 15, 2024, the Parties attended a full-day mediation with Mr. Brandon
20 McKelvey, a highly respected and experienced mediator in employment representative action
21 cases. The Parties agreed to the general terms for settling this Action that were first memorialized
22 in a Memorandum of Understanding and thereafter in the long-form PAGA Representative Action
23 Settlement and Release Agreement now before the Court for approval.

24 9. The Parties believe and agree that the Settlement provides for a fair, adequate, and
25 reasonable resolution of the Action and have arrived at the Settlement after extensive, arm's length
26 negotiations, considering all relevant factors, present and potential. PAGA Counsel believes that
27 the Settlement confers real benefits upon the Aggrieved Employees and the State and that an
28 independent review of the Settlement by the Court in the approval process will confirm this

1 conclusion.

2 10. For purposes of the Settlement, Aggrieved Employees are defined as: “means all current
3 and former hourly paid or nonexempt employees who worked for Defendant within the State of
4 California at any time during the PAGA Period,” which is “time period from August 18, 2022
5 through August 26, 2024.” Based on its records, Defendant estimates that there are approximately
6 369 Aggrieved Employees who worked a total of 10,902 Pay Periods during the PAGA Period.

7 11. Pursuant to the Settlement Agreement, Defendant will pay a maximum, non-reversionary
8 settlement amount of \$163,500.00 in full and final settlement of all claims alleged in the Action
9 (“Gross Settlement Amount”). The Gross Settlement Amount will be allocated as follows, pending
10 Court approval:

- 11 a) Attorneys’ fees in the amount not to exceed 1/3 (One-Third) of the Gross
12 Settlement Amount, which is currently estimated to be **\$54,500.00** (“PAGA
13 Counsel Fees Payment”), and litigation costs of **\$15,286.95** (“PAGA Counsel
14 Litigation Expenses Payment”);
- 15 b) Administration costs of no more than **\$6,271.67** to be paid to the Administrator
16 (“Administrator’s Expenses”), Apex Class Action (“Apex”), for sending notices
17 and for calculating settlement shares and preparing all checks and mailings; and
- 18 c) The remainder of the Gross Settlement Amount (the “Net Settlement Amount”)
19 after deducting the above costs is approximately **\$87,441.38** and shall be
20 designated as PAGA Penalties Payment to be allocated between the LWDA and
21 the Aggrieved Employees pursuant to Labor Code section 2699(i), with 75%
22 (\$65,581.04) being paid to the LWDA (the “LWDA PAGA Payment”) and 25%
23 (\$21,860.34) being paid to the Aggrieved Employees on a pro-rata basis
24 (“Individual PAGA Payments”).

25 12. From PAGA Counsel’s review of the strengths and weaknesses of the case and the risks
26 and delays posed by further litigation, PAGA Counsel believes that the recovery for the State and
27 Aggrieved Employees is fair and reasonable. Further, and based on the settlement negotiations,
28 which were extensive and conducted in good faith and at arm’s length between attorneys with

1 substantial experience litigating PAGA actions, the Settlement was the product of a non-collusive
2 settlement process in which the parties were forced to make significant compromises in the interest
3 of reaching a full and complete settlement of the lawsuit.

4 **THE STRENGTH OF PLAINTIFF'S CASE**
5 **IN LIGHT OF THE SETTLEMENT AMOUNT**

6 13. Plaintiff alleges that Defendant violated various provisions of California law and seeks
7 civil penalties for the foregoing violations pursuant to Labor Code § 2699 *et seq.* Under Labor Code
8 § 2699, specifically, Plaintiff alleged that Defendant:

- 9 • Failed to pay the Aggrieved Employees minimum wages and overtime for the work that
10 Aggrieved Employees were consistently required to perform during “pre-shift” and
11 “post-shift” hours in excess of their shift in a given workday. Specifically, Aggrieved
12 Employees were required to wash their hands before clocking in and had to continue to
13 work after clocking out for the day. Furthermore, Defendant would automatically deduct
14 30 minutes of wages from Plaintiff and Aggrieved Employees for alleged meal periods
15 which Plaintiff and Aggrieved Employees were continuously denied.
- 16 • Failed to compensate Plaintiff and Aggrieved Employees at the required and correct rate
17 for overtime work performed by Plaintiff and Aggrieved Employees by failing to
18 incorporate incentive pay into the regular rate of pay used to calculate overtime pay.
- 19 • Failed to incorporate all remunerations, including shift differentials, nondiscretionary
20 commissions, incentive pay, and/or nondiscretionary bonuses, into the calculation of the
21 regular rate of pay for purposes of calculating sick pay and vacation pay.
- 22 • Failed to provide the Aggrieved Employees with compliant meal periods and rest
23 periods because they were frequently interrupted during meal periods, and regularly had
24 to work through their meal periods and rest periods. Furthermore, Defendant failed to
25 compensate the Aggrieved Employees for each meal period not provided or
26 inadequately provided, as required under Labor Code § 226.7.
- 27 • Failed to provide accurate itemized wage statements in writing.
- 28 • Failed to reimburse the Aggrieved Employees for business expenses, including the costs

1 to clean their uniforms that Plaintiff and the Aggrieved Employees were required to do
2 to perform duties under Defendants' employment.

- 3 • Failed to maintain accurate time and wage records for Plaintiff and Aggrieved
4 Employees as required by Labor Code § 1174.
- 5 • Failed to pay Aggrieved Employees all wages due and certain at the time of termination
6 or within seventy-two (72) hours of resignation.

7 14. Defendant denied and continue to deny all of the claims made by Plaintiff in this Action
8 and contend that they acted at all relevant times in conformance with the law. Defendant contends
9 that Plaintiff and Aggrieved Employees were paid for all hours worked, that Defendant prohibited
10 Plaintiff and Aggrieved Employees from working beyond their scheduled shifts, that any alleged
11 off-the-clock work was performed without Defendant's knowledge and was de minimis, that any
12 bonuses or commissions paid to Aggrieved Employees were discretionary in nature and not
13 includable for purposes of calculating the regular rate of pay, and that Defendant paid wages at the
14 proper rates; that Defendant provided lawfully compliant meal and rest periods (and in fact
15 provided longer breaks than required by law) and that any deviations were at the voluntary election
16 of Plaintiff and/or Aggrieved Employees and not at the request of Defendant or due to work
17 requirements; that Defendant paid all wages due on a timely basis and using Labor Code compliant
18 instruments; that Defendant's wage statements complied with the law; and that neither Plaintiff nor
19 any Aggrieved Employees incurred reasonable business related expenses for which they were not
20 reimbursed. Defendant further contends that their above defenses are supported by their written
21 policies applicable to Plaintiff and Aggrieved Employees. As a result, PAGA Counsel had to
22 appropriately discount the amount recoverable from Defendant in a settlement.

23 **PAGA Penalties**

24 15. The Private Attorneys General Act, Labor Code § 2699 *et seq.*, allows Plaintiffs to obtain
25 civil penalties on behalf of themselves and other aggrieved employees for Defendants' violation of
26 any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil penalties are
27 provided in the statute, those civil penalties are recoverable; where no civil penalties are
28 recoverable, Labor Code § 2699(f) establishes civil penalties of one hundred dollars (\$100) for each

1 aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each
2 aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code §
3 2699(i), seventy-five (75) percent of the penalties recovered must be allocated to the LWDA, with
4 the remaining twenty-five (25) percent allocated to the affected employees. However, under *Amaral*
5 *v. Cintas*, 163 Cal. App. 4th 1157, 1207-09 (2008) the Court held that a lower penalty amount of
6 \$100 per violation applies in the absence of a determination that a violation actually occurred.

7 16. Plaintiff estimated that the maximum potential exposure on the PAGA claim is
8 \$333,100.00 calculated by multiplying the total number of PAGA Pay Periods (3,331) by \$100 per
9 violation. Plaintiff's calculation of the total potential exposure on the PAGA claim was based on
10 one PAGA penalty per pay period (i.e., Plaintiff did not stack the PAGA penalties in their damages
11 calculation).

12 17. Case law supports the notion that it is inappropriate to "stack" penalties for multiple
13 violations, particularly when those violations all stem from the same alleged "injury" *Aguirre v.*
14 *Genesis Logistics*, 2015 U.S. Dist. LEXIS 78748 (citing *Villacres v. ABM Indus., Inc.*, 189
15 Cal.App.4th 562, 577 (2010)). ("One injury gives rise to only one claim for relief...The violation
16 of one primary right constitutes a single cause of action."; *Crowley v. Kattelman*, 8 Cal. 4th 666,
17 681-82) (1994); *Li v. A Perfect Day Franchise, Inc.*, 2012 WL 2236752, *17 (N.D. Cal.2012)
18 ("There is no authority that "would permit double recovery of essentially the same penalties.")

19 18. PAGA penalties are not mandatory but permissive. Labor Code § 2699(e)(2) states that
20 "a court may award a lesser amount than the maximum civil penalty amount specified by this part
21 if, based on the facts and circumstances of the particular case, to do otherwise would result in an
22 award that is unjust, arbitrary and oppressive, or confiscatory." (See *Thurman v. Bayshore* (2012)
23 203 Cal. App. 4th 1112 (substantially reducing PAGA penalties by 30% under this provision)
24 (emphasis added); see also *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 529 (2018)
25 (affirming penalty reduction of 90% for practice that resulted in meal periods occasionally starting
26 minutes after the fifth hour of work); *Sanchez v. McDonald's Corp.* (2017), LASC Case No. No.
27 BC 499888 (98% reduction from \$41 million to \$775,000); *Ghrdilyan v. RJ Financial* (2012),
28 LASC Case No. BC430633 (94% reduction from \$5.4 million to \$325,000); *Fleming v. Covidien*,

1 Inc. (2011), USDC Case No. ED CV 10-01487-RGK (OPx) (87% reduction from \$2.8 million to
2 \$375,000).). In departing from the \$100/pay period calculation to arrive at the \$78,275.00 Gross
3 Settlement Amount in this case, Plaintiff considered what the realistic potential exposure could be
4 and why the Court may reduce any eventual recovery at its discretion, including Defendant's
5 defenses to the claims and the potential manageability issues with PAGA claims at trial. Based on
6 those considerations, Plaintiff applied a discount of 70% to the maximum potential exposure (which
7 equates to \$30 penalty per pay period) to get a realistic potential exposure of \$99,930.00 (3,331
8 pay periods x \$30 penalty per pay period).

9 19. The Gross Settlement Amount of \$78,275.00 is approximately 78% of the realistic
10 potential exposure of \$99,930.00. PAGA Counsel submits that this is an excellent result for the
11 State and Aggrieved Employees in light of the strengths and weaknesses of the case and the risks
12 and delays posed by further litigation.

13 **REQUEST FOR ATTORNEYS' FEES AND COSTS**

14 20. Pursuant to the Settlement Agreement, PAGA Counsel is requesting an award of
15 attorneys' fees in the amount of **\$54,500.00** and an award of litigation costs to PAGA Counsel of
16 **\$15,286.95**. PAGA Counsel's cost log for this matter is attached hereto as **Exhibit 3**.

17 21. This request is fair, reasonable, and adequate to compensate PAGA Counsel for the
18 substantial work they have put into this case and, moreover, the risk they assumed by taking it in
19 the first place. The attorneys' fees award is intended to reimburse PAGA Counsel for all
20 uncompensated work that they have already done and for all the work they will continue to do in
21 carrying out and overseeing the notification to the Aggrieved Employees, communicating with
22 Aggrieved Employees regarding their claims, and assisting in the administration of the Settlement
23 if it is approved.

24 22. Throughout this case, PAGA Counsel have borne, and continue to bear, the entire risk
25 and cost of litigation associated with this Action on a purely contingency basis. As a result, PAGA
26 Counsel have yet to receive any compensation for the amount of time and money invested in the
27 case to date.

28 23. Contingent-fee cases present the very real risk of working hundreds if not thousands of

1 hours that may never be entirely compensated. Moreover, while the case is being litigated, counsel
2 must pay overhead (salaries, rent, etc.), provide for their own expenses, and in most cases pay the
3 out-of-pocket expenses incurred on the plaintiff's behalf. And the prospect of a court-awarded fee
4 does not greatly reduce the risk posed by these cases. In many cases, the prospect is nothing more
5 than a potential that never materializes. First, you must win the case to get a court-awarded fee;
6 even those cases that seem strongest at the onset can be lost and sometimes are lost. Second, there
7 are always the pitfalls and unforeseen obstacles that arise along the way, such as settlement offers
8 that the client may accept without ensuring that we receive a reasonable fee or changes in the law
9 that substantially affect the merits of the case, or other uncertainties involving the client. Finally,
10 there is the great risk inherent in advancing tens if not hundreds of thousands of dollars in out-of-
11 pocket expenses. If that money were to be invested in some sort of financial investment, one would
12 expect a reasonable rate of return on that investment. Here, however, the best we can hope to
13 recover is our money, and then only if we are substantially successful; if we are not, all or part of
14 this "investment" can be lost.

15 24. PAGA Counsel is well acquainted with the contingent-fee market throughout California,
16 particularly as it pertains to PAGA and class action litigation. PAGA Counsel has negotiated
17 numerous contingency-fee agreements with plaintiffs, both as individuals and as representatives in
18 class-action and PAGA suits. Many of those agreements required that counsel receive a fee under
19 certain scenarios that exceeds one-third of the recovery. PAGA Counsel's recent attorneys' fees
20 awards in similar wage-and-hour class and PAGA actions have been 35% of the recovery.

21 25. PAGA counsel in contingency-fee cases have received attorneys' fees up to 40% of the
22 gross settlement amount. See *Crandall v. U-Haul* (Los Angeles County Super. Ct., Case No.
23 BC178775), the Honorable Steven Czuleger awarded a 40% attorney fee request in an overtime-
24 exemption class action; in *Bushnell v. Cremer, Inc.* (Orange County Super. Ct., Case No. 657778),
25 the Honorable Donald E. Smallwood awarded attorneys' fees in the amount of 38%; in *Abzug v.*
26 *Kerkorian* CA000981 (Los Angeles County Super. Ct., November 1990), the Honorable R. William
27 Schoettler awarded a 45% fee; in *Haitz v. Meyer, et al.*, Alameda County Super. Court, 8-20-1990
28 No. 572968-3, the court awarded a 40% fee; in *Elliott v. Clothestime* (Orange County Super. Ct.,

1 Case No. 01-CC00333) the Honorable Jonathan Cannon awarded a 40% fee in a wage-and-hour
2 class action which had not yet proceeded to the class certification stage; in both Rippee v. Boston
3 Market Corporation, Case No.: 05 CV 1359 BTM (JMA) and Barile v. Boston Market Corporation,
4 Case No.: 05 CV 1360 BTM (JMA), the Honorable Judge Barry T. Moskowitz awarded a 40% fee
5 to plaintiffs' counsel in wage-and-hour class actions that had not proceeded to the class-certification
6 stage.

7 26. Moreover, PAGA Counsel spent substantial time on this matter. Aside from drafting the
8 initial complaint, PAGA Counsel conducted informal discovery, reviewed and analyzed all of the
9 relevant written policies and procedures, a list of all non-exempt hourly positions, descriptions of
10 various pay codes, and samples of time records and pay records of the Aggrieved Employees, and
11 the data points for the PAGA Period, showing the number of Aggrieved Employees and the number
12 of pay periods worked by Aggrieved Employees provided by Defendant at the mediation, engaged
13 in meet and confer efforts with Defendant, drafted and revised the settlement agreement, and
14 drafted this Motion. PAGA Counsel from D.Law, Inc. conservatively estimates that it invested at
15 least 125.7 hours of attorney time in this matter. My current billing rate is \$1,045.00 (17 years out
16 of law school, Laffey Matix rate of \$948.00), and I spent approximately 12.8 hours in this matter
17 with a lodestar amount of \$13,376.00. Attorney Natalie Haritounian's current billing rate is \$925.00
18 (9 years out of law school, Laffey Matrix rate of \$948.00), and she spent approximately 40.2 hours
19 in this matter with a lodestar amount of \$37,185.00. Attorney Antonia McKee's current billing rate
20 is \$585.00 (5 years out of law school, Laffey Matrix rate of \$581.00), and she spent approximately
21 34.7 hours in this matter with a lodestar amount of \$20,299.50. Attorney Matthew Carraher's
22 current billing rate is \$475.00 (4 years out of laws school, Laffey Matrix rate of \$473.00), and he
23 spent approximately 18.9 hours in this matter with a lodestar amount of \$8,977.50. Attorney Jonas
24 Agle's current billing rate is \$475.00 (3 years out of laws school, Laffey Matrix rate of \$473.00),
25 and he spent approximately 1.1 hours in this matter with a lodestar amount of \$522.50. Certified
26 paralegals spent approximately 18 hours in this matter with a lodestar amount of \$5,45.00. The
27 total lodestar for PAGA Counsel from D.Law, Inc. is \$85,905.50, which is above the fee request of
28 \$54,500.00 and requires no multiplier.

1 27. In light of the foregoing, the fee request in an amount equal to one-third of the settlement
2 in this case is well within the bounds that have been established by the above-cited authority.

3 **EXPERIENCE AND VIEWS OF COUNSEL**

4 28. D.Law (formerly known as Davtyan Law Firm) prosecutes wage and hour cases,
5 including class actions and PAGA actions on behalf of employees and others who have had their
6 rights violated. D.Law, either on its own or with co-counsel, is currently serving as plaintiffs'
7 counsel of record in numerous wage and hour and employment class action and PAGA action cases
8 pending in both state and federal court.

9 29. D.Law is well-qualified and has ample experience, knowledge, and resources to act as
10 counsel and represent Plaintiff and the Allegedly Aggrieved Employees in this action. Our practice
11 is exclusively focused on employment matters and representing plaintiffs in wage and hour actions
12 with the same or similar causes of actions brought forth in the matter pending before this Court.

13 30. D.Law has litigated and successfully resolved many wage and hour class action cases
14 involving failure to pay wages and derivative Labor Code claims and penalties. See e.g. De La Rosa
15 v. The Coca Cola Company et al. (Superior Court of California in Napa, 17CV000787), Harvey v.
16 Bed Bath & Beyond of California Limited Liability Company (Superior Court of California in
17 Alameda, RG17885153), Paredes v. Bottling Group LLC et. al. (Superior Court of California in
18 Kern), Ramirez v. Harris Ranch Beef Company (Superior Court of California in Fresno,
19 16CECG04103), Gates v. Gate Gourmet, Inc. et. al. (Southern District of California, 16-cv-01084-
20 L-AGS), Hargrave v. Antelope Valley Hospital (Superior Court of California in Los Angeles,
21 BC663252), Ramirez v. Milton Roy et. al. (Superior Court of California in Los Angeles, BC 632
22 276), Hawkins v. AvalonBay Communities (Superior Court of California in Santa Clara,
23 17CV316492), Jones Tharpe et al. v. Sprint Corporation et al. (Superior Court of California in Los
24 Angeles, BC644645), Ortega et al. v. Nestle Waters North America, Inc. et al. (Superior Court of
25 California in Los Angeles, BC623610), Schultz v. Jimbo's Natural Family, Inc. (Superior Court of
26 California in San Diego, 37-2017-00022348-CUE-OE-CTL), Ambrose v. Victor Valley Global et
27 al. (Superior Court of California in San Bernardino, CIVDS1709289), Puerta-Gildardo v. Real
28 Time Staffing Services LLC et. al. (Superior Court of California in Los Angeles, BC565445),

1 Vargo v. Pregis Innovative Packaging LLC (Superior Court of California in Tulare, 270836),
2 Conlin v. Aegis Senior Communities LLC (Northern District of California, 17-cv-05534-LHK),
3 Galarza v. Kloeckner Metals Corporation (Central District of California, 2:17-cv-04910-FMO),
4 Estes v. L3 Technologies, Inc. et al. (Southern District of California, 3:17-cv-02356-H-JMA),
5 Rowser v. Trunk Club, Inc. (Central District of California, 2:17-cv-05064-DSF-RAO), Leach v.
6 The Claremont Colleges, Inc. (Superior Court of California in Los Angeles, BC686451), Vaesau
7 v. PCT Enterprises, Inc. dba Precision Cabinets (Superior Court of California, County of Contra
8 Costa MSC18-02404), Terry v. TF Louderback, Inc. dba Bay Area Beverage Company (Superior
9 Court of the State of California, County of Contra Costa, MSC18-00859), Roach v. Westcare
10 California, Inc. (Superior Court of California in Kern County, BCV-17-102367-SDS), Patton v.
11 Church & Dwight Co., Inc. (Central District of California, EDCV 18-903-MWF (KKx)), Juarez v.
12 ISL Employees, Inc. (Superior Court of California in Madera, MCV074787), Ferraro v. USC
13 Verdugo Hill s Hospital, et al. (Superior Court of California in Los Angeles, 18STCV09463), Ford
14 v. Account Control Technology, Inc., et al. (Superior Court of California in Los Angeles,
15 19STCV09369), Ornelas v. iStorage, et al. (Superior Court of California in San Francisco, CGC-
16 18-571421), Martinez v. Ronpak, Inc. (Superior Court of California in Riverside, RIC1901307),
17 Barrera et al. v. Exclusive Wireless, Inc. (Superior Court of California in Stanislaus, 9000687),
18 Barajas v. Mancha Development Company LLC (Superior Court of California in Orange County,
19 30-2018-00974707-CU-OE-CXC), Prado v. IMAX Corporation dba IMAC Worldwide Home
20 (Superior Court of California in San Bernardino, CIVDS1820265), Rodriguez v. ND Industries,
21 Inc. (Superior Court of California in Los Angeles, 19STCV38096), Singletary v. Motel 6 Operating
22 LP, et al. (Southern District of California, 3:20-cv-0270-LAB-AHG), Quizon v. CF Watsonville
23 East, LLC, et al. (Superior Court of California in Santa Cruz, 20CV01868), Stephenson v.
24 Bakersfield Dodge, Inc. (Superior Court of California in Kern, BCV-20-102693), Bacerra v. Hugo
25 Boss Retail, Inc. (Superior Court of California in San Diego, 37-2021-00002933-CU-OE-CTL),
26 Walker v. Ariat International, Inc. (Superior Court of California in Alameda, HG19026439), Orr v.
27 Petvet Care Centers (California) Inc. (Superior Court of California in Santa Clara, 19CV354063),
28 Jimenez v. OEC Distribution Services, Inc. (Superior Court of California in San Bernardino,

1 CIVDS1915743), Virdi v. Absolute Security International (Superior Court of California in San
2 Bernardino, CIVDS 1909589), Raj v. First Transit, Inc (Superior Court of California in Sacramento,
3 34-2021-00295895-CU-OE-GDS), Marchbanks v. Torrid Administration, Inc. (Superior Court of
4 California in San Diego, 37-2020-00008179-CU-OE-NC), among others.

5 31. I am Senior Counsel at D.Law where I manage the class action and PAGA settlement
6 department. I was admitted to the California Bar in December 2008. I received my J.D. from
7 Pepperdine University School of Law and B.S. from University of Southern California. Since
8 graduating from law school, I have dedicated virtually my entire career on the practice of
9 employment law. I have practiced employment law from the plaintiff's side, defense side, and from
10 an in-house position. I have significant experience specifically working on wage and hour class
11 actions from the plaintiff's side as well as the defense side, with the majority of my experience
12 coming from the plaintiff's side.

13 32. Senior Counsel Natalie Haritounian received her Bachelor of Arts in political science
14 from the University of California, Los Angeles, in 2014. She then earned her Juris Doctorate from
15 the University of Southern California, Gould School of Law in May of 2018. Upon graduating from
16 law school, she has exclusively focused my practice on representing employees including in wage-
17 and-hour class actions. She is experienced and qualified to evaluate the class and representative
18 claims, having obtained six and seven figure settlements against a range of defendants, having been
19 appointed as class counsel for dozens of other putative wage-and-hour class-action lawsuits
20 pending in various state and federal jurisdictions throughout California. She is experienced and
21 qualified to evaluate settlement versus trial on a fully informed basis, and to evaluate the viability
22 of the defenses.

23 33. The collective experience of the D.Law attorneys in litigating employment wage and
24 hour matters has been integral in identifying legal issues, evaluating the strengths and weaknesses
25 of a case, and generally negotiating fair and reasonable class and representative action settlements.
26 This experience is helpful in assessing the reasonableness of settlements such as the one at issue
27 here. Based on our experience, PAGA Counsel concluded that this lawsuit could not have been
28 settled on better terms than provided under the present settlement agreement given the financial

1 limitations of Defendants.

2 34. In sum, PAGA Counsel are experienced in employment class action and PAGA litigation
3 and are adequate to represent the Aggrieved Employees in the instant action.

4 **SUMMARY**

5 35. The parties agreed to use Apex as the third-party settlement administrator in this case.
6 Apex will be responsible for updating the addresses for the Aggrieved Employees, mailing the
7 Notice of PAGA Settlement and Release of Claims (“Notice of Settlement”) and calculating and
8 distributing the settlement checks, among other duties. Apex capped its fees at \$6,271.67 for
9 administering the Settlement, and based on PAGA Counsel’s experience in other class and PAGA
10 settlements, Apex’s costs for administering this Settlement are fair and reasonable. The Notice of
11 Settlement is attached hereto as **Exhibit 4**.

12 36. On January 30, 2026, my office submitted the proposed Settlement and this Motion to
13 the LWDA. Attached hereto as **Exhibit 5** is a true and correct copy of the confirmatory email my
14 office received from the LWDA after submission of the Settlement and Motion.

15 37. I am not aware of any class or other representative action against Defendant in any
16 other court that asserts claims similar to those alleged in the action being settled.

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

19 Executed this 30th day of January, 2026, at Glendale, California.

20 

21 _____
Enoch J. Kim

EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Olegario Hernandez (“Plaintiff”) and defendant Grower Direct Nut Company, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1 “Action” means Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant, captioned *Olegario Hernandez v. Grower Direct Nut Company, Inc., et al.* (Case No.: CV-23-003518) initiated on June 26, 2023, pending in Superior Court of the State of California, County of Stanislaus.
- 1.2 “Administrator” means Apex Class Action, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4 “Aggrieved Employee” means a person employed by Defendant and classified as a non-exempt employee who worked for Defendant in California during the PAGA Period.
- 1.5 “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number and number of PAGA Pay Periods.
- 1.6 “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces and direct contact by the Administrator with Aggrieved Employees.
- 1.7 “Aggrieved Employees’ Notice” shall mean the Notice of Settlement and Approval, a sample of which is attached hereto as Exhibit A. The Aggrieved Employees’ Notice shall further contain (i) an Aggrieved Employee’s first and last name, (ii) last known address, (iii) employee identification number, if applicable, (iv) the Aggrieved Employee’s individual pay periods, and (v) the Aggrieved Employee’s individual share of the Aggrieved Employees’ payment.
- 1.8 “Court” means the Superior Court of California, County of Stanislaus.
- 1.9 “Defense Counsel” means Stacy Henderson and Raquel Hatfield of Henderson Hatfield, A Professional Corporation.

- 1.10 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final.
- 1.11 “Gross Settlement Amount” means \$163,500.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment and the Administrator’s Expenses Payment.
- 1.12 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.13 “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.14 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subdivision (i).
- 1.15 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).
- 1.16 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.17 “PAGA Counsel” means David Yeremian of David Yeremian & Associates, Inc. and Natalie Haritounian of D.Law, Inc., the attorneys representing the Plaintiff in the Action.
- 1.18 “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.19 “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.20 “PAGA Period” means the period from June 26, 2022 to October 17, 2024, or the date on which the number of pay periods amounts to 11,992.
- 1.21 “PAGA” means the Private Attorneys General Act (Lab. Code, § 2698. et seq.).

- 1.22 “PAGA Notice” means Plaintiff’s June 26, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).
- 1.23 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% (\$20,682.08) to the Aggrieved Employees and the 75% (\$62,046.25) to LWDA in settlement of PAGA claims.
- 1.24 “Plaintiff” mean Olegario Hernandez, the named plaintiff in the Action.
- 1.25 “Approval Order” means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.26 “Released PAGA Claims” means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.27 “Released Parties” means Defendant and all of its past present and future subsidiaries, dbas, parents, divisions, related entities, joint venturers, and any other entities that could be considered to have jointly employed the PAGA Aggrieved Employees, as well as each of their respective owners, co-employers, joint employers, agents, officers, directors, stockholders, shareholders, investors, members, principals, subsidiaries, affiliates, partners, predecessors, successors, assigns, insurers, reinsurers, employees, attorneys, agents, heirs, estates, executors, spouses, associates, representatives, administrators, fiduciaries, trustees, accountants, auditors, company-sponsored employee benefit plans of any nature, and all other legal entities affiliated with the foregoing.
- 1.28 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.29 “Defendant” means named Defendant Grower Direct Nut Company, Inc.

2. RECITALS.

- 2.1 On June 26, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for failure to pay minimum wages, failure to pay overtime wages, failure to provide meal and rest breaks or to pay the required premiums for non-complaint meal and rest breaks, failure to provide accurate itemized wage statements, failing to timely pay wages during employment and upon separation, failure to keep required payroll records and violation of Business and Professions Code §17200. On August 31, 2023, Plaintiff filed a First Amended Complaint alleging causes of action against Defendant for civil penalties under the California Private Attorneys General Act (“PAGA”). Within 30 days upon execution of this agreement, Plaintiff intends on filing a request for dismissal of the class claims without prejudice as well as a Second Amended Complaint which will remove all class claims. The Second Amended Complaint will be the operative complaint in the Action (the “Operative Complaint”). Defendant denies the allegations in the Operative Complaint, denies any

failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

- 2.2 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3 On August 15, 2024, the Parties participated in an all-day mediation presided over by Brandon McKelvey which led to this Agreement to settle the Action.
- 2.4 Prior to mediation, Plaintiff obtained, through informal discovery, pertinent payroll, timekeeping, and other data.
- 2.5 The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. **MONETARY TERMS.**

- 3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$163,500.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
 - 3.2.1 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third, which is currently estimated to be \$54,500.00, and PAGA Counsel Litigation Expenses Payment of not more than \$20,000.00. Defendant will not oppose requests for Court approval of these payments provided that Plaintiff and PAGA Counsel are in full compliance with the terms and conditions of this Agreement, and further provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. In the event the Court reduces or does not approve the requested PAGA Counsel Fees Payment and/or PAGA Counsel Litigation Expenses Payment, PAGA Counsel reserve their right to appeal such order, however, Plaintiff or PAGA Counsel will not request or demand an increase to the Gross Settlement Amount on that basis. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel

arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2 To the Administrator: An Administrator Expenses Payment not to exceed \$6,271.67 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$6,271.67, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.3 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$82,728.33 to be paid from the Gross Settlement Amount, with 75% (\$62,046.25) allocated to the LWDA PAGA Payment and 25% (\$20,682.08) allocated to the Individual PAGA Payments.

3.2.3.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$20,682.08) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.3.2 If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Aggrieved Employee Pay Periods. Based on a review of its records, as of Mediation on August 15, 2024, Defendant estimated there were approximately 369 Aggrieved Employees who worked approximately 10,902 of PAGA Pay Periods.

4.2 Aggrieved Employee Data. Within 15 days of execution of this Agreement, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this

Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. The Parties and their Counsel will expeditiously use best efforts, in good faith, to resolve any issues related to missing or omitted Aggrieved Employee Data.

- 4.3 Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 14 days after the Effective Date.
- 4.4 Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.
 - 4.4.1 The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
 - 4.4.2 The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose remailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.
 - 4.4.3 For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to CASA of Stanislaus County.
 - 4.4.4 The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff on behalf of himself, the State of California, and all Aggrieved Employees, will release claims against all Released Parties as follows:

5.1 **Release by Aggrieved Employees:** All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present spouses, children, representatives, agents, attorneys, heirs, administrators, trustees, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, reasonably could have been alleged, and/or that arise from, are attributable to and/or related to the facts and/or allegations asserted in the Operative Complaint and/or the Labor Code violations alleged in the PAGA Notice, including, but not limited to, any and all claims involving (a) any failure to pay minimum wages and failure to pay at the appropriate rate; (b) failure to pay overtime wages and failure to pay at the appropriate rate; (c) failure to provide meal periods (including failure to pay meal period premiums and failure to pay at the appropriate rate); (d) failure to provide rest periods (including failure to pay rest period premiums and failure to pay at the appropriate rate); (e) failure to provide accurate itemized wage statements (based on both direct and derivative theories of liability); (f) failure to pay wages during employment and/or upon separation; (g) failure to reimburse business expenses incurred; (h) failure to provide paid sick leave or pay paid sick leave at the appropriate legal rate; and (g) violation of Business & Professions Code 17200 et seq.

6. **MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.** The Parties agree to jointly prepare and file an application or motion for approval of this Settlement as set forth below.

6.1 **Plaintiff's Responsibilities.** Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code section 2699, subdivision (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Lab. Code, §2699, subd. (l)(1)), this Agreement (Lab. Code, § 2699, subd. (l)(2)); (iv) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. Defense Counsel shall be given the opportunity to review and revise the

foregoing documents a minimum of 15 days prior to the documents being submitted to the Court. The Parties and their Counsel shall work together in good faith to resolve any disputes regarding the terms of the documents prior to submittal to the Court.

- 6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement within a reasonable period of time after October 14, 2024, the projected end date of the PAGA Period, and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected Apex Class Action to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number. The Administrator shall use Defendant's Employer Identification Number for purposes of calculating payroll tax withholdings, to the extent applicable, and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. **AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR CLAUSE** Based on its records, Defendant estimates that, as of the Mediation on August 15, 2024, there were

approximately 369 Aggrieved Employees who worked approximately 10,902 Pay Periods. The Parties understand and agree that the number of Pay Periods has continued to increase since Mediation. If the total number of Pay Periods increases during the PAGA Period by more than 10% (1,090 Pay Periods), then the Gross Settlement Amount will be increased proportionally by the number of Pay Periods worked in excess of 10%. For example, if the total Pay periods increase by 15%, then the Gross Settlement Amount will be increased by 5%. Alternatively, if the total Pay Periods increases by more than 10%, Defendants may elect to change the end of the date of the PAGA Period so that the total Pay Periods covered by the settlement does not exceed 10% above 10,902 Pay Periods.

9. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters and (iii) addressing such post-Judgment matters as are permitted by law.

10. **ADDITIONAL PROVISIONS.**

- 10.1 **No Admission of Liability or Representative Manageability for Other Purposes.** This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint or PAGA Notice have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 10.2 **Integrated Agreement.** Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants or inducements made to or by any Party.
- 10.3 **Attorney Authorization.** Plaintiff and Defendant separately warrant and represent that they have authorized PAGA Counsel and Defense Counsel, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.4 **Cooperation.** The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and

supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

- 10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action or right released and discharged by the Party in this Settlement.
- 10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11 Confidentiality. To the extent permitted by law, all agreements made and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 10.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute or California Rules of Court rule. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destruction, of Aggrieved Employee Data.

- 10.13 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.14 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

David Yeremian & Associates, Inc.
David Yeremian
david@yeremianlaw.com
880 E. Broadway
Glendale, CA 91205
Telephone: (818) 962-6465
Attorneys for Plaintiff Olegario Hernandez

D.Law, Inc.
Emil Davtyan
emil@d.law
Natalie Haritoonian
n.haritoonian@d.law
880 E. Broadway
Glendale, CA 91205
Telephone: (818) 962-6465
Attorneys for Plaintiff Olegario Hernandez

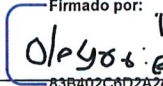
To Defendant:

Henderson Hatfield, A Professional Corporation
Stacy Henderson
stacy@hendersonhatfield.com
Raquel Hatfield
raquel@hendersonhatfield.com
1101 15th Street
Modesto, CA 95354
Telephone: (209) 599-5003
Attorneys for Defendant Grower Direct Nut Company, Inc.

10.16 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

June 24, 2025:

Firmado por: 
83B402C6D2A24AA...
Olegario Hernandez

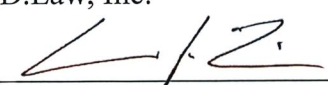
June 30, 2025:

Defendant Grower Direct Nut Company, Inc.

Aaron Martella

APPROVED AS TO FORM ONLY:

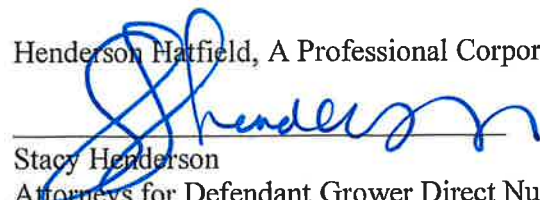
June __, 2025:

D.Law, Inc.

Enoch Kim
Attorneys for Plaintiff Olegario Hernandez

APPROVED AS TO FORM ONLY:

June 30, 2025:

Henderson Hatfield, A Professional Corporation


Stacy Henderson

Attorneys for Defendant Grower Direct Nut Company,
Inc.

AMENDMENT TO PAGA SETTLEMENT AGREEMENT

The Parties to this Amendment to the PAGA Settlement Agreement (“Amendment”) are Plaintiff Olegario Hernandez (“Plaintiff”) and Defendant Grower Direct Nut Company, Inc. (“Defendant”). This Amendment is for the benefit of Plaintiff and Defendant (collectively the “Parties”), as those terms were defined in the PAGA Settlement Agreement (“Agreement”) fully executed by Plaintiff and Defendant on June 30, 2025.

RECITALS

Pursuant to paragraph 10.7 of the Agreement, the Agreement may be amended and modified only by a writing duly executed by authorized representatives of the Parties.

AMENDMENT

The words “and (g) violation of Business & Professions Code 17200 et seq.” is removed in paragraphs 5.1 of the Agreement and 6 of the Class Notice.

The Parties have agreed to modify paragraph 5.1 of the Agreement to read as follows:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present spouses, children, representatives, agents, attorneys, heirs, administrators, trustees, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleges, reasonably could have been alleged, and/or that arise from, are attributable to and/or related to the facts and/or allegations asserted in the Operative Complaint and/or the Labor Code violations alleged in the PAGA Notice, including, but not limited to, any and all claims involving (a) any failure to pay minimum wages and failure to pay at the appropriate rate; (b) failure to pay overtime wages and failure to pay at the appropriate rate; (c) failure to provide meal periods (including failure to pay meal period premiums and failure to pay at the appropriate rate; (d) failure to provide rest periods (including failure to pay rest period premiums and failure to pay at the appropriate rate); (e) failure to provide accurate itemized

wage statements (based on both direct and derivative theories of liability); (f) failure to pay wages during employment and/or upon separation; (g) failure to reimburse business expenses incurred; and (h) failure to provide paid sick leave or pay paid sick leave at the appropriate legal rate.

EFFECT OF AMENDMENT

Other than as expressly modified herein, all provisions of the Agreement remain in effect and apply to this Amendment.

COUNTERPARTS

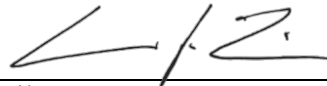
This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. Delivery of an executed signature page of this Amendment by facsimile or other electronic means shall be as effective as delivery of a manually executed signature page of this Settlement Agreement.

IT IS SO AGREED.

SIGNATURES

D.LAW, INC., as duly authorized representative of Plaintiff Olegario Hernandez

Dated: January 16, 2026



Emil Davtyan
David Yermian
Natalie Haritounian
Enoch J. Kim
Matthew Carraher
Antonia McKee
Attorneys for Plaintiff HERNANDEZ

HENDERSON HATFIELD, A Professional Corporation as duly authorized representative of Defendant

Dated: _____

Stacy Henderson
Raquel Arreola Hatfield
Attorneys for Defendant
GROWER DIRECT NUT COMPANY, INC.

wage statements (based on both direct and derivative theories of liability); (f) failure to pay wages during employment and/or upon separation; (g) failure to reimburse business expenses incurred; and (h) failure to provide paid sick leave or pay paid sick leave at the appropriate legal rate.

EFFECT OF AMENDMENT

Other than as expressly modified herein, all provisions of the Agreement remain in effect and apply to this Amendment.

COUNTERPARTS

This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. Delivery of an executed signature page of this Amendment by facsimile or other electronic means shall be as effective as delivery of a manually executed signature page of this Settlement Agreement.

IT IS SO AGREED.

SIGNATURES

D.LAW, INC., as duly authorized representative of Plaintiff Olegario Hernandez

Dated: _____

Emil Davtyan
David Yeremian
Natalie Haritonian
Enoch J. Kim
Matthew Carraher
Antonia McKee
Attorneys for Plaintiff HERNANDEZ

HENDERSON HATFIELD, A Professional Corporation as duly authorized representative of Defendant

Dated: January 16, 2020

Stacy Henderson
Raquel Arreola Hatfield
Attorneys for Defendant
GROWER DIRECT NUT COMPANY, INC.

EXHIBIT 2

**DAVID YEREMIAN
& ASSOCIATES INC**

2540 Foothill BLVD STE 201
La Crescenta CA 91214

818 230 8380
818 230 0308 FAX

DAVID@YEREMIANLAW.COM

January 29, 2026

VIA ON-LINE SUBMISSION ONLY TO:

<https://dir.tfaforms.net/128> (copy by certified mail to all Defendants)

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Grower Direct Nut Company, Inc.
2288 Geer Rd.
Hughson, CA 95326
Certified Mail Tracking Number: 7021 1970 0001 5483 8718

Aaron Martella, Agent for Service
Grower Direct Nut Company, Inc.
888 Charles Rd.
Hughson, CA 95326
Certified Mail Tracking Number: 7021 1970 0001 5483 8824

**Re: Labor Code § 2698, *et seq.* Penalties – PAGA Notice Letter to the LWDA
Olegario Hernandez v. Grower Direct Nut Company, Inc., et al.
Superior Court for the County of Stanislaus**

Gentlepersons:

This office represents Plaintiff Olegario Hernandez (“Plaintiff”) and other similarly situated aggrieved non-exempt, hourly employees aggrieved employees (collectively “Aggrieved Employees”) for violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* (“the Act”). Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against Defendants, Grower Direct Nut Company, Inc. and DOES 1 through 50 inclusive (all defendants being referred to herein collectively as “Defendants”).

Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along with a copy of Plaintiff's Class Action Complaint, which is attached to this Notice letter. The Complaint is being concurrently filed in Stanislaus County Superior Court and will be assigned a local case number. The Complaint allegations and claims are incorporated into this Notice Letter.

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiff and all of their Aggrieved Employees in California. The attached Class Action Complaint provides the details of Plaintiff's class-wide claims and claims under the Act, and the applicable California law governing them. It, along with this Notice Letter, addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.

Relevant Facts

Plaintiff was employed by Defendants as a non-exempt, hourly employee based out of Defendants' location in California. Aggrieved Employees include all non-exempt hourly employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present. Plaintiff and Aggrieved Employees are collectively referred to herein as "Aggrieved Employees." Aggrieved Employees consistently worked at Defendants' behest and under their control and subject to their policies and practices without being paid all wages due. Plaintiff is also informed and believes that there are other Aggrieved Employees employed by Defendants as non-exempt employees within the state of California within the statutory time period who suffer or suffered from the same wage and hour violations outlined below.

Defendants had a common policy and/or practice of failing to pay Aggrieved Employees minimum wages for all hours worked. Aggrieved Employees were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to pay Aggrieved Employees all wages due and owing, including by requiring off the clock work, unlawful rounding to their detriment, failing to provide meal and rest breaks, failing to furnish accurate wage statements, failing to timely pay wages including final wages, and failing to maintain accurate records all in violation of various provisions of the California Labor Code and applicable Wage Orders.

During the course of Aggrieved Employees' employment with Defendants, they were not paid all wages they were owed, including for all work performed resulting in off the clock work. Aggrieved Employees were required to perform pre-shift and post-shift off the clock work which they were not compensated for despite being subject to Defendants' control. Specifically, Aggrieved Employees were forced to walk long distances to get to the timekeeping station. Additionally, Aggrieved Employees were instructed to clock out and to continue working during their meal breaks resulting in further off the clock work.

Moreover, Defendants had a consistent policy and practice of unlawfully rounding hours worked to the detriment of Aggrieved Employees. Rather than paying Aggrieved Employees for all hours and minutes they actually worked, Defendants followed a uniform policy and practice of rounding all time entries to the nearest quarter-hour or half-hour (i.e. to the nearest 15-minute or

30- minute time increment). Generally, rounding was to the detriment of Aggrieved Employees, and Plaintiff contends this policy is not neutral and resulted, over time, in the systematic under-compensation of the Aggrieved Employees. Rather than reflecting the actual hours worked by Aggrieved Employees, the time entries were rounded and reduced to reflect the scheduled work time rather than the actual hours worked. These unlawfully rounded time entries were inputted into Defendants' payroll system from which wage statements and payroll checks were created.

By implementing policies, programs, practices, procedures and protocols which resulted in off the clock work and also rounded down the hours worked by Aggrieved Employees, Defendants' willful actions resulted in the systematic underpayment of wages and overtime pay to Aggrieved Employees. For example, the off the clock work addressed above caused Aggrieved Employees to begin receiving overtime pay later than they should have.

As a result of the above described unlawful rounding, requirements to work off the clock, and the other wage violations they endured at Defendants' hands, Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight (8) hours in any given day and/or more than forty (40) hours in any given week. Moreover, the uncompensated time, discussed above, was worked by Aggrieved Employees in excess of 8 hours a day and/or 40 hours a week, further entitling Aggrieved Employees overtime wages which they were consistently denied, all in violation of Labor Code and applicable Wage Orders.

Additionally, Defendants failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Aggrieved Employees were required to perform work as ordered by Defendants for more than five (5) hours during a shift but were often required to do so without receiving a lawful and timely meal break. In addition to untimely meal periods, Defendants also required Aggrieved Employees to respond to work demands. Defendants placed their needs over Aggrieved Employees' lawful meal and rest breaks and this resulted in Aggrieved Employees often having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened ones, because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off duty meal and/or rest break.

On the occasions when Aggrieved Employees worked over 10 hours in a shift, Defendants also failed to provide them with a second, uninterrupted, timely and duty-free meal period. As a result, Defendants' failure to provide Aggrieved Employees with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective hourly rate of pay, including their earned commission, for each meal period or rest break that Defendants failed to provide or deficiently provided.

Therefore, Defendants have regularly required Aggrieved Employees to work shifts in excess of five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes, and shifts in excess of (10) hours without providing them with second meal periods of not less than thirty minutes; nor did Defendants pay Aggrieved Employees "premium pay," i.e.

one hour of wages at each Aggrieved Employee's effective hourly rate of pay, including their earned commission, for each meal period that Defendants failed to provide or deficiently provided.

Aggrieved Employees were also not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks and were not provided with one (1) hour's wages in lieu thereof. To the extent Aggrieved Employees were able to take rest breaks, they were restricted from leaving the premises. Aggrieved Employees were restricted in their ability to take their full ten (10) minutes net rest time or were otherwise not provided with duty-free rest periods. Therefore, Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours; or major fraction thereof, nor did Defendant pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided.

Defendants also consistently failed to issue accurate itemized wage statements as required by Labor Code § 226(a). Specifically, the wage statements given to Aggrieved Employees do not include the total hours worked by the employee, the inclusive dates of the period for which the employee is paid, and all applicable hourly rates in effect during the pay period resulting in violations of Labor Code § 226(a)(2), 226(a)(6), and 226(a)(9). Additionally, the wage statements given to Aggrieved Employees failed to accurately account for unpaid wages and overtime because Defendants had unlawfully rounded time entries to the detriment of the Aggrieved Employees and their actual hours worked were under-reported due to off the clock work. Additionally, the wage statements given to Aggrieved Employees failed to accurately account for premium pay for deficiently provided meal periods and rest breaks.

Additionally, Defendants failed to pay Aggrieved Employees all wages owed, as detailed above, at the time of their termination or within seventy-two (72) hours of their resignation, as required under Labor Code § 203. Specifically, Aggrieved Employees were not paid all regular and overtime wages because Defendants failed to pay for all hours worked, required off the clock work, and unlawfully rounded time entries to the detriment of Aggrieved Employees. Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest periods. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

PAGA Claim Details, Legal Bases for Violations and Penalties:

As addressed above and in further detail in the attached Class Action Complaint, Plaintiff and the Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

In California, employees must be paid at least the then applicable state minimum wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H) of the applicable IWC Wage Orders defines “Hours Worked” as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Additionally, pursuant to Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states: “The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The minimum wage provisions of California Labor Code are enforceable by private civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees and costs of suit.”

As described in California Labor Code §§ 1185 and 1194.2, any action for wages incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also, California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in the absence of a contractually agreed upon one. The underpayment of wages to Aggrieved Employees is and has been a direct consequence of Defendants’ unlawful compensation policies and practices, which applied uniformly to the Aggrieved Employees working at locations and work sites throughout California.

Defendants thus failed to pay Employees minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants’ control and due to the work demands placed upon them by Defendants’ management and during breaks. Specifically, Aggrieved Employees were forced to walk long distances to get to the timekeeping station. Additionally, Aggrieved Employees were instructed to clock out and to continue working during their meal breaks resulting in further off the clock work.

Defendants, and each of them, have also intentionally and improperly rounded, changed, adjusted and/or modified Employee hours, or required Employees to do so, and imposed difficult to attain job and shift scheduling requirements on Plaintiff and the Aggrieved Employees, which resulted in off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the Aggrieved Employees, including by requiring systematic off the clock work. Defendants’ uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of

implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay.

In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved Employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime and double time. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates, or of miscalculating them by not including all forms of remuneration in the regular rate of compensation. Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted and/or modified certain employees' hours, including Plaintiff's, or required Aggrieved Employees to do so, or otherwise caused them to work off the clock to avoid paying Aggrieved Employees all earned and owed straight time and overtime wages and other benefits.

Defendants have violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight hours in a workday or in excess of forty hours in any workweek or for the first eight hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve hours in any one day or for hours worked in excess of eight hours on any seventh day of work in a workweek. Defendants had a consistent policy of not paying Employees wages for all hours worked, including by requiring off the clock work as addressed above and by under-reporting actual hours worked. With work shifts generally requiring eight hours or more of work on a given day, this unpaid off the clock work resulted in

Aggrieved Employees working past eight hours on a shift or more than forty hours in a week, which required that they be paid at the correct overtime rate of 1.5 times their regular rate.

When considered in combination with the other wage violations addressed above, Aggrieved Employees were not properly compensated, nor were they paid overtime and double time rates for hours worked in excess of eight hours or twelve hours in a given day, and/or forty hours in a given week. Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiff and other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Meal-Period Liability Under Labor Code §§ 226.7 and 512 and Penalties

Defendants have regularly required Aggrieved Employees to work shifts in excess of five hours without providing them with uninterrupted meal periods of not less than thirty minutes as required under Labor Code §§ 226.7, 512, and paragraph 11 of the applicable Wage Orders. Specifically, Aggrieved Employees were forced to incur shortened meal periods, were provided with breaks late and well after the fifth hour of work, could not be relieved to take breaks, or were required to remain on-duty at all times and were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks.

On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as

provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions. Defendants also miscalculated the rate at which they paid any meal period or rest period premiums when Defendant did attempt to pay them, resulting in further violations of section 226.7.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability Under Labor Code § 226.7 and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants provided rest periods untimely or for shortened durations, and Defendants' policies and procedures required Aggrieved Employees to remain under Defendants' control during breaks to respond to job requirements.

Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate and Itemized Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide accurate itemized wage statements in writing, as required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders. Any wage statements given to Employees by Defendants necessarily failed to accurately account for wages, overtime, and

premium pay, including by failing to pay for all hours worked, failure to pay for all overtime hours worked or at the correct rate of pay and for providing deficient meal periods and rest breaks, all of which Defendants knew or reasonably should have known were owed to the Employees, as alleged above.

In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ..."

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., and failing to provide them with checks and wage statements, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders.

Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday, or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely basis, resulting in Defendants' systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204. Additionally, by not providing wage statements as required under section 204, Defendants systematically violated Labor Code § 204 and § 226.

Given the above described off the clock work and deductions from hours worked perpetrated by Defendants' management, Plaintiff was not paid at the correct overtime rate for all hours he worked after eight hours into a shift or over forty in a work week and that he was not paid all double time owed either. Defendants' uniformly applied payroll policies and practices thus resulted in further systematic and ongoing violations of the requirements of Labor Code § 204.

In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties, interest, fees and costs pursuant to Labor Code §§ 201.3, 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, by unlawful rounding and off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, double time, premium pay, etc., and by not recording meal period start and end times, all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558, 1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of

the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the forgoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, et seq.

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Plaintiff and Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq.*

Plaintiff's PAGA Claim under Labor Code § 2698 et seq. and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the attached Class Action Complaint, Plaintiff will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

Plaintiff and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, including as follows:

(a) **Wage Claims:** For failure to provide Plaintiff and the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2,

1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiff and the Aggrieved Employees with wage statements or with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(e) All Alleged Violations of the IWC Wage Orders: For any above addressed violation of the applicable provisions of the IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

We have been constrained to initially move forward with the filing of this Complaint, alleging the causes of action discussed herein, without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

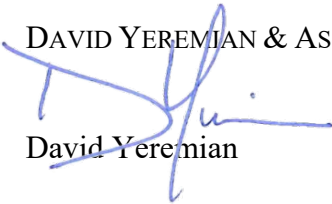
This letter and the attached Complaint therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related

provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against Grower Direct Nut Company, Inc. and any other named Defendants and joint employers. To prevent the violations described in the Complaint and herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff and the Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,

DAVID YEREMIAN & ASSOCIATES, INC.



David Yeremian

Cc: Grower Direct Nut Company, Inc. by Certified Mail

EXHIBIT 3

Hernandez v. Grower Direct Nut Company, Inc.
LITIGATION COSTS

Service Date		Details		Provider		Amount
06/26/2023		Summons and Complaint		Rapid Legal		\$ 1,494.27
06/26/2023		Process Serving		Rapid Legal		\$ 350.20
08/16/2024		Amended Complaint		Rapid Legal		\$ 16.07
09/15/2023		Notice of association		Rapid Legal		\$ 17.10
10/23/2023		Process Serving		Rapid Legal		\$ 171.75
11/01/2023		Ntc of Acknowledgement of Receipt		Rapid Legal		\$ 17.10
11/09/2023		Ntc of Case Management Conf		Rapid Legal		\$ 17.10
12/13/2023		Ntc of Unavailability		Rapid Legal		\$ 17.10
01/10/2024		Case Management Statement		Rapid Legal		\$ 15.04
01/10/2024		Case Management Statement		Rapid Legal		\$ 15.04
01/24/2024		Proof of Service Filing		Rapid Legal		\$ 15.04
02/07/2024		Notice of Further Case Management Conf		Rapid Legal		\$ 15.04
03/04/2024		Case Management Statement		Rapid Legal		\$ 15.04
08/16/2024		MEDIATION		McKelvey, Brandon		\$ 10,000.00
08/22/2024		Expert Report Fee		Berger Consulting Group		\$ 1,740.00
06/26/2023		LWDA		LWDA		\$ 75.00
08/22/2024		Additional Expert Analysis		Berger Consulting Group		\$ 920.00
10/23/2023		Case Management Statement		Rapid Legal		\$ 17.10
02/03/2025		Case Management Statement		Rapid Legal		\$ 16.69
05/20/2025		Stipulation & Order; Proof of Service		Rapid Legal		\$ 38.23
08/26/2025		Remote Appearance		VCOURT		\$ 37.35
09/26/2024		Remote Appearance		VCOURT		\$ 37.35
05/13/2025		Notice of Association		Rapid Legal		\$ 17.53
12/12/2024		Notice of Unavailability		Rapid Legal		\$ 15.19
09/30/2024		Case Management Statement		Rapid Legal		\$ 15.19
09/24/2024		Notice of Change of Address		Rapid Legal		\$ 15.19
09/10/2025		Request for Dismissal		Rapid Legal		\$ 17.53
08/29/2025		Stipulation and Order		Rapid Legal		\$ 38.23
FUTURE		Motion for PAGA Approval		Rapid Legal		\$ 80.00
FUTURE		Notice of Entry of Judgement Order		Rapid Legal		\$ 15.24
FUTURE		Declaration of Administration - Compliance Hearing		Rapid Legal		\$ 15.24

Total	\$ 15,286.95
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EXHIBIT 4

Olegario Hernandez v. Grower Direct Nut Company, Inc., et al.
Stanislaus County Superior Court Case No. CV-23-003518



<<PSA ID>>

<<First Last>>

<<Address>>

<<City, State, Zip, Country>>

Name/Address Changes (if any):

NOTICE OF REPRESENTATIVE ACTION SETTLEMENT

If you are or were a non-exempt employee who worked for Grower Direct Nut Company, Inc. in California at any time between June 26, 2022, to October 14, 2024, you are entitled to receive money from a Representative PAGA Action Settlement.

A court approved this notice. This is not a solicitation from a lawyer. You are not being sued.

1. Why should you read this notice?

A settlement (the “Settlement”) was reached in a representative PAGA action lawsuit entitled *Olegario Hernandez v. Grower Direct Nut Company, Inc., et al.*, Stanislaus County Superior Court Case No. CV-23-003518 (also referred to herein as the “Action” or “Lawsuit”). The Defendant in the Action is Grower Direct Nut Company, Inc. (“Defendant”).

The Court has granted approval of a group of Aggrieved Employees defined as follows:

All non-exempt employees who worked for Grower Direct Nut Company, Inc. in California at any time between June 26, 2022 and October 14, 2024 (“PAGA Period”).

Defendant’s employment records indicate that you meet this definition, which makes you a member of the group of Aggrieved Employees. The Court directed that this Notice be sent to all Aggrieved Employees to inform you about the case and your rights.

This Notice explains the Lawsuit, the Settlement, and your legal rights.

2. What is this Lawsuit about?

On June 26, 2023, Plaintiff (“Plaintiff”) filed the operative complaint against Defendant Grower Direct Nut Company, Inc. alleging several violations of California wage and hour laws. Plaintiff alleges that Defendant owed penalties under California’s Private Attorneys General Act of 2004, California Labor Code §§ 2698-2699.5 (“PAGA”). Defendant vigorously denies all the claims and contentions made in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, denies any and all liability for the causes of action alleged, and maintains it has fully complied with the law, but has agreed to settle the Lawsuits to avoid the expense of litigation.

3. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a Settlement. This allows the Parties to avoid the risk and uncertainty of trial and any subsequent appeal, and all affected employees will

receive compensation. The Settlement is not an admission of liability by Defendant. Plaintiff and the attorneys believe the Settlement is fair, reasonable and adequate, and in the best interests of all Aggrieved Employees.

4. What are the terms of the Settlement?

Defendant will pay One Hundred Sixty Three Thousand Five Hundred Dollars and Zero Cents (\$163,500.00) to settle the Action (the “Gross Settlement Amount”). The Gross Settlement Amount includes: (a) all Settlement payments to Aggrieved Employees; (b) the PAGA Counsel’s attorneys’ fees and costs; (c) a payment to the California Labor and Workforce Development Agency (“LWDA”) for civil penalties brought under PAGA; and (d) the reasonable fees and costs of the Settlement Administrator.

The Court has approved the following payments from the Gross Settlement Amount:

- Plaintiff’s Counsel’s fees of Fifty Four Thousand Five Hundred Dollars and Zero Cents (\$54,000.00);
- Plaintiff’s Counsel’s out-of-pocket litigation costs of Twenty Thousand Dollars and Zero Cents (\$20,000.00); and
- Settlement Administration Costs for the third-party Settlement Administrator of Six Thousand Two Hundred Seventy One Dollars and Sixty Seven (\$6,271.67).

The law requires that Sixty Two Thousand Forty Six Dollars and Twenty Five Cents (\$62,046.25), or 75% of the Eighty Two Thousand Seven Hundred Twenty Eight Dollars and Thirty Three Cents (\$82,728.33) remaining in the Gross Settlement Amount, be paid to the LWDA. The remaining Twenty Thousand Six Hundred Eighty Two Dollars and Eight Cents (\$20,682.08) (“Aggrieved Employees Payment”) will be paid out to the Aggrieved Employees. No portion of the Gross Settlement Amount will be returned to Defendant.

5. How much am I receiving?

Each Aggrieved Employee is receiving a *pro rata* share of the Aggrieved Employees Payment based on the number of pay periods the person worked for Defendant as a non-exempt, hourly employee during the PAGA Period, defined above. Any pay period in which an Aggrieved Employee worked at least one day was counted as a pay period.

To calculate an Aggrieved Employee’s share of the Aggrieved Employees Payment, the Aggrieved Employees Payment was divided by the aggregate total number of pay periods of all Aggrieved Employees, resulting in the “Pay Period Value.” Each Aggrieved Employee’s share of the Aggrieved Employee’s share of the Aggrieved Employees Payment will be calculated by multiplying each individual Aggrieved Employee’s total number of pay periods by the Pay Period Value.

Your Compensable Pay Periods are: <<PayPeriods>>

Your Aggrieved Employee’s share of the Aggrieved Employees Payment is: \$<<Est.PAGAPaymentAmt>>

Each Aggrieved Employee’s share of the Aggrieved Employees Payment will be allocated as follows: 100% as penalties that will not be subject to deductions and withholdings. Each Aggrieved Employee will receive an IRS Form 1099 for his or her share of the Aggrieved Employees Payment.

The Settlement checks will be able to be cashed for 180 days after they are issued. After 180 days, the Settlement checks will no longer be able to be cashed. Any funds represented by Settlement checks remaining uncashed for

more than 180 days after issuance shall be transmitted to CASA of Stanislaus County.

6. What claims are being released by the Settlement?

A Judgment has been entered by the Court. Upon the Effective Date of the Judgment, the State of California, the LWDA, Plaintiff, and the Aggrieved Employees have released the Released Parties from the Released Claims for the Representative Period, which is defined above.

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present spouses, children, representatives, agents, attorneys, heirs, administrators, trustees, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, reasonably could have been alleged, and/or that arise from, are attributable to and/or related to the facts and/or allegations asserted in the Operative Complaint and/or the Labor Code violations alleged in the PAGA Notice, including, but not limited to, any and all claims involving (a) any failure to pay minimum wages and failure to pay at the appropriate rate; (b) failure to pay overtime wages and failure to pay at the appropriate rate; (c) failure to provide meal periods (including failure to pay meal period premiums and failure to pay at the appropriate rate); (d) failure to provide rest periods (including failure to pay rest period premiums and failure to pay at the appropriate rate); (e) failure to provide accurate itemized wage statements (based on both direct and derivative theories of liability); (f) failure to pay wages during employment and/or upon separation; (g) failure to reimburse business expenses incurred; (h) failure to provide paid sick leave or pay paid sick leave at the appropriate legal rate. Aggrieved Employees cannot opt out of or object to the foregoing Release.

The Released Parties are defined as Defendant and all of its past present and future subsidiaries, dbas, parents, divisions, related entities, joint venturers, and any other entities that could be considered to have jointly employed the PAGA Aggrieved Employees, as well as each of their respective owners, co-employers, joint employers, agents, officers, directors, stockholders, shareholders, investors, members, principals, subsidiaries, affiliates, partners, predecessors, successors, assigns, insurers, reinsurers, employees, attorneys, agents, heirs, estates, executors, spouses, associates, representatives, administrators, fiduciaries, trustees, accountants, auditors, company-sponsored employee benefit plans of any nature, and all other legal entities affiliated with the foregoing.

If you have questions, you can call the Settlement Administrator at [REDACTED].

PLEASE DO NOT TELEPHONE THE COURT OR DEFENDANT'S MANAGERS OR
SUPERVISORS ABOUT THIS SETTLEMENT
They will not be able to assist you.

EXHIBIT 5