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Page 35 of 12/05/25/2018 3:52 PM

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FILED BY FAX

ALAMEDA COUNTY

May 29, 2018

CLERK OF
THE SUPERIOR COURT
By Dajuana Turner, Deputy

CASE NUMBER:

RG16811677

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

11 WAYNE MAULDIN, an individual, on behalf of
12 himself and all others similarly situated,

13 Plaintiff,

14 vs.

15 ROLLING FRITO-LAY SALES, LP, a Delaware
16 Limited Partnership; FRITO-LAY, INC., a
17 Delaware Corporation; and DOES 1 through 25,

18 Defendants.

Case No.: RG16811677

CLASS ACTION**Declaration of Joseph Clapp in Support of
Plaintiff's Motion for an Order**

- (1) Conditionally Certifying a Settlement Class;
(2) Appointing Class Representative, Class Counsel, and Claims Administrator;
(3) Preliminarily Approving Settlement;
(4) Authorizing Class Notice; and
(5) Scheduling a Final Approval Hearing.

Date: June 1, 2018

Time: 10:00 a.m.

Courtroom: 21

Judge: Hon. Robert McGuiness

Complaint Filed: April 14, 2016

Reservation Number: R-1949680

1 I, Joseph Clapp, declare:

2 1. I am the attorney of record for plaintiff Wayne Mauldin in this action. I swear to the
3 following facts based on my personal knowledge of those facts.

4 2. In May of 2016 I served requests for production of documents, including a request for the
5 employee handbook applicable to Mauldin's employment. In July, Defendants Rolling Frit-Lay
6 Sales, LP and Frito-Lay, Inc. (Frito-Lay) responded, producing a copy of the applicable handbook.
7 The handbook contains a "Work Week and Pay Day" policy which reads as follows:

8 "The 'work week' is defined as Sunday at 12:00 a.m. through Saturday at 11:59 a.m. 'Pay
9 Day' is defined as every Friday. If a Pay Day falls on a holiday, the Company will make the
appropriate adjustment to the pay schedule."

10 3. In May of 2016, I served requests for admission, including this one: "The Pay Day for a
11 particular workweek is the Friday before the Saturday that ends the workweek." Frito-Lay admitted
12 this request in September 2016.

13 4. In August of 2016, I served amended requests for admission, third set, including this one:
14 "For work performed in the workweek January 1, 2017 through January 7, 2017, Route Service
15 Associates were paid straight time wages on Friday, January 6, 2017 and overtime wages on Friday,
16 January 20, 2017." Frito-Lay admitted this request in September 2016.

17 5. On June 1, 2017, the parties engaged in a full-day mediation before Mediator Michael
18 Dickstein, Esq., but that effort failed. The parties continued actively to negotiate through the
19 Mediator over the next five months. I had numerous telephone conferences with the Mediator and I
20 exchanged over forty emails with him during these negotiations, several devoted to lengthy and
21 detailed argument about the substantive and remedial law applicable to the case. Finally the
22 Mediator was able to broker a settlement in the amount of \$800,000 in the fall. A short-form
23 Confidential Memorandum of Understanding that memorialized this settlement was not signed by all
24 parties and attorneys until November 8, 2017.
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1 6. I then began negotiating the long-form class settlement agreement with Frito-Lay's
2 counsel, Samantha D. Hardy, Esq., of Sheppard Mullin Richter & Hampton LLP. She sent me a
3 proposed settlement agreement on January 5, 2018. Thereafter we became embroiled in numerous
4 disagreements about the exact wording of the terms. We continued negotiations over the next few
5 months, but could not reach agreement until May 2018. The "Stipulation and Settlement of
6 Representative and Class Actions Claims" was not fully signed by all parties and attorneys until May
7 10, 2018. I have attached a true copy of this agreement as Exhibit "Settlement Agreement."

9 7. In May of 2016 I promulgated special interrogatories, one of which asked for the
10 identification of local delivery drivers in California. Thereafter, I met and conferred with counsel
11 about the scope of this interrogatory, and we agreed that Frito-Lay could respond by providing the
12 number of RSAs who met the class criteria. This number changes over time, and the most recent
13 count was provided to me on May 24, 2018 by defendants' counsel, Samantha Hardy, Esq. She
14 informed me that Frito-Lay's records indicate that 1,771 RSAs were employed in California from and
15 after March 2015.

17 8. I do not know of any conflict that my client or my firm has with any other putative class
18 member. I intend to prosecute this case as zealously as I can until final resolution.

19 9. I have specialized in representing employees in employment-related litigation for over 36
20 years. I have tried 16 cases to jury verdict, court judgment, or arbitration award, and I have
21 prosecuted 16 appeals in state and federal courts.

22 10. I have represented the mass claims of hundreds of employees, in class actions and
23 otherwise, on numerous occasions over the past 17 years. I am one of the very few who has been the
24 lead counsel in the trial of a class action case. I have attached as Exhibit "Clapp Resume" a true copy
25 of my current resume.

1 11. My firm has sufficient resources, financial, clerical, and otherwise, to prosecute this case
2 to the end.

3 12. I have been informed by the Bank's counsel that the nationally-recognized firm of Rust
4 Consulting, Inc. has agreed to perform all the claims administration services in this case in exchange
5 for a payment of no more than \$20,000. I have attached as Exhibit "Rust" a page from Rust's web
6 site indicating that it has handled the administration of more than 6,000 projects.

7 13. I have attached copy of the employment resume of Michael Dickstein, Esq., as Exhibit
8 "Dickstein CV."

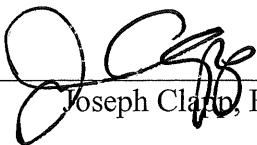
9 14. In this case, I have spent scores of hours researching the law applicable to all potential
10 claims in this case. I am fully informed of the pertinent facts because I have conducted extensive
11 investigation and discovery. In discovery, I have propounded four sets of admissions, two sets of
12 document requests, special interrogatories, form interrogatories-employment law, form
13 interrogatories-general, supplemental interrogatories, and supplemental interrogatories. I have
14 engaged in extensive meet and confer negotiations about Frito-Lay's responses to these discovery
15 requests, and as a result Frito-Lay has produced all the information that was required to evaluate
16 Frito-Lay's exposure, including, most importantly, the policies governing the timing of wage
17 payments and wage statements, the number of potential class members, and the number of
18 workweeks that were worked by those class members. *Id.*

19
20 15. If this case must be adjudicated, it is likely that the computation of damages and statutory
21 penalties will require extensive work by an expert economist. In my experience, the cost of such
22 work on a class this size is likely to be in the scores of thousands of dollars. Moreover, class
23 litigation is likely to last two or more years in the trial court, and if successful, it is likely that Frito-
24 Lay will appeal, with an appeal lasting another year or more in the appellate courts. My firm has
25 prosecuted several class cases in which the duration of the litigation has exceeded a decade.
26
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1 16. Based on my experience, my expertise, my research, and my investigation of the facts, I
2 wholeheartedly recommend that the Court approve this proposed settlement.

3
4 I declare under penalty of perjury under the laws of the State of California that the foregoing
5 is true and correct.

6
7 Dated: May 25, 2018

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9 _____
10 Joseph Clapp, Esq.

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Exhibit "Settlement Agreement"

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11 Attorneys for Defendants ROLLING FRITO-LAY
12 SALES, LP and FRITO-LAY, INC.

13
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 FOR THE COUNTY OF ALAMEDA
16

17 WAYNE MAULDIN, an individual,

18 Plaintiff,

19 v.

20 ROLLING FRITO-LAY SALES, LP,
21 a Delaware Limited Partnership,
FRITO-LAY, INC., a Delaware
22 Corporation; and DOES 1 through 25,
inclusive,

23 Defendants.
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Case No. RG16811677

Hon. Winifred Y. Smith
Dept. 21

**STIPULATION AND SETTLEMENT
OF REPRESENTATIVE AND CLASS
ACTION CLAIMS**

Complaint Filed: April 14, 2016
Trial Date: None Set

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STIPULATION AND SETTLEMENT
OF REPRESENTATIVE AND CLASS ACTION CLAIMS

I. **Definitions.** The following terms and definitions will be used in this Stipulation and Settlement of Representative and Class Action Claims. Additional terms are defined throughout the document as well.

(1) "Named Plaintiff" – Wayne Mauldin, also known as C. Wayne Mauldin.

(2) "Defendants" – Defendants Rolling Frito-Lay Sales, LP and Frito-Lay, Inc.

(3) "Plaintiffs" – All persons who worked for Defendants as Route Sales Associates ("RSAs") in the State of California at any time during the Class Period.

(4) "Parties" – Named Plaintiff and Defendants, collectively, as defined above.

(5) "Class Members" or "Class" – All Plaintiffs who do not elect to exclude themselves by following the steps set forth in Section X, Paragraph J(3)(b) below.

(6) "Class Period" – The period from March 8, 2015, through Preliminary Approval of this Action.

(7) "Unlocated Plaintiffs" – Any Plaintiffs whose Notice has been returned as undeliverable after all of the procedures in Section X, Paragraph J(2)(b) have

1 been followed. Unlocated Plaintiffs will not be sent a Settlement Award but will remain
2 Class Members.

3
4 II. Settlement Agreement. This Stipulation and Settlement of Representative
5 and Class Action Claims ("Settlement," "Stipulation," or "Agreement") is made between
6 the Named Plaintiff on behalf of himself and each of the other Plaintiffs, on the one hand,
7 and the Defendants Rolling Frito-Lay Sales, LP and Frito-Lay, Inc. on the other hand, in
8 the action pending before the Honorable Judge Winifred Y. Smith of the California
9 Superior Court for the County of Alameda ("Court"), Case No. RG16811677, entitled
10 Wayne Mauldin v. Rolling Frito-Lay Sales, LP and Frito-Lay, Inc. (the "Action") and
11 subject to the approval of the Court. In the event the Settlement does not become effective
12 in accordance with the terms of this Stipulation, or the Settlement is not finally approved,
13 or is terminated, canceled or fails to become effective for the reasons specified in this
14 Stipulation, or for any reason, any Orders entered pursuant to this Stipulation shall be
15 rendered null and void and shall be vacated, and the Parties shall revert to their respective
16 positions existing immediately on the date before the Parties' entered into the
17 Memorandum of Understanding in October/November 2017.

18
19 III. Class Certification. For purposes of this Stipulation only, the Parties agree to
20 the certification of the Settlement Class, to include all persons who worked for Defendants
21 as Route Sales Associates ("RSAs") in the State of California at any time during the Class
22 Period.

23
24 Should for whatever reason the Stipulation not become final, the fact that the Parties
25 were willing to stipulate to class certification as part of the Settlement shall have no
26 bearing on, and shall not be admissible in connection with, the issue of whether a class
27 should be certified in a non-settlement context in this Class Action, and shall have no
28

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1 bearing on, and shall not be admissible in connection with, the issue of whether a class
2 should be certified in any other lawsuit.

3
4 IV. Procedural History. Named Plaintiff Wayne Mauldin filed this lawsuit in the
5 Superior Court for the State of California, County of Alameda on April 14, 2016, against
6 Rolling Frito-Lay Sales, LP and Frito-Lay, Inc. The complaint alleged two claims: The
7 first for alleged violation of Labor Code section 2698 *et seq.* (the “Private Attorney
8 General Act”, or “PAGA”) for an alleged failure to timely pay overtime wages pursuant to
9 Labor Code section 204b, and the second for alleged violation of Labor Code section 2698
10 *et seq.* for alleged inadequate itemized wage statements in violation of Labor Code section
11 226. Defendants jointly answered the Complaint, denying all material allegations.

12
13 In June 2016, Plaintiff served Requests for Admission, Requests for Production,
14 Special Interrogatories, and Form Interrogatories on Defendants, and Defendants timely
15 responded to the requests. In August 2016, Plaintiff served additional Requests for
16 Admission, to which Defendants timely responded. In August and September 2017,
17 Plaintiff served additional Requests for Admission and Requests for Production.
18 Defendants timely responded and produced nearly 1,000 pages of documents to Plaintiff.

19
20 On June 1, 2017, the Parties attended a mediation with Michael Dickstein, Esq.
21 Following the mediation, the Parties continued settlement negotiations, ultimately resulting
22 in this Settlement memorialized by a written Memorandum of Understanding (“MOU”)
23 entered into in October/November 2017.

24
25 As part of this Settlement, Plaintiff will file a Stipulation for Order Granting Leave
26 to File First Amended Complaint. Defendants will not be required to file an Answer to the
27 First Amended Complaint unless and until the Court enters an order denying approval of a
28 class settlement

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1 V. Investigation in the Action. The Parties have conducted an extensive
2 investigation of the facts and law including, inter alia, the exchange of information through
3 formal and informal discovery. Defendants provided Plaintiff with the exact number of
4 employees and corresponding paystubs impacted by the allegations in the Complaint as
5 well as exemplars of all relevant paystub formats. Counsel for the Parties have invested
6 extensive time investigating the facts and applicable law, which is constantly evolving, as
7 it relates to the Named Plaintiff's claims and damages; the defenses thereto; and facts
8 discovered. Named Plaintiff believes that the investigation and research have supported
9 his contentions that Defendants failed to timely pay their employee overtime wages and
10 failed to provide their employees with accurate, itemized wage statements. Named
11 Plaintiff is demanding various amounts for penalties, attorneys' fees, and other damages.
12 Defendants contends they timely paid overtime wages and provided fully-compliant wage
13 statements to Named Plaintiff and all other purported Class Members pursuant to
14 California law. Defendants maintain Plaintiff suffered no damages of any kind.

15
16 VI. Named Plaintiff's Reasons for Settlement. Named Plaintiff recognizes the
17 expense and length of continued proceedings necessary to continue the litigation against
18 Defendants through trial and any possible appeals. Named Plaintiff has also taken into
19 account the uncertainty and risk of the outcome of further litigation, and the difficulties
20 and delays inherent in such litigation. Named Plaintiff is also aware of the burdens of
21 proof necessary to establish liability for the claims asserted in the Action (the "Claims")
22 and resulting damages. Named Plaintiff recognizes that Defendants are asserting defenses
23 to each of these issues. Named Plaintiff has also taken into account the extensive
24 investigation and settlement negotiations conducted, which resulted in a settlement. Based
25 on the foregoing, Named Plaintiff has determined that the Settlement set forth in this
26 Agreement is a fair, adequate and reasonable settlement, and is in the best interests of
27 Plaintiffs.

28

1 VII. Defendants' Reasons for Settlement. Defendants have concluded that any
2 further defense of this litigation would be protracted and expensive for all Parties.
3 Substantial amounts of time, energy, and resources of Defendants have been and, unless
4 this Settlement is made, will continue to be devoted to the defense of the Claims asserted
5 by Named Plaintiff. Defendants have also taken into account the uncertainty and risk of
6 the outcome of further litigation, and the difficulties and delays inherent in such litigation.
7 Defendants have, therefore, agreed to settle in the manner and upon the terms set forth in
8 this Agreement to put to rest the claims as set forth in the Action.

9
10 VIII. Plaintiffs' Claims. Named Plaintiff has claimed and continues to claim that
11 the Released Claims, as defined in Section X, Paragraph B below, have merit and give rise
12 to liability on the part of Defendants. Neither this Agreement, the documents referred to or
13 contemplated herein, nor any action taken to carry out this Agreement is, or may be
14 construed or used as an admission, concession, or indication by or against Plaintiffs, or
15 Class Counsel, as to the merits or lack thereof of the Claims asserted.

16
17 IX. Defendants' Denials of Wrongdoing. Defendants have denied and continue
18 to deny each of the claims and contentions alleged by Plaintiffs in the Action. Defendants
19 have repeatedly asserted and continue to assert defenses thereto, and have expressly denied
20 and continue to deny any wrongdoing or legal liability arising out of any of the facts or
21 conduct alleged in the Action. Defendants also have denied and continue to deny, *inter*
22 *alia*, the allegations that Plaintiffs have suffered damage; that Defendants failed to timely
23 pay overtime wages in accordance with California law; that Defendants improperly failed
24 to provide accurate itemized wage statements in accordance with California law; that
25 Defendants engaged in any wrongful conduct as alleged in the Action; or that Plaintiffs
26 were harmed by the conduct alleged in the Action. Neither this Agreement, nor any
27 document referred to or contemplated herein, nor any action taken to carry out this

1 Agreement, is, may be construed as, or may be used as an admission, concession, or
2 indication by or against Defendants of any fault, wrongdoing, or liability whatsoever.
3

4 X. Stipulation. NOW, THEREFORE, IT IS HEREBY STIPULATED, by and
5 among the Named Plaintiff on behalf of Plaintiffs on the one hand, and Defendants on the
6 other hand, and conditioned upon the approval of the Court, that the Action is hereby being
7 compromised and settled pursuant to the terms and conditions set forth in this Agreement.
8

9 A. "Effective Date". As used in this Settlement, "Effective Date" means
10 the date by which this Settlement is finally approved as provided herein and the Court's
11 Final Judgment ("Final Judgment" or "Judgment") becomes final. For purposes of this
12 Paragraph, the Court's Final Judgment "becomes final" upon the later of: (i) if no appeal is
13 filed, the expiration date of the time for the filing or noticing of any appeal from the
14 Court's Judgment [the earlier of 60 days from the date a Notice of Entry of Judgment or a
15 file-stamped copy of the Judgment is served on counsel, or if no such notice is served, 180
16 days from entry of Judgment, unless the time to appeal is extended by the filing and
17 service of a valid notice of intention to move for a new trial, or a valid motion to vacate the
18 judgment, or a valid motion for judgment notwithstanding the verdict]; (ii) the date
19 affirmance of an appeal of the Judgment becomes final under the California Rules of Court
20 [30 days after the date the court of appeal's decision is filed unless (1) the court of appeal
21 grants a petition for rehearing which by rule vacates the decision and sets the case "at large
22 in the Court of Appeal," or (2) certifies its opinion for publication or partial publication
23 after filing its decision, which resets the finality period from the filing date of the order for
24 publication], the expiration of the time for a petition for review of the Final Judgment or of
25 any court of appeal decision relating to the Final Judgment [10 days after the Court of
26 Appeal's decision is final], and, if review is granted, the date of final affirmance of the
27 Final Judgment following review pursuant to that grant; or (iii) the date of final dismissal
28

1 of any appeal from the Judgment or the final dismissal of any proceeding on review of any
2 court of appeal decision relating to the Judgment.

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4
5
6 B. Release As To All Class Members. The release set forth in this
7 Paragraph pertains to Class Members. As set forth in Section I, Paragraph 5 above, Class
8 Members are "all Plaintiffs who do not elect to exclude themselves by following the steps
9 set forth in Section X, Paragraph J(3)(b) below." As of the Effective Date, and subject to
10 Defendants' payment of the Settlement Fund, the Class Members, including Named
11 Plaintiff, release Defendants and each of their past or present officers, directors,
12 shareholders, employees, agents, principals, heirs, representatives, accountants, auditors,
13 consultants, insurers and reinsurers, and its and their respective successors and
14 predecessors in interest, subsidiaries, affiliates, parents and attorneys and each of their
15 company-sponsored employee benefit plans and all of their respective officers, directors,
16 employees, administrators, fiduciaries, trustees, and agents (the "Released Parties"), from
17 the "Released Claims." For purposes of this Agreement, the "Released Claims" are
18 defined as:

19
20 any and all claims, demands, rights, liabilities, and causes of action asserted
21 or that might have been asserted based on the facts alleged in the Action,

22
23 whether in tort, contract, or for violation of any California constitution,
24 statute, rule or regulation, including California wage-and-hour laws,

25
26 whether for economic damages, non-economic damages, restitution,
27 penalties or liquidated damages,

28

1 arising out of, relating to, or in connection with the Claims asserted or that
2 could have been asserted in the Complaint filed in the Action based on alleged violations
3 of Labor Code section 204b and/or Labor Code section 226, including but not limited to
4 claims for an alleged failure to timely pay all wages owed, including overtime wages,
5 and/or provide accurate itemized wage statements in accordance with California law;
6 claims that Defendants owe penalties (including but not limited to PAGA penalties)
7 resulting from their alleged failure to timely pay all wages owed, including overtime
8 wages, and/or provide accurate itemized wage statements in accordance with California
9 law; attorneys' fees and/or costs, or other damages of any kind based on a failure to comply
10 with Labor Code sections 204b and/or 226, or other rules or regulations governing the
11 payment of wages and/or governing wage statements, at any time during the Class Period
12 (whether based on California state wage and hour law, contract, or otherwise).

13
14 Specifically and only with respect to the Released Claims, the Class
15 Members stipulate and agree that, upon the Effective Date, the Class Members shall be
16 deemed to have, and by operation of the Final Judgment shall have, expressly waived and
17 relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of
18 Section 1542 of the California Civil Code, or any other similar provision under federal or
19 state law, which Section provides:

20
21 A general release does not extend to claims which the creditor does not know
22 or suspect to exist in his or her favor at the time of executing the release, which if known
23 by him or her must have materially affected his or her settlement with the debtor. The Class
24 Members may hereafter discover facts in addition to or different from those they now
25 know or believe to be true specifically with respect to the subject matter of the Released
26 Claims, but upon the Effective Date, shall be deemed to have, and by operation of the
27 Final Judgment shall have, fully, finally, and forever settled and released any and all of the
28 Released Claims, whether known or unknown, suspected or unsuspected, contingent or

1 non-contingent, which now exist, or heretofore have existed, upon any theory of law or
2 equity now existing or coming into existence in the future, including, but not limited to,
3 conduct that is negligent, intentional, with or without malice, or a breach of any duty, law
4 or rule, without regard to the subsequent discovery or existence of such different or
5 additional facts. The foregoing waiver and release is not to be construed as a general
6 release, but instead, as a release and waiver with respect to all known and unknown
7 Released Claims only, to the fullest extent permitted by law.

8
9 The Class Members may not sue or otherwise make a claim against any of
10 the Released Parties for the Released Claims.

11
12 C. General Release By Named Plaintiff Only. In addition to the releases
13 made by the Class Members set forth in Section X, Paragraph B hereof, the Named
14 Plaintiff, as of the Effective Date, makes the additional following general release of all
15 claims, known or unknown. (The release set forth in this Section X, Paragraph C shall be
16 referred to hereinafter as the "General Release").

17
18 Named Plaintiff fully releases and discharges the Released Parties from all
19 claims, demands, rights, liabilities and causes of action of every nature and description
20 whatsoever, known or unknown, asserted or that might have been asserted, whether in tort,
21 contract, or for violation of any state or federal statute, rule or regulation arising out of,
22 relating to, or in connection with any act or omission by or on the part of any of the
23 Released Parties committed or omitted prior to the execution hereof. This includes any
24 unknown claims the Named Plaintiff does not know or suspect to exist in his favor, which,
25 if known by him, might have affected his settlement with, and release of, the Released
26 Parties or might have affected his decision not to object to the settlement.

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1 With respect to the General Release, the Named Plaintiff stipulates and
2 agrees that, upon the Effective Date, the Named Plaintiff shall be deemed to have, and by
3 operation of the Final Judgment shall have, expressly waived and relinquished, to the
4 fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the
5 California Civil Code, or any other similar provision under federal or state law, which
6 provides:

7
8 A general release does not extend to claims which the creditor
9 does not know or suspect to exist in his or her favor at the time
10 of executing the release, which if known by him or her must
11 have materially affected his or her settlement with the debtor.
12

13 Named Plaintiff may hereafter discover facts in addition to or different from
14 those he now knows or believes to be true with respect to the subject matter of the General
15 Release, but the Named Plaintiff upon the Effective Date, shall be deemed to have, and by
16 operation of the Final Judgment shall have, fully, finally, and forever settled and released
17 any and all of the claims released pursuant to the General Release, whether known or
18 unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or
19 heretofore have existed upon any theory of law or equity now existing or coming into
20 existence in the future, including, but not limited to, conduct that is negligent, intentional,
21 with or without malice, or a breach of any duty, law or rule, without regard to the
22 subsequent discovery or existence of such different or additional facts.
23

24 Named Plaintiff also agrees and acknowledges that he is not eligible for re-
25 hire by Rolling Frito-Lay Sales, LP, Frito-Lay Sales, Inc., Frito-Lay North America, Inc.,
26 PepsiCo, Inc., or any Frito-Lay company, subsidiary, division, affiliate, predecessor and/or
27 successor, and that this Agreement shall be grounds for termination of any such
28 employment.

SDH

1 D. Settlement Fund. Defendants will create a Settlement Fund in the
2 amount of Eight Hundred Thousand Dollars and No Cents (\$800,000.00) ("Settlement
3 Fund"). The Settlement Fund will be allocated among these elements: (a) payments to
4 Class Members of the Individual Settlement Awards; (b) a total amount not to exceed
5 Fifteen Thousand Dollars and No Cents (\$15,000.00) to be paid to Named Plaintiff as a
6 Service Payment, subject to Court approval; (c) an amount not to exceed Twenty Thousand
7 Dollars and No Cents (\$20,000.00), subject to Court approval, to be paid to the Claims
8 Administrator to cover the cost of the Claims Administration process; (d) Plaintiffs'
9 attorneys' fees not to exceed Thirty-Five Percent (30%) of the Settlement Fund, or a
10 maximum of Two Hundred Forty Thousand Dollars and No Cents (\$240,000.00) subject to
11 Court approval; (e) Plaintiffs' attorneys' litigation costs not to exceed the amount of
12 Eleven Thousand Dollars and No Cents (\$11,000.00) subject to Court approval; and (f)
13 payment to the California Labor and Workforce Development Agency ("LWDA")
14 representative of penalties recoverable under PAGA in a total amount of Sixty Thousand
15 Dollars and No Cents (\$60,000.00), 75% of which, or Forty-Five Thousand Dollars and
16 No Cents (\$45,000.00), will be paid to the LWDA, and 25% of which, or Fifteen Thousand
17 Dollars and No Cents (\$15,000.00), will be paid to Named Plaintiff and/or the Settlement
18 Class.

19
20 Named Plaintiff believes he can retain the entire \$15,000 PAGA Award and
21 still obtain a release of all Plaintiffs' PAGA claims. Defendants believe the PAGA Award
22 must be distributed amongst Plaintiffs in order for the release as to all Plaintiffs' PAGA
23 claims to be effective. The Parties agree to allow the Court to decide the issue, and agree
24 that, no matter what the Court ultimately decides on the allocation, the Parties shall accept
25 the Court's decision and this settlement shall remain binding; provided, however, the
26 settlement is contingent on the Court approving a structure whereby the release as to all
27 Plaintiffs' PAGA claims is effective. Named Plaintiff represents and warrants that, should
28 the Court require allocation of the PAGA Award amongst the Plaintiffs in order for the

1 release to be effective, that reallocation shall not affect the overall settlement of this
2 Action, Named Plaintiff shall not void or otherwise challenge this settlement, and the
3 overall settlement, including Named Plaintiff's general release provided in exchange for
4 receipt of his Service Award, shall remain in full effect.

5
6 Any amounts allocated under this settlement to Named Plaintiff's Service
7 Payment, Claims Administration costs, and Attorneys' Fees and Litigation Costs not
8 awarded by the Court shall remain the property of Defendants.

9
10 The amount that remains after the Service Payment, Claims Administration
11 expenses, Attorneys' Fees and Costs and payment to the LWDA have been deducted from
12 the Settlement Fund shall be called the "Payout Fund," which will be allocated as
13 Individual Settlement Awards (as defined below) and distributed to Class Members as
14 described below.

15
16 E. Maximum Payment. Eight Hundred Thousand Dollars and No Cents
17 (\$800,000.00) is the maximum total amount that Defendants can be required to pay, for
18 any and all purposes, under this Agreement. It shall pay no more than the Maximum
19 Payment.

20
21 F. Plan of Allocation of Payout Fund to Class Members. Upon the
22 Effective Date, and solely for purposes of this settlement, Defendants shall pay by and
23 through the Claims Administrator from the Payout Fund the Individual Settlement Awards
24 (as hereinafter defined) to the Class Members in accordance with the following eligibility
25 and settlement formula requirements:

26
27 1. Excluded from becoming Class Members are those Plaintiffs
28 who submit valid and timely requests for exclusion pursuant to the terms and procedures of

1 the Notice of Class Action Settlement (attached as Exhibit 1 hereto). Any Plaintiff who
2 does not timely request exclusion will receive a Settlement Award, except Unlocated
3 Plaintiffs.

4
5 The Individual Settlement Awards to be allocated to each Class Member who
6 is not an unlocated Plaintiff (CMWINAUP) shall be calculated as follows:

7
8 (i) After deducting from the Settlement Fund the amount of
9 Fees Award, the Costs Award, the Service Payment, Claims Administration expenses and
10 payment to the LWDA that are all finally approved by the Court, the remaining Payout
11 Fund (with the possible exception of the \$15,000 PAGA Award, depending on the Court's
12 ruling) will be allocated to the CMWINAUPs;

13
14 (ii) To arrive at these amounts, the Payout Fund will be
15 distributed based on the number of weeks each CMWINAUP worked for Defendants
16 during the Class Period. The number of workweeks for each CMWINAUP will be
17 determined by adding all the calendar days within the inclusive dates of employment and
18 dividing that number by seven. Any partial workweek will be expressed as a percentage of
19 a full workweek. This shall be considered each CMWINAUP's "Workweek Figure." The
20 CMWINAUP's Individual Settlement Awards will be calculated by dividing the Payout
21 Fund by the total of all CMWINAUPs' Workweek Figures to arrive at a Per-Workweek
22 Amount. For example, a CMWINAUP who worked 365 days would have a Workweek
23 Figure of 52 weeks. If the Payout Fund was \$454,000.00, and the Total Workweeks for all
24 CMWNAUPs was 30,000, this would result in a \$15.13 Per-Workweek Amount. Then,
25 the above CMWINAUP would be eligible for \$15.13 for 52 workweeks, or \$786.76. This
26 would be the CIMWINAUP's Individual Settlement Award. A Plaintiff will be eligible to
27 receive the Individual Settlement Award of his or her Workweek Figure multiplied by the
28 calculated Per-Workweek Amount if he or she does not submit a valid and timely Request

1 for Exclusion and thus becomes a Class Member, and if he or she is not an Unlocated
2 Plaintiff.

3
4 (iii) One hundred percent (100%) of payments to Class
5 Members represent penalties sought in the Action. Class Members will be issued IRS
6 Form 1099s for their Individual Settlement Awards if required by law, as determined by
7 the Claims Administrator with input by Defendants.

8
9 2. Some of the Individual Settlement Awards may remain
10 unclaimed because a CMWINAUP failed to cash his or her Individual Settlement Award
11 Check within one hundred twenty (120) days of its issuance. Such amounts will be
12 referred to as "Remaining Funds." Pursuant to California Code of Civil Procedure section
13 384, Remaining Funds will be distributed as follows: (i) twenty-five percent (25%) will be
14 distributed to the State Treasury for deposit in the Trial Court Improvement and
15 Modernization Fund; (ii) twenty-five percent (25%) will be distributed to the State
16 Treasury for deposit into the Equal Access Fund of the Judicial Branch, to be distributed in
17 accordance with Sections 6216 to 6223, inclusive, of the Business and Professions Code;
18 and (iii) fifty percent (50%) will be distributed *cy pres* to the United Way. The United
19 Way is a nonprofit organization dedicated to improving education, financial stability, and
20 community health across the country, and includes programs on workforce development
21 that aim to help individuals obtain and maintain employment, enabling them to be
22 financially independent, while developing a stronger, more capable workforce. This *cy*
23 *pres* award meets the mandates of California Code of Civil Procedure section 384, in that it
24 is designed to further the purposes of the underlying causes of action in this case (here, the
25 protection of employee rights), and it promotes justice for all Californians.

26
27 G. Fees Award and Service Payments. The Parties agree to the
28 designation of Aiman-Smith & Marcy as "Class Counsel." Class Counsel will request that

1 the Court approve an award of attorneys' fees of up to Two Hundred Forty Thousand
2 Dollars and No Cents (\$240,000.00) ("Fees Award"). This constitutes Thirty Percent
3 (30%) of the value of the Settlement Fund. Class Counsel will also request a Costs Award
4 not to exceed Eleven Thousand Dollars and No Cents (\$11,000.00). Defendants will not
5 oppose these requests. Class Counsel shall not be permitted to petition the Court for, or
6 accept, any additional payments for fees, costs, or interest, and the Fees Award and Costs
7 Award shall be for all claims for attorneys' fees and costs past, present, and future incurred
8 in the Action.

9
10 Defendants' payment of the Fees Award and Costs Award to Class Counsel
11 shall constitute full satisfaction of the obligation to pay any amounts to any person,
12 attorney, or law firm for attorneys' fees, expenses or costs in the Action incurred by any
13 attorney on behalf of Named Plaintiff and/or the Class. Further, said payment shall relieve
14 Defendants, the Claims Administrator, the Settlement Fund, and Defendants' Counsel of
15 any other claims or liability to any other attorney or law firm for any attorneys' fees,
16 expenses, and/or costs to which any of them may claim to be entitled on behalf of Named
17 Plaintiff and/or the Class.

18
19 Class Counsel will request that the Court approve a Service Payment in a
20 total amount not to exceed Fifteen Thousand Dollars and No Cents (\$15,000.00) to be paid
21 to the Named Plaintiff as a service payment and to be paid out of and deducted from the
22 Settlement Fund. Defendants will not oppose such request. Named Plaintiff's Service
23 Payment will not be taxed as wages. Named Plaintiff will receive a 1099 form relating to
24 the Service Payment. This award shall be in addition to the amount he may receive as a
25 Class Member.

1 The Fees Award, Costs Award, and Service Payment shall be paid by
2 Defendants by and through the Claims Administrator from the Settlement Fund to Class
3 Counsel within thirty (30) calendar days after the Effective Date.

4
5 H. Responsibilities of Defendants. Defendants shall:

6
7 1. Deposit the amount needed to pay all amount owed under
8 this Settlement with the Claims Administrator no later than twenty (20) calendar days after
9 the Effective Date;

10
11 2. Pay the Claims Administrator for costs and expenses of
12 administering this Settlement after the completion of the claims administration process or
13 on a different schedule agreed upon by Defendants and the Claims Administrator in the
14 amount awarded by the Court out of the Settlement Fund, not to exceed Twenty Thousand
15 Dollars and No Cents (\$20,000.00);

16
17 3. Cause the Claims Administrator to pay the Fees Award, Costs
18 Award, Service Payment, and payment to the LWDA no later than thirty (30) calendar
19 days after the Effective Date, as specified above;

20
21 4. Cause the Claims Administrator to pay Individual Settlement
22 Awards to Class Members no later than forty-five (45) calendar days after the Effective
23 Date;

24
25 5. Provide to the Claims Administrator, no later than thirty (30)
26 calendar days after entry of the Preliminary Approval Order, the full names, full social
27 security numbers, and last known telephone numbers and mailing addresses for all
28 Plaintiffs, together with the Workweek Figure for each Plaintiff. The Claims

1 Administrator shall keep this information confidential and shall not share this information
2 with Class Counsel;

3
4 6. Provide to Class Counsel, no later than thirty (30) calendar
5 days after entry of the Preliminary Approval Order, the last five digits of each Plaintiff's
6 social security number, as well as the Workweek Figure for that Plaintiff; and

7
8 7. Cause the Claims Administrator to establish a Qualified
9 Settlement Fund (either a separate checking account or separate ledger entry, at
10 Defendants' selection), and timely fund any checks written upon the Settlement Account.

11
12 I. Operation of the Settlement Fund and Payout Fund.

13
14 1. At no time shall Defendants have the obligation to segregate
15 the funds comprising the Settlement Fund from its other assets and will retain exclusive
16 authority over, and responsibility for, those funds until they are paid over to the Claims
17 Administrator.

18
19 2. The Claims Administrator will calculate the net amounts to be
20 paid to the Class Members from the Payout Fund in accordance with the terms and
21 provisions of this Agreement.

22
23 3. The Claims Administrator shall have the authority and
24 obligation to make payments, credits, and disbursements, including payments and credits
25 in the manner set forth herein, to Class Members from the Payout Fund in accordance with
26 the methodology set out in this Agreement and orders of the Court.

1 4. To the extent any tax returns must be filed for the Settlement
2 Fund pursuant to this Agreement, the Claims Administrator shall cause to be timely and
3 properly filed all informational and other tax returns, if any, necessary with respect to the
4 Settlement Fund. Such returns shall be consistent with this Paragraph. The Parties do not
5 believe that the Settlement Fund will generate any taxable income. However, if any
6 taxable income is generated by the Settlement Fund, the tax returns filed shall reflect that
7 all taxes payable on the taxable income of the Settlement Fund, if any, shall be paid by
8 Defendants. Any expenses consisting of the expenses and costs incurred in connection
9 with the operation and implementation of this Paragraph (including, without limitation,
10 reasonable expenses of tax attorneys, accountants or other designees retained by the
11 Claims Administrator as required for the preparation and filing of tax returns described in
12 this Paragraph) shall be treated as, and considered to be, a cost of administration of the
13 Settlement.

14
15 5. No person shall have any claim against Defendants,
16 Defendants' Counsel, Named Plaintiff, Plaintiffs, or Plaintiffs' Counsel based on
17 distributions and payments made in accordance with this Agreement.

18
19 J. Notice/Approval of Settlement and Settlement Implementation. As
20 part of this Settlement, the Parties agree to the following procedures for obtaining
21 preliminary Court approval of the Settlement, notifying Plaintiffs, obtaining final Court
22 approval of the Settlement, and processing the settlement payments:

23
24 1. Preliminary Settlement Hearing. A Hearing shall be held before the
25 Court on a mutually convenient date, or on another date and time if that hearing is
26 rescheduled, at which the Named Plaintiff shall request preliminary approval of the
27 Settlement. In conjunction with this hearing, Named Plaintiff will submit this Agreement,
28 which sets forth the terms of this Settlement, and will include proposed forms of all notices

1 and other documents as attached hereto necessary to implement the Settlement.
2 Defendants shall not oppose Named Plaintiff's request for preliminary approval consistent
3 with this Agreement.
4

5 Simultaneous with the filing of this Agreement, and solely for purposes of
6 this Settlement, Named Plaintiff will request the Court to enter a Conditional Class
7 Certification Order for purposes of Settlement only and a Preliminary Approval Order
8 ("Preliminary Approval Order") (substantially in the form attached as Exhibit 2 hereto)
9 conditionally certifying the class, preliminarily approving the proposed Settlement,
10 approving the appointment of Class Counsel, approving the appointment of Named
11 Plaintiff as class representative, authorizing notice to the class, and setting a date for final
12 approval of the Settlement approximately one hundred twenty (120) calendar days after
13 entry of the Preliminary Approval Order. The Proposed Order shall provide for notice of
14 the Settlement and related matters to be sent to Plaintiffs as specified herein. The Parties
15 will request the Court, in its preliminary approval of this Settlement, to enjoin any
16 Plaintiffs from initiating or prosecuting any proceeding on any claim to be released
17 pursuant to this Stipulation unless, and until, either the Plaintiff opts out of the class, or the
18 Effective Date does not occur (as set forth in Section X, Paragraph A, above).
19

20 2. Notice to Plaintiffs. Notice of the Settlement shall be provided to
21 Plaintiffs using the following procedures:
22

23 (a) Claims Administrator. The Parties agree to designate Rust
24 Consulting, Inc. as the "Claims Administrator," subject to approval of the Court. In the
25 event Rust Consulting, Inc. is subsequently unable to serve as Claims Administrator,
26 another claims administrator shall be agreed to by the Parties, or, if they cannot reach
27 agreement, will be selected by the Court. The Parties agree that they have selected a
28 Claims Administrator with whom they have no financial interest or other relationship that

1 could create a conflict of interest. The Claims Administrator shall be responsible for:
2 preparing, printing, and mailing the Notice, as directed by the Court to the Plaintiffs;
3 communicating with Plaintiffs and others regarding the Settlement Award administration
4 process, corrections, and/or additional information needed for administration; calculating
5 the Individual Settlement Awards; keeping track of opt-outs; drafting and mailing
6 Individual Settlement Award checks to Class Members; disbursing the Fees Award and
7 Costs Award to Class Counsel; disbursing the Service Payment to Named Plaintiff through
8 Class Counsel; disbursing the PAGA payment to the LWDA; preparing, mailing, and filing
9 all applicable tax forms, if any, necessary as a result of the payments made under this
10 Settlement; and for such other tasks as the Parties mutually agree or the Court orders the
11 Claims Administrator to perform.

12
13 Defendants shall be responsible for paying over to the Claims Administrator
14 at such times as specified in this Agreement those amounts necessary to enable the Claims
15 Administrator to make payments required under this Settlement.

16
17 (b) Notice By First-Class Mail. By no later than forty-five (45)
18 days after Preliminary Approval is entered, the Claims Administrator shall send Notice to
19 all Plaintiffs via First Class regular U.S. mail. Prior to mailing, one National Change of
20 Address ("NCOA") search will be performed on Defendants' records to ascertain updated
21 contact information for all Plaintiffs. Any Notices returned to the Claims Administrator as
22 non-delivered before the Objection/Opt-Out Deadline Date specified below shall be sent to
23 the forwarding address affixed thereto. If no forwarding address is provided, then the
24 Claims Administrator shall attempt to determine a correct address by using a single
25 computer or other search using the social security number of the individual involved and
26 shall forward the Notices to the correct address. For any original Notices returned as
27 undeliverable before the Objection/Opt-Out Deadline Date, the Claims Administrator shall

1 re-mail all returned, undelivered mail within fourteen (14) calendar days of receiving
2 notice that a Notices was undeliverable.

3
4 The Claims Administrator will, on a weekly basis during and for a
5 reasonable period following the Objection/Opt-Out Period, provide updates to Class
6 Counsel and Defendants' Counsel as to the number of Plaintiffs who submitted valid opt-
7 out requests for exclusions and objections.

8
9 Within thirty (30) days after the close of the Objection/Opt-Out Period, the
10 Claims Administrator will prepare a declaration to be provided to Class Counsel and
11 Defendants' Counsel for filing in support of Plaintiff's motion for final approval attesting
12 to the following: (i) its mailing efforts regarding the Class Notice; (ii) its inability to
13 deliver the Class Notice to Plaintiffs, if any; (iii) the number of Class Members and the
14 total number of workweeks worked by Class Members; (iv) the highest and lowest
15 estimated Individual Settlement Awards, along with the estimated average Individual
16 Settlement Award. No less than ten (10) days before the Final Approval Hearing, the
17 Claims Administrator will prepare and submit to Class Counsel and Counsel for
18 Defendants for filing in support of the motion any supplemental declaration as applicable.

19
20 In the event the procedures in this Paragraph are followed and the intended
21 recipient of a Notice still does not receive the Notice, the intended recipient shall remain a
22 Class Member and shall be bound by all terms of the Settlement and by any Final
23 Judgment entered by the Court, provided the Settlement is approved by the Court. These
24 persons shall be included as "Unlocated Plaintiffs." The Parties agree that this procedure
25 is the best notice practicable under the circumstances.

1 3. Procedure for Objecting to or Requesting Exclusion From Class
2 Action Settlement.

3
4 (a) Procedure for Objecting. The Notice shall provide that Class
5 Members who wish to object to the Settlement must file with the Court and serve on
6 counsel for the Parties a written statement objecting to the Settlement. Such written
7 statement must be filed with the Court and served on counsel for the Parties no later than
8 thirty (30) calendar days after the date the Notice is first mailed (the "Objection/Exclusion
9 Deadline Date"). No extensions to this deadline will be permitted for any reason,
10 including alleged non-receipt of the Notice. No Class Member shall be entitled to be heard
11 at the final Settlement Hearing (whether individually or through separate counsel) or to
12 object to the Settlement, and no written objections or briefs submitted by any Class
13 Member shall be received or considered by the Court at the Settlement Hearing, unless
14 written notice of the Class Member's intention to appear at the Settlement Hearing (if
15 applicable), and copies of any written objections or briefs, have been filed with the Court,
16 and served on all counsel for the Parties, on or before the Objection/Exclusion Deadline
17 Date. The date of the postmark on the return mailing envelope shall be the exclusive
18 means used to determine whether an objection has been timely submitted. Class Members
19 who fail to file and serve timely written objections in the manner specified above shall be
20 deemed to have waived any objections and shall be foreclosed from making any objection
21 (whether by appeal or otherwise) to the Settlement. Any Class Member who submits a
22 timely and valid objection will still be entitled to his or her Individual Settlement Award
23 and will be bound by the Settlement. If a Plaintiff submits both a request for exclusion and
24 a timely and valid objection, the request for exclusion shall govern, and the objection shall
25 be void.

26
27 (b) Procedure for Requesting Exclusion. The Notice shall provide
28 that Plaintiffs who wish to exclude themselves from the Class must submit a written

1 statement requesting exclusion from the Class on or before the Objection/Exclusion
2 Deadline Date. Such written request for exclusion must contain the name, address,
3 telephone number, and last four digits of the social security number of the person
4 requesting exclusion, and the location and dates of his or her employment by Defendants.
5 Such request must be returned by mail to the Claims Administrator and must be
6 postmarked on or before the Objection/Exclusion Deadline Date. The date of the postmark
7 on the return mailing envelope shall be the exclusive means used to determine whether a
8 request for exclusion has been timely submitted. Any Plaintiff who submits a timely and
9 valid request for exclusion from the Class will not be entitled to any recovery under the
10 Settlement and will not be bound by the Settlement or have any right to object, appeal, or
11 comment thereon. Plaintiffs who fail to submit a valid and timely request for exclusion on
12 or before the Objection/Exclusion Deadline Date shall become Class Members and shall be
13 bound by all terms of the Settlement and any Final Judgment entered in the Class Action if
14 the Settlement is approved by the Court.

15
16 4. No Solicitation of Settlement Objections or Exclusions. The Parties
17 agree to use their best efforts to carry out the terms of this Settlement. At no time shall any
18 of the Parties or their counsel seek to solicit or otherwise encourage Plaintiffs to submit
19 written objections to the Settlement or requests for exclusion from the Settlement Class or
20 appeal from the Court's Final Judgment. Notwithstanding the above, Class Counsel have
21 the duty to provide their best advice to Plaintiffs.

22
23 (a) Option to Terminate Settlement. If, after the
24 Objection/Exclusion Deadline Date and before the Settlement Hearing referenced in
25 Section X, Paragraph K(5) below, the number of Plaintiffs who have timely submitted
26 requests for exclusion total in number more than the number specified in a separate
27 Supplemental Agreement between the Parties, Defendants shall have, in its sole discretion,
28 the option to terminate this Settlement in accordance with the procedures set forth in the

1 Supplemental Agreement. The Supplemental Agreement will not be filed with the Court
2 unless and until a dispute arises among the Parties concerning its interpretation or
3 application, and in that event it shall be filed and maintained by the Court under seal. The
4 Supplemental Agreement is an integral and material part of this settlement agreement, as
5 stated in Section X, Paragraph T. If it terminates the Settlement on this basis, Defendants
6 shall pay for all Claims Administration expenses incurred through the date of termination.
7

8 5. Persons who worked for Defendants as Route Sales Associates.
9 Upon expiration of the Objection/Exclusion Deadline Date, with the Court's permission, a
10 Final Settlement Approval Hearing ("Settlement Hearing") shall be conducted to determine
11 final approval of the Settlement along with the amount properly payable for (i) attorneys'
12 fees and costs to Class Counsel, (ii) Named Plaintiff's Service Payment, (iii) Claims
13 Administration fees, and (iv) payment of PAGA penalties to the LWDA. Upon final
14 approval of the Settlement by the Court at or after the Settlement Hearing, the Parties shall
15 present a Final Approval Order and Judgment ("Final Judgment") (substantially in the
16 form attached as Exhibit 3 hereto) to the Court for its approval. After entry of the Final
17 Judgment, the Court shall have continuing jurisdiction pursuant to California Code of Civil
18 Procedure section 664.6 and California Rules of Court, Rule 3.769(h).
19

20 6. Procedure for Payment of Individual Settlement Awards. Except for
21 Plaintiffs who submit valid and timely requests for exclusion as provided herein, all
22 Plaintiffs shall become Class Members, and all Class Members who are not Unlocated
23 Plaintiffs shall receive an Individual Settlement Award from Defendants, distributed by
24 Defendants through the Claims Administrator within forty-five (45) calendar days of the
25 Effective Date. No later than forty-five (45) calendar days after the Effective Date, the
26 Claims Administrator shall mail Individual Settlement Awards to these Class Members.
27 Individual Settlement Awards for Class Members shall be paid pursuant to the settlement
28 formula set forth herein. The Claims Administrator's determination of eligibility for, and

1 the amounts of, any Settlement Awards under the terms of this Agreement, shall be
2 conclusive, final and binding on all Parties, including all Class Members. Any checks paid
3 to Class Members shall remain valid and negotiable for one hundred twenty (120) days
4 from the date of their issuance ("Check Stale Date") and, if not cashed by a Class Member
5 within that time, will be allocated: (i) twenty-five percent (25%) to the State Treasury for
6 deposit in the Trial Court Improvement and Modernization Fund; (ii) twenty-five percent
7 (25%) to the State Treasury for deposit into the Equal Access Fund of the Judicial Branch;
8 and (iii) fifty percent (50%) *cy pres* to The United Way. If a Class Member's check is not
9 cashed prior to the Check Stale Date, the Class Member's claim will be deemed void and
10 of no further force and effect, and a new check will not be re-issued. For any checks that
11 are returned with a forwarding address, the Claims Administrator shall send the check to
12 that forwarding address within ten (10) calendar days. For any checks that are returned
13 with no forwarding address, the Claims Administrator shall attempt to determine a correct
14 address by using a single computer or other search and shall call the Class Member at the
15 telephone number provided by Defendant. If the Claims Administrator obtains a new
16 address, then the check shall be mailed to that new address within ten (10) calendar days.
17 In the event these procedures are utilized and the person does not receive the check, no
18 additional steps are required and the Claims Administrator will have fulfilled all of its
19 obligations under this section. The funds associated with uncashed checks shall be
20 allocated pursuant to the allocation set forth above.

21
22 Administration of the Settlement shall be completed on or before the date
23 approximately one hundred eighty (180) days after the Effective Date. Upon completion
24 of administration of the Settlement, the Claims Administrator shall provide written
25 certification of such completion to Defendant and Class Counsel and the Court (if
26 required).

27
28

1 7. No Injunctive Relief. As part of this Settlement, Defendants shall not
2 be required to enter into any consent decree, nor shall Defendants be required to agree to
3 any provision for injunctive relief, or to modify or eliminate any of its personnel,
4 compensation or payroll practices, or adopt any new personnel, compensation or payroll
5 practices.

6
7 8. Administration Costs. All of Defendants' own legal fees, costs and
8 expenses incurred in the Action shall be borne by Defendants separate and apart from the
9 Maximum Payment. In accordance with Section X, Paragraph D, claims administration
10 expenses will be part of the Settlement Fund. The Parties agree to cooperate in the
11 Settlement administration process and to make all reasonable efforts to control and
12 minimize the costs and expenses incurred in administration of the Settlement.

13
14 9. Nullification of Settlement Agreement. In the event that prior to the
15 Effective Date: (i) the Court does not enter a Preliminary Approval Order; (ii) the Court
16 does not finally approve the Settlement as provided herein; (iii) the Court does not enter a
17 Final Judgment as provided herein which becomes final as a result of the occurrence of the
18 Effective Date; or (iv) the Settlement does not become final for any other reason, this
19 Settlement Agreement shall be null and void and any order or judgment entered by the
20 Court in furtherance of this Settlement shall be treated as void *ab initio*. In that case, the
21 Parties will seek to reach a revised agreement acceptable to them to be presented to the
22 Court. In the event the Parties cannot reach a mutually acceptable revised agreement, they
23 shall ask mediator Michael Dickstein, Esq. to assist them in resolving the remaining
24 disputes. In the event the Parties are unable to reach a revised agreement, or any such
25 revised agreement is not approved by the Court, the Parties shall proceed in all respects as
26 if this Settlement Agreement had not been executed and Defendants will not make any
27 payments under this Settlement Agreement, except that any fees already incurred by the
28 Claims Administrator shall be paid for by Defendants and shall not be repaid to

1 Defendants. In the event an appeal is filed from the Court's Final Judgment, or any other
2 appellate review is sought prior to the Effective Date, administration of the Settlement
3 shall be stayed pending final resolution of the appeal or other appellate review.
4

5 10. Appraisal and Certification By Claims Administrator. The Claims
6 Administrator shall keep the Parties apprised (on a weekly basis) of the number of claims,
7 opt-outs, objections, and the total distributions from the Settlement Fund. The Claims
8 Administrator shall further provide to the Parties weekly status updates of how many
9 checks were mailed, returned undeliverable, etc. Upon completion of administration of the
10 Settlement, the Claims Administrator shall provide written certification of such completion
11 to the Court and counsel for all Parties.
12

13 K. No Effect on Employee Benefits. All payments made to the Named
14 Plaintiff and Class Members shall be deemed not to be pensionable earnings and shall not
15 have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g.,
16 vacations, holiday pay, retirement plans, etc.) of Named Plaintiff or Class Members. The
17 Parties agree that any Service Payment and Individual Settlement Awards paid to Named
18 Plaintiff and Class Members under the terms of this Agreement do not represent any
19 modification of Named Plaintiff's or Class Members' previously credited hours of service,
20 or other eligibility criteria, under any employee pension benefit plan or employee welfare
21 benefit plan sponsored by Defendants. Further, any Service Payments or Individual
22 Settlement Awards hereunder shall not be considered "compensation" in any year for
23 purposes of determining eligibility for, or benefit accrual within, an employee pension
24 benefit plan, employee welfare benefit plan sponsored by Defendants, or unemployment
25 benefits. Defendants will not take 401(k) or other benefits deductions from any Service
26 Payment or Individual Settlement Awards.
27
28

1 L. Privacy of Documents and Information. Named Plaintiff and his
2 counsel agree that none of the documents and information provided to them by Defendants
3 shall be used for any purpose other than prosecution of the Action.

4
5 M. Confidentiality Prior to Preliminary Approval. The undersigned agree
6 that prior to the date of the filing of the papers in support of Preliminary Approval, they
7 will keep confidential the terms of this Settlement. Named Plaintiff shall be informed that
8 the Settlement is confidential up until the date of the filing of the papers in support of
9 Preliminary Approval, and shall be advised to keep this Settlement confidential.

10 Notwithstanding the foregoing, Named Plaintiff and Class Counsel may inform their
11 immediate family and legal, tax, and financial advisors of this Settlement. However,
12 before disclosing any such information to any such person, Named Plaintiff or Class
13 Counsel (as the case may be) shall advise such person(s) that the information is
14 confidential. The disclosure of this information to any other person shall constitute a
15 breach of this Agreement. Prior to the date of the filing of the papers in support of
16 Preliminary Approval, Class Counsel and Counsel for Defendants may not communicate
17 the terms of this Settlement to Plaintiffs, other than Named Plaintiff, including on
18 websites. Notwithstanding the foregoing, the Parties may discuss the terms of the
19 Settlement in any papers filed with the court relating to preliminary approval of the
20 Settlement. Defendants may reference this Settlement prior to Preliminary Approval in its
21 financial disclosures.

22
23 N. Limited Publicity Following Preliminary Approval. From and after
24 Preliminary Approval, Named Plaintiff and Class Counsel may comment regarding the
25 specific terms of this Agreement: (1) as required by law; or (2) as required under the terms
26 of this Agreement; or (3) to Plaintiffs. In all other cases, Named Plaintiff and Class
27 Counsel agree to limit their statements regarding the terms of this Agreement, whether
28 oral, written or electronic (including the world wide web), to say the Action has been

1 resolved and that Named Plaintiff and Class Counsel are satisfied with the settlement
2 terms. Neither Named Plaintiff nor Class Counsel shall hold any press conference or make
3 any press release related in any way to the Settlement, nor shall they affirmatively
4 publicize the settlement on any web site, social media, advertisement, or any other means.

5
6 O. No Admission By the Released Parties. Defendants and the Released
7 Parties deny any and all claims alleged in the Action and deny all wrongdoing whatsoever.
8 This Agreement is not a concession or admission, and shall not be used against Defendants
9 or any of the Released Parties as an admission or indication with respect to any claim of
10 any fault, concession or omission by Defendants or any of the Released Parties. Whether
11 or not the Settlement is finally approved, neither the Settlement, nor any document,
12 statement, proceeding or conduct related to this Agreement, nor any reports or accounts
13 thereof, shall in any event be:

14
15 1. construed as, offered or admitted in evidence as, received as, or
16 deemed to be evidence for any purpose adverse to the Released Parties, including, but not
17 limited to, evidence of a presumption, concession, indication or admission by any of the
18 Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or

19
20 2. disclosed, referred to or offered or received in evidence against any of
21 the Released Parties, in any further proceeding in the Action, or any other civil, criminal or
22 administrative action or proceeding, except for purposes of settling the Action pursuant to
23 this Agreement or enforcing the terms of this Stipulation.

24
25 P. CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS
26 AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING
27 PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE
28 ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND

1 AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN
2 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR
3 THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE,
4 NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR
5 BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
6 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31
7 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
8 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL
9 AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION
10 WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT
11 BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
12 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED
13 TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY
14 OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT
15 MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY
16 OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
17 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR
18 ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION
19 IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY
20 OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION,
21 INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

22
23 Q. Exhibits and Headings. The terms of this Agreement include the
24 terms set forth in any of the attached Exhibits 1 through 3, as well as the Confidential
25 Supplemental Agreement, which are incorporated by this reference as though fully set
26 forth herein. All Exhibits to this Agreement are an integral part of the Settlement. The
27 descriptive headings of any Paragraphs or Sections of this Agreement are inserted for
28 convenience of reference only and do not constitute a part of this Agreement.

1 R. Interim Stay of Proceedings. The Parties agree to hold all Court
2 proceedings in the Action (except such proceedings necessary to implement and complete
3 the Settlement) in abeyance pending the Preliminary Settlement Hearing and Final
4 Approval Hearing to be conducted by the Court. No additional discovery shall be
5 conducted in this case unless this Settlement Agreement is nullified in accordance with
6 Section X, Paragraph J(9) above.

7
8 S. Amendment or Modification. This Agreement may be amended or
9 modified only by a written instrument signed by counsel for all Parties or their successors-
10 in-interest.

11
12 T. Entire Agreement. This Agreement, the Supplemental Agreement
13 referred to in Section X, Paragraph K(4)(a), and the four attached Exhibits constitute the
14 entire agreement among these Parties, and no oral or written representations, or warranties
15 or inducements have been made to any Party concerning this Agreement or its Exhibits,
16 other than the representations, warranties, and covenants contained and memorialized in
17 such documents.

18
19 U. Authorization to Enter Into Settlement Agreement. Counsel for all
20 Parties warrant and represent that they are expressly authorized by the Parties whom they
21 represent to negotiate this Agreement, and to take all appropriate action required or
22 permitted to be taken by such Parties (including the execution of any other documents)
23 pursuant to this Agreement to effectuate the terms of said Agreement. The Parties and
24 their counsel will cooperate with each other and use their best efforts to effect the
25 implementation of the Settlement.

1 V. Binding on Successors and Assigns. This Agreement shall be binding
2 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as
3 previously defined.

4
5 W. California Law Governs. All terms of this Agreement and the
6 Exhibits attached hereto shall be governed by and interpreted according to the laws of the
7 State of California.

8
9 X. Counterparts. This Agreement may be executed in one or more
10 counterparts and transmitted via email or facsimile. All executed counterparts, their copies
11 and each of them, shall be deemed to be one and the same instrument.

12
13 Y. This Settlement is Fair, Adequate and Reasonable. The Parties
14 believe this Settlement is a fair, adequate, and reasonable settlement of the Action, and
15 have arrived at this Settlement in arms-length negotiations taking into account all relevant
16 factors, present and potential. This Settlement was reached after extensive negotiations
17 between experienced counsel for the class and Defendants.

18
19 Z. Jurisdiction of the Court. The Court shall retain jurisdiction pursuant
20 to California Code of Civil Procedure section 664.6 and California Rules of Court, Rule
21 3.769(h), with respect to the interpretation, implementation, and enforcement of the terms
22 of this Agreement, and all orders and judgments entered in connection therewith. The
23 Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of
24 interpreting, implementing, and enforcing the settlement embodied in this Agreement, and
25 all orders and judgments entered in connection therewith.

1 AA. Cooperation and Drafting. Each of the Parties has cooperated in the
2 drafting and preparation of this Agreement. Hence, in any construction made of this
3 Agreement, the same shall not be construed against any of the Parties.

4
5 BB. Invalidity of Any Provision. Before declaring any provision of this
6 Agreement invalid, the Court shall first attempt to construe the provisions valid to the
7 fullest extent possible consistent with applicable precedents so as to define all provisions
8 of this Agreement valid and enforceable.

9
10 CC. Named Plaintiff's Waivers of Right to Be Excluded and Object. By
11 signing this Agreement, Named Plaintiff is bound by the terms herein stated and further
12 agrees not to request to be excluded from the Settlement Class and agrees not to object to
13 any of the terms of this Agreement. Non-compliance by Named Plaintiff with this
14 Paragraph will have no force or effect. Any such requests for exclusion or objections shall
15 therefore be void and of no force or effect.

16
17 NAMED PLAINTIFF

18
19 Dated: 5/7/18

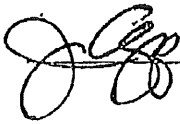
20 Wayne Mauldin
WAYNE MAULDIN

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PLAINTIFF'S COUNSEL

Dated: 5/8/18

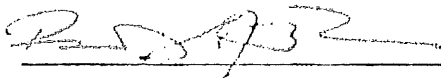
AIMAN-SMITH & MARCY

By  _____
JOSEPH CLAPP
Attorneys for Plaintiff
WAYNE MAULDIN

DEFENDANTS

Dated: 5.7.18

ROLLING FRITO-LAY SALES, LP AND FRITO-LAY,
INC.

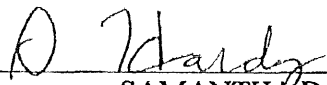
By  _____
Its: SENIOR EMPLOYMENT COUNSEL

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DEFENDANTS' COUNSEL

Dated: May 10, 2018

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By 
SAMANTHA D. HARDY
TARA M. DUESTER

Attorneys for Defendants
ROLLING FRITO-LAY SALES, LP AND
FRITO-LAY, INC.

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LIST OF EXHIBITS

1. Class Notice
2. Preliminary Approval Order
3. Final Approval Order and Judgment

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EXHIBIT 1

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

WAYNE MAULDIN, an individual,
Plaintiff,

v.

ROLLING FRITO-LAY SALES, LP,
a Delaware Limited Partnership,
FRITO-LAY, INC., a Delaware
Corporation; and DOES 1 through 25,
inclusive,

Defendants.

Case No. RG16811677

**NOTICE OF PENDENCY AND
SETTLEMENT OF CLASS ACTION;
SETTLEMENT HEARING; AND
EXCLUSION AND OBJECTION
PROCEDURES**

Assigned For All Purposes To:
Judge: Hon. Winifred Y. Smith
Dept.: 21

[Complaint Filed: April 14, 2016]

NOTICE OF PENDENCY AND SETTLEMENT OF CLASS ACTION;
SETTLEMENT HEARING; AND EXCLUSION AND OBJECTION PROCEDURES
SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF ALAMEDA

Mauldin v. Rolling Frito-Lay Sales, LP, et seq.

Case No. RG16811677

The Court has given preliminary approval to a Settlement of this lawsuit. If you were employed by Rolling Frito-Lay Sales, LP or Frito-Lay, Inc. ("Frito-Lay") at any time from March 8, 2015 through [Date of preliminary approval] (the "Class Period") as a Route Sales Associate ("RSA") in the state of California, you should read this Notice carefully because it will affect your rights.

The Alameda County California Superior Court authorized this Notice. This is not a solicitation from a lawyer.

Your legal rights are affected by how you act in response to this notice. Please read this Notice carefully.

BASIC INFORMATION

1. What is this lawsuit about?

This lawsuit was filed by Wayne Mauldin on behalf of himself and on behalf of all persons who worked for Frito-Lay as Route Sales Associates ("RSAs") in the State of California at any time from March 8, 2015 through [Date of preliminary approval], (the "Class Period") (defined as "Plaintiffs"). This is referred to as the "Lawsuit." The Lawsuit alleges that Frito-Lay failed to provide accurate, itemized wage statements to its employees and failed to pay its employees timely. The Lawsuit seeks penalties (including Private Attorney General Act, or "PAGA" penalties on behalf of the State of California) and attorneys' fees. Frito-Lay denies Plaintiffs' claims, and maintains that it properly provided timely, accurate, itemized wage statements under the law. However, in order to avoid the time and expense of continued litigation, Plaintiff and Frito-Lay agreed to enter into a settlement of this Lawsuit ("Settlement").

2. Why did I receive this notice?

You received this Notice because Frito-Lay's records show that you have been employed in California as an RSA (as defined above) at some point from March 8, 2015 through [Date of preliminary approval].

All Plaintiffs are receiving a Notice. All Plaintiffs who do not timely request to be excluded from the Settlement as set forth below will be "Class Members."

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This Notice explains that the Court has granted preliminary approval of a proposed Settlement of a class action lawsuit that may affect you. You have legal rights and options that you may exercise before the Court decides whether to grant final approval of the proposed Settlement.

3. What is a class action, who is involved, and how does it work?

In a class action, one or more people, in this case Wayne Mauldin (the "Named Plaintiff"), file a lawsuit on behalf of people who they believe have similar claims. The people together are called "Plaintiffs". The company they sued (in this case Frito-Lay) is called the Defendant. In this case, the Named Plaintiff and the Defendant have decided to settle the case. However, their proposed Settlement must be approved by the Court. This happens in two stages. First, if the Court is satisfied that the proposed Settlement appears fair, adequate and reasonable, it grants preliminary approval and orders that a Notice like this is sent to the Plaintiffs. Plaintiffs can then request exclusion or object to the proposed settlement if they so desire. Once Plaintiffs have had an opportunity to make this decision, the Court reviews this information and decides whether to grant final approval of the Settlement. If the Court grants final approval, the Plaintiffs who did not ask to be excluded will become Class Members and will be paid out of the Settlement monies in exchange for a release of additional claims.

The Honorable Winifred Y. Smith of the Superior Court of California, County of Alameda (the "Court"), is overseeing this Lawsuit. You can see more information about Judge Smith and the Superior Court of Alameda County at the Court's website at: <http://www.alameda.courts.ca.gov/>.

4. Why is this a class action?

The Named Plaintiff filed his Lawsuit on behalf of himself and on behalf of all other Plaintiffs, as well as on behalf of the State of California. On June 1, 2017, the Parties met to mediate this case, and later decided to settle all claims. The Court then made a preliminary determination that the proposed Settlement appears fair, adequate, and reasonable.

5. Is there any money available now?

No money or benefits are available right now because the Court has not yet decided whether to give final approval to the Settlement. If the Court gives final approval to the Settlement, and you have not requested exclusion, then you will be sent your portion of the Settlement once the Court's order becomes final.

6. Do I have a lawyer in this case?

The Court appointed Joseph Clapp, Esq., of Aiman-Smith & Marcy, located at 7677 Oakport Street, Suite 1150, Oakland, CA 94621, as Class Counsel to represent you and all Class Members. Aiman-Smith & Marcy is the legal counsel representing the Class ("Class Counsel").

You do not need to hire your own lawyer because Aiman-Smith & Marcy is working on your behalf. But, if you want to hire your own lawyer, you may do so at your own expense.

THE SETTLEMENT BENEFITS—WHAT YOU RECEIVE

7. What does the Settlement provide?

The proposed Settlement requires Frito-Lay to pay a Settlement amount not to exceed Eight Hundred Thousand Dollars and No Cents (\$800,000.00). This is called the "Settlement Fund." The amount of the Settlement Fund includes settlement payments to Class Members, a Service

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Payment for Named Plaintiff, attorneys' fees and costs for Class Counsel, Claims Administration costs, and payment to the Labor and Workforce Development Agency ("LWDA") for its share of PAGA penalties. Settlement proceeds will be paid to Class Members who do not request to opt out of the settlement.

Class Counsel plans to request that the Court authorize payment to them of attorneys' fees in an amount not to exceed Two Hundred Forty Thousand Dollars and No Cents (\$240,000.00), which, if approved, will come from the Settlement Fund amount. Class Counsel will also ask the Court for costs and other expenses, not to exceed Eleven Thousand Dollars and No Cents (\$11,000.00), also to come from the Settlement Fund if approved.

The Named Plaintiff will ask the Court to approve a monetary payment as compensation for the work he has done in bringing and prosecuting the case on behalf of the Plaintiffs, in an amount not to exceed Fifteen Thousand Dollars and No Cents (\$15,000.00) ("Service Payment"). If approved by the Court, the Service Payment will be made from the Settlement Fund amount and will be in addition to any other amounts Named Plaintiff may receive under the terms of the Settlement.

Named Plaintiff will ask the Court to approve a payment of no more than Twenty Thousand Dollars (\$20,000.00) to the claims administrator who is handling the processing of this notice.

Finally, Named Plaintiff will ask the Court to approve a payment of Sixty Thousand Dollars and No Cents (\$60,000.00) to be allocated to PAGA penalties, 75% of which (or \$45,000.00) will be sent to the LWDA, and 25% of which (or \$15,000.00) [will be included in the Payout Fund to be paid out to Class Members / will be paid to Plaintiff].

8. What can I get from the Settlement?

Your share of the Settlement will depend on: a) how many workweeks you worked during the Class Period as compared to all workweeks worked by all Aggrieved Employees during the Class Period ("Qualifying Workweeks"); and b) the amounts of the attorneys' fees and costs, claims administration expenses, Service Payment, and PAGA amounts approved by the Court.

According to Frito-Lay's records, you worked for a total of [] Qualifying Workweeks. As a result, and based on preliminary calculations, your settlement share will be approximately \$[]. This is only an estimate and may change based on the final ruling of the Court.

9. If the Settlement is approved, when will I receive my share of the Payout Fund?

The Court has scheduled a Final Approval Hearing on [DATE], at [TIME] at the Superior Court for the State of California for the County of Alameda, Dept. 21, 2233 Shoreline Drive, Alameda, CA 94501, at which time the Court will determine: (1) whether the proposed settlement should be approved as fair, reasonable and adequate to Class Members; and (2) whether the applications for the Service Payment, attorneys' fees and costs, claims administration expenses, and PAGA award should be approved. If the Court approves the settlement, an Order Granting Final Approval will be entered. It is neither required nor necessary that you attend the Final Approval Hearing.

Once the order granting final approval is signed by the Court, and if there is no appeal of the Court's order, then checks will be mailed out to the Class Members within approximately 90 days. If an appeal is filed, then distributions will be delayed until after final resolution of any appeals. Please be patient.

OPTIONS UNDER THE SETTLEMENT

Summary of Your Legal Rights and Options in this Settlement	
DO NOTHING	Receive a settlement award. Release certain claims.
EXCLUDE YOURSELF	Submit an Exclusion request, receive no money and retain your rights. If you submit a timely and valid Exclusion request then you will receive no payment and you will retain your right to pursue claims against Frito-Lay in a separate action/proceeding.
OBJECT	Submit a written objection to the Court. If you disagree with the proposed settlement, you may submit an objection. If the Settlement is approved, you will receive a settlement award, and release certain claims under state law.

HOW YOU RECEIVE A PAYMENT—NO FURTHER ACTION IS NECESSARY

10. How can I receive my portion of the Settlement?

You do not need to take any action in order to receive your portion of the settlement. If this Notice was sent to you at your current address and you agree with the number of Qualifying Workweeks listed in Section 8 above, you do not need to do anything further. If this Notice was forwarded by the postal service, or if it was otherwise sent to you at an address that is not current, or if you have changed your address, or if you disagree with the number of Qualifying Workweeks listed in Section 8 above, then you should immediately send a letter to the Claims Administrator stating your name and past and current addresses, and any and all facts and documents which support your position and claimed Qualifying Workweeks.

The Claims Administrator's address is:

RUST CONSULTING, INC.
201 Lyndale Ave S Ste S
Faribault, MN 55021

11. What am I giving up to get a payment?

Unless you exclude yourself, you will remain part of the class, and that means you can't sue, continue to sue, or be part of any other lawsuits against Frito-Lay about the issues in this case, and you will be bound by any orders entered by the Court about these claims. Specifically, you will not be allowed to sue Frito-Lay and each of its past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and its and their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys and each of their company-sponsored

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employee benefit plans and all of their respective officers, directors, employees, administrators, fiduciaries, trustees, and agents for the following Released Claims:

any and all claims, demands, rights, liabilities, and causes of action asserted or that might have been asserted based on the facts alleged in the Action,

whether in tort, contract, or for violation of any California constitution, statute, rule or regulation, including California wage-and-hour laws,

whether for economic damages, non-economic damages, restitution, penalties or liquidated damages,

arising out of, relating to, or in connection with the Claims asserted or that could have been asserted in the Complaint filed in the Action based on alleged violations of Labor Code section 204b and/or Labor Code section 226, including but not limited to claims for an alleged failure to timely pay all wages owed, including overtime wages, and/or provide accurate itemized wage statements in accordance with California law; claims that Defendants owe penalties (including but not limited to PAGA penalties) resulting from their alleged failure to timely pay all wages owed, including overtime wages, and/or provide accurate itemized wage statements in accordance with California law; attorneys' fees and/or costs, or other damages of any kind based on a failure to comply with Labor Code sections 204b and/or 226, or other rules or regulations governing the payment of wages and/or governing wage statements, at any time during the Class Period (whether based on California state wage and hour law, contract, or otherwise).

Specifically and only with respect to the Released Claims addressed above, you stipulate and agree that, upon the Effective Date, you shall be deemed to have, and by operation of the Final Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which Section provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

You may hereafter discover facts in addition to or different from those you now know or believe to be true specifically with respect to the subject matter of the Released Claims, but upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and released any and all of the Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The foregoing waiver and release is not to be construed as a general release, but instead, as a release and waiver with respect to all known and unknown Released Claims only, to the fullest extent permitted by law.

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EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the right to sue or continue to sue on your own about legal issues alleged in this case, and/or you don't want a payment from this Settlement, then you must take certain steps. This is called excluding yourself — or is sometimes referred to as “opting out” of the Settlement Class.

12. How do I request to be excluded from the Settlement?

To exclude yourself from the Settlement, or “opt out,” you must submit a written statement requesting exclusion from the Class postmarked on or before [DATE]. Your written request for exclusion must contain your name, address, telephone number and last five digits of your social security number, and the location and years of your employment with Frito-Lay. You must return your request to RUST CONSULTING, INC., 201 Lyndale Ave S Ste S, Faribault, MN 55021 postmarked no later than [DATE].

13. If I don't exclude myself, can I sue Frito-Lay for the same thing later?

No. If you do not submit a valid and/or timely request for exclusion postmarked by [DATE], you will be bound by all terms of the Settlement, and any Final Judgment entered in the Lawsuit, if the Settlement is approved by the Superior Court.

14. If I exclude myself, can I get money from this Settlement?

No. If you exclude yourself, you will not be part of the Settlement and cannot receive any payment.

OBJECTING TO THE SETTLEMENT

15. Why would I ask to object?

If you think that the proposed Settlement is unfair, inadequate or unreasonable, you can object to the proposed Settlement. If you object, you may not simultaneously request exclusion from the lawsuit, so if the Court approves the proposed Settlement, then you will receive a share of the Settlement money and you will be bound by the terms of the Release set forth in Paragraph 11.

16. How do I ask the Court to object?

If you want to object to the Settlement, you must (a) file with the Court a notice of intention to appear (if you wish to appear at the Final Approval Hearing), along with any papers for the Court to consider, and (b) mail or personally deliver copies of those papers to the attorneys listed below postmarked no later than [DATE].

All objections should be filed with the Superior Court at: The Superior Court for the State of California for the County of Alameda, Dept. 21, 2233 Shoreline Drive, Alameda, CA 94501. The filing deadline is [DATE]. The objections should state the case name and number, which is *Mauldin v. Rolling Frito-Lay Sales, LP, et seq.*, Case No. RG16811677.

Copies of all documents filed with the Superior Court must also be sent to the following: (1) Aiman-Smith & Marcy, 7677 Oakport Street, Suite 1150, Oakland, CA 94621, attention: Joseph Clapp; and (2) Sheppard Mullin Richter & Hampton LLP, 501 W. Broadway, 19th Floor, San Diego, CA 92101, attention: Samantha D. Hardy.

If you object in the manner provided above, and you provide notice of your intention to appear, then you or your attorney may appear at the Final Approval Hearing, currently set for [DATE], at [TIME] at the address listed above for the Superior Court, to present any arguments concerning the fairness, reasonableness and adequacy of the Settlement, or concerning the Named Plaintiff's application for the Service Payment; the award of attorneys' fees and costs; the amount awarded for Claims Administration expenses; or the PAGA payment to the LWDA. However, if you do not object in the manner provided above, your objection may be considered waived and you will not be able to make that objection or any other objection later.

17. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

18. What happens if I do nothing at all?

By doing nothing, you will receive your share of the settlement. In addition, you will be deemed to have waived any right you might have had to sue Frito-Lay as part of any lawsuit about the claims that are the subject of this Lawsuit. You will also be legally bound by all of the orders and judgments the Court makes in this Lawsuit.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing in front of the Honorable Winifred Y. Smith on [DATE], at [TIME] at the Superior Court for the State of California for the County of Alameda, Dept. 21, 2233 Shoreline Drive, Alameda, CA 94501, to determine whether the proposed Settlement of the Lawsuit is fair, adequate, reasonable and should be finally approved by the Court and whether Judgment should be entered. At the Hearing, Class Counsel will speak on your behalf and answer any questions Judge Smith might have.

19. May I attend the hearing and speak?

Anyone may attend this hearing. If you are a Class Member and wish to speak, you must file and serve an objection as described above before you can speak at the hearing.

GETTING MORE INFORMATION

20. Are there more details about the Settlement?

This notice summarizes the proposed Settlement. For a more detailed statement of the matters involved in the Lawsuit and the proposed Settlement, you may refer to the pleadings, the Stipulation and Settlement Agreement of Representative and Class Action Claims, and other papers filed in the Lawsuit, which may be inspected at the Office of the Clerk of the Court, during regular business hours of each Court day. The Court's address is: the Superior Court for the State of California for the County of Alameda, Dept. 21, located at 2233 Shoreline Drive, Alameda, CA 94501.

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21. How do I get more information?

All questions regarding this Notice and/or the Settlement should be directed to your Class Counsel: Joseph Clapp, Esq., Aiman-Smith & Marcy, 7677 Oakport Street, Suite 1150, Oakland, CA 94621, Tel.: (510) 590-7115, Email: jc@asmlawyers.com; Website: <https://www.asmlawyers.com/>.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, FRITO-LAY,
OR FRITO-LAY'S ATTORNEYS WITH INQUIRIES.

EXHIBIT 2

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

WAYNE MAULDIN, an individual,
Plaintiff,

vs.

ROLLING FRITO-LAY SALES, LP, a
business entity, form unknown; FRITO-LAY,
INC., a business entity, form unknown; and
Does 1 through 25, inclusive,
Defendants.

Case No. RG16811677

**[PROPOSED] ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AND PERMITTING
PLAINTIFF TO FILE FIRST AMENDED
COMPLAINT**

Assigned For All Purposes To:
Judge: Hon. Winifred Y. Smith
Dept.: 21

[Complaint Filed: April 14, 2016]

1 WHEREAS, this case is pending before this Court as a class action (the "Action");
2 and

3
4 WHEREAS, Class Counsel has applied to this Court for an order preliminarily
5 approving the settlement of the Claims in this Action in accordance with a Stipulation and
6 Settlement Agreement of Representative and Class Action Claims (the "Stipulation" or
7 "Settlement"), which, together with the exhibits annexed thereto, sets forth the terms and
8 conditions for a proposed settlement of the Claims in this Action upon the terms and conditions set
9 forth therein; and the Court having read and considered the Stipulation and the exhibits annexed
10 thereto, and good cause appearing thereof;

11
12 NOW, THEREFORE, IT IS HEREBY ORDERED:

13
14 1. This Order incorporates by reference the definitions in the Stipulation, and all terms
15 defined therein shall have the same meaning in this Order as set forth in the Stipulation.

16
17 2. The Court grants preliminary approval to the Stipulation. The Court preliminarily
18 finds that the Stipulation is fair, adequate and reasonable, and preliminarily approves the terms of
19 the settlement.

20
21 3. Plaintiff and Frito-Lay stipulate and agree to, and the Court conditionally grants
22 certification of, a class of all California employees of Defendant employed as Route Sales
23 Associates ("RSAs") at any time between March 8, 2015 and [Date of preliminary approval] (the
24 "Class Period"). This stipulation will not be deemed admissible in this or any other proceeding
25 should this Settlement not become final.

1 4. Named Plaintiff Wayne Mauldin is hereby appointed and designated, for all
2 purposes, as the representative of the Class, and Joseph Clapp, Esq., of Aiman-Smith & Marcy, is
3 hereby appointed and designated as counsel for the Class ("Class Counsel"). Class Counsel is
4 authorized to act on behalf of Class Members with respect to all acts or consents required by, or
5 which may be given pursuant to, the Settlement, and such other acts reasonably necessary to
6 consummate the Settlement.

7
8 5. The Court hereby approves on a preliminary basis the definition and disposition of
9 the Settlement Fund and related matters provided for in the Stipulation. It appears to the Court on
10 a preliminary basis that the settlement amount and terms are fair, adequate and reasonable as to all
11 potential Class Members when balanced against the probable outcome of further litigation relating
12 to liability and damages issues. It further appears that investigation and research have been
13 conducted such that counsel for the Parties at this time are able to reasonably evaluate their
14 respective positions. It further appears to the Court that settlement at this time will avoid
15 substantial additional costs by all Parties, as well as avoid the delay and risks that would be
16 presented by the further prosecution of the Action. It further appears that the Settlement has been
17 reached as the result of intensive, serious and non-collusive, arms-length negotiations.

18
19 6. A hearing (the "Settlement Hearing") shall be held before this Court on _____,
20 2018, at _____ a./p.m. in the Superior Court for the State of California for the County
21 of Alameda, Dept. 21, 2233 Shoreline Drive, Alameda, CA 94501, to determine all necessary
22 matters concerning the Settlement, including: whether the proposed settlement of the Action on
23 the terms and conditions provided for in the Stipulation is fair, adequate and reasonable and
24 should be finally approved by the Court; whether a Judgment, as provided in the Stipulation,
25 should be entered herein; whether the plan of allocation contained in the Stipulation should be
26 approved as fair, adequate and reasonable to the Class Members; and to finally approve Class

1 Counsel's Fees Award and costs, Named Plaintiff's Service Payment, claims administration
2 expenses and PAGA payments to the LWDA.

3
4 7. The Court hereby approves, as to form and content, the Notice annexed as
5 Exhibit 1 to the Stipulation. The Court finds that the distribution of the Notice substantially in the
6 manner and form set forth in the Stipulation and this Order meets the requirements of due process,
7 is the best notice practicable under the circumstances, and shall constitute due and sufficient notice
8 to all persons entitled thereto.

9
10 8. The Court hereby appoints RUST CONSULTING, INC., 201 Lyndale Ave S Ste S,
11 Faribault, MN 55021 as Claims Administrator and hereby directs the Claims Administrator to mail
12 or cause to be mailed to Plaintiffs the Notice within forty-five (45) days after the entry of this
13 Preliminary Order (the "Notice Date") using the procedures set forth in the Stipulation.

14
15 9. Any Plaintiff may choose to opt out of and be excluded from the Class by
16 following the instructions for requesting exclusion from the Class that are set forth in the Notice.
17 All requests for exclusion must be submitted as provided in the Notice. Any such person who
18 chooses to opt out of and be excluded from the Class will not be entitled to any recovery under the
19 Settlement and will not be bound by the Settlement or have any right to object, appeal or comment
20 thereon. Any written request to opt out must be signed by each such person opting out.

21
22 10. Any Class Member may appear at the Final Settlement Hearing and may object or
23 express the Member's views regarding the Settlement, and may present evidence and file briefs or
24 other papers, that may be proper and relevant to the issues to be heard and determined by the
25 Court as provided in the Notice. However, no Class Member shall be entitled to be heard at the
26 final Settlement Hearing (whether individually or through separate counsel) or to object to the
27 Settlement, and no written objections or briefs submitted by any Class Member shall be received
28

1 or considered by the Superior Court at the Settlement Hearing, unless written notice of the Class
2 Member's intention to appear at the Settlement Hearing (if applicable), and copies of any written
3 objections or briefs, have been filed with the Superior Court, and served on all counsel for the
4 Parties, on or before the Objection/Exclusion Deadline Date. Class Members who fail to file and
5 serve timely written objections in the manner specified above shall be deemed to have waived any
6 objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to
7 the Settlement.

8
9 11. All papers in support of the Settlement shall be filed with the Court and served on
10 the Parties' Counsel no later than 10 days before the Final Settlement Hearing.

11
12 12. The Settlement is not a concession or admission, and shall not be used against
13 Frito-Lay or any of the Released Parties as an admission or indication with respect to any claim of
14 any fault or omission by Frito-Lay or any of the Released Parties.

15
16 13. In the event the Settlement does not become effective in accordance with the terms
17 of the Stipulation, or the Settlement is not finally approved, or is terminated, canceled or fails to
18 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
19 and the Parties shall revert to their respective positions as of before entering into the Stipulation.

20
21 14. Plaintiff is hereby granted leave to file his First Amended Complaint, attached to
22 the Settlement as Exhibit 4, and shall file such within 7 calendar days following entry of this
23 Order. Defendant shall not be required to file a responsive pleading.

24
25 15. Plaintiffs are enjoined from initiating or prosecuting any proceeding on any claim
26 to be released pursuant to this Stipulation unless, and until, either the Plaintiff opts out of the class,
27 or the Effective Date does not occur.

16. The Court reserves the right to adjourn or continue the date of the Settlement Hearing and all dates provided for in the Stipulation without further notice to Class Members, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

Dated: _____

BY ORDER OF THE COURT
HON. WINIFRED Y. SMITH
SUPERIOR COURT OF CALIFORNIA

SDH

EXHIBIT 3

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

WAYNE MAULDIN, an individual,

Plaintiff,

vs.

ROLLING FRITO-LAY SALES, LP, a
business entity, form unknown; FRITO-LAY,
INC., a business entity, form unknown; and
Does 1 through 25, inclusive,

Defendants.

Case No. RG16811677

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTERING
JUDGMENT THEREON (CRC 3.769(h))**

Assigned For All Purposes To:
Judge: Hon. Winifred Y. Smith
Dept.: 21

[Complaint Filed: April 14, 2016]

SDH

1 Plaintiff's motions for an order finally approving the Stipulation and Settlement of
2 Representative and Class Action Claims ("Stipulation") and for an award of attorneys' fees, costs,
3 service payment to the Class Representative, and claims administration expenses, duly came on
4 for hearing on _____, 2018, before the Honorable Winifred Y. Smith, Judge of the above
5 entitled Court. Joseph Clapp of the law firm of Aiman-Smith & Marcy appeared on behalf of
6 Plaintiff Wayne Mauldin ("Named Plaintiff"). Samantha Hardy of the law firm of Sheppard,
7 Mullin, Richter & Hampton LLP appeared on behalf of Defendant Frito-Lay, Inc. ("Defendant").
8

9 **I.**

10 **FINDINGS**

11 Based on the oral and written argument and evidence presented in connection with
12 the motions, the Court makes the following findings:

13 1. All terms used herein shall have the same meaning as defined in the
14 Stipulation.

15 2. This Court has jurisdiction over the subject matter of this litigation pending
16 before the Honorable Winifred Y. Smith in Department 21 of the California Superior Court for the
17 County of Alameda ("Superior Court"), Case No. RG16811677, *Wayne Mauldin v. Rolling Frito-*
18 *Lay Sales, LP, et al.*, and over all Parties to this litigation, including all Class Members.

19 **Preliminary Approval of the Settlement**

20 3. On _____, 2018, the Court granted preliminary approval of a
21 class-wide settlement. At this same time the Court approved certification of a provisional
22 settlement class ("Plaintiffs") for settlement purposes only and authorized Plaintiff to file his First
23 Amended Complaint.

24 **Notice to Plaintiffs**

25 4. In compliance with the Preliminary Approval Order, class notice was
26 mailed by first class mail to _____ Plaintiffs at their last known addresses on or about
27 _____, 2018. Mailing of the Class Notice to their last known addresses was the best
28

1 notice practicable under the circumstances and was reasonably calculated to communicate actual
2 notice of the litigation and the proposed settlement to Plaintiffs.

3 5. The deadline for opting out or objecting was _____, 2018. There
4 was an adequate interval between notice and deadline to permit Plaintiffs to choose what to do and
5 act on their decision. _____ Plaintiffs opted out, leaving _____ Class Members. There were _____
6 objections to the Settlement.

7 **Fairness Of Settlement**

8 6. The Stipulation is entitled to a presumption of fairness. (*Dunk v. Ford*
9 *Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.)

10 a. The settlement was reached through arm's-length bargaining
11 between the parties during a mediation before Michael Dickstein, a respected mediator of wage
12 and hour class actions. There has been no collusion between the parties in reaching the proposed
13 settlement.

14 b. Plaintiffs' investigation and discovery have been more than
15 sufficient to allow the Court and counsel to act intelligently.

16 c. Counsel for both parties are experienced in similar employment
17 class action litigation. All counsel recommended approval of the Stipulation.

18 d. [The percentage of objectors and requests for exclusion is small.]

19 7. The consideration to be given to the Class Members under the terms of the
20 Stipulation is fair, reasonable and adequate compensation for the settlement of this action and
21 release of Class Members' claims, considering the strengths and weaknesses of the claims asserted
22 in this action and the uncertainties and risks of the litigation and the delays which would ensue
23 from continued prosecution of the action.

24 8. The proposed Stipulation is approved as fair, adequate and reasonable and
25 in the best interests of the Class Members.

26
27 **Attorneys' Fees**

1 9. The Stipulation provides for an award of up to \$240,000.00 to Class
2 Counsel as attorneys' fees in this action, subject to the Court's approval. The Stipulation also
3 provides for an award of up to \$11,000.00 for litigation costs. Class Counsel requests an award of
4 \$11,000 as reimbursement for litigation costs, and \$240,000.00 for attorneys' fees.

5 10. An award of \$ _____ for attorneys' fees and \$ _____ for litigation
6 costs is reasonable, in light of the contingent nature of Class Counsels' fee, the hours worked by
7 Class Counsel, and the results achieved by Class Counsel. The awarded attorneys' fee award
8 represents _____ percent (____%) of the Common Fund, which is reasonable and within the
9 benchmark range for fee awards in common fund cases.

10 **Service Award**

11 11. The Stipulation provides for a service award of up to \$15,000.00 for Named
12 Plaintiff Wayne Mauldin, subject to the Court's discretion. An award of \$ _____ for this
13 service award is reasonable in light of the risks and burdens undertaken by a named plaintiff in
14 class action litigation.

15 **Claims Administration Expenses**

16 12. The Stipulation provides for claims administration expenses in an amount
17 not to exceed \$20,000.00. The Court awards \$ _____ to the Claims Administrator, which is
18 reasonable in light of the work it has performed and will perform through the conclusion of the
19 administration process.

20 **PAGA Penalties**

21 13. The Stipulation provides for Private Attorneys General Act ("PAGA")
22 penalties in an amount not to exceed \$60,000.00, with 75% (\$45,000.00) going to the Labor and
23 Workforce Development Agency ("LWDA") and 25% (\$15,000.00) going to the Named
24 Plaintiff/to the Payout Fund. The amount allocated to PAGA is reasonable in light of Plaintiff's
25 claims in this Action.

26 **II.**

27 **ORDERS**

1 Based on the foregoing findings, and good cause appearing, IT IS HEREBY
2 ORDERED, ADJUDGED AND DECREED:

3 1. The Class is certified for the purposes of settlement only. The Settlement
4 Class is hereby defined to include:

5 All persons who worked for Defendants as Route Sales Associates
6 ("RSAs") in the State of California at any time between March 8,
7 2015 and [Date of Preliminary Approval].

8 2. All persons who meet the foregoing definition are members of the Class,
9 except for those individuals who filed a timely request for exclusion from the class.

10 3. The Stipulation is hereby approved as fair, reasonable, adequate, and in the
11 best interest of the stipulated Class.

12 4. Class Counsel are awarded attorneys' fees in the amount of \$_____ and
13 litigation costs in the amount of \$_____. Class Counsel shall not seek or obtain any other
14 compensation or reimbursement from Defendant, Plaintiff or members of the Class.

15 5. The payment of a service award in the amount of \$_____ for Named
16 Plaintiff is approved.

17 6. The payment of \$_____ to the Claims Administrator for claims
18 administration services is approved.

19 7. The payment of \$60,000.00 in PAGA penalties, with 75% (\$45,000.00)
20 going to the LWDA, [and 25% (\$15,000.00) going to Named Plaintiff / to the Payout Fund] is
21 approved.

22 8. Pursuant to California Rules of Court, rule 3.769(h), the Court hereby enters
23 Judgment in this Action. This Final Approval Order and Judgment binds each Class Member and
24 operates as a full release and discharge of the Released Claims. This Final Judgment shall have a
25 res judicata effect and bar all Class Members and Named Plaintiff from bringing any action
26 asserting "Released Claims" as that term is defined in the Stipulation.

1 9. The Stipulation and Settlement are not an admission by Frito-Lay or any of
2 the other Released Parties, nor is this Final Approval Order and Judgment a finding, of the validity
3 of any claims in the Actions or of any wrongdoing by Frito-Lay or any of the other Released
4 Parties. Neither this Final Approval Order, the Final Judgment, the Stipulation, nor any document
5 referred to herein, nor any action taken to carry out the Stipulation is, may be construed as, or may
6 be used as an admission by or against Frito-Lay or any of the other Released Parties of any fault,
7 wrongdoing or liability whatsoever. The entering into or carrying out of the Stipulation, and any
8 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be
9 evidence of, an admission or concession with regard to the denials or defenses by Frito-Lay or any
10 of the other Released Parties and shall not be offered in evidence in any action or proceeding
11 against Frito-Lay or any of the Released Parties in any court, administrative agency or other
12 tribunal for any purpose whatsoever other than to enforce the provisions of this Final Approval
13 Order, the Final Judgment, the Stipulation, or any related agreement or release. Notwithstanding
14 these restrictions, any of the Released Parties may file in the Action or in any other proceeding this
15 Final Approval Order and Judgment, the Stipulation, or any other papers and records on file in the
16 Action as evidence of the Settlement to support a defense of res judicata, collateral estoppel,
17 release, or other theory of claim or issue preclusion or similar defense as to the Released Claims.

18 10. Notice of entry of this Final Approval Order and Judgment shall be given to
19 Class Counsel on behalf of Named Plaintiff and all Class Members. It shall not be necessary to
20 send notice of entry of this Final Approval Order or the ensuing Final Judgment to individual
21 Class Members. The time for any appeal shall run from service of Notice of entry of the Final
22 Approval Order and Final Judgment, by Class Counsel on Defendant.

23 11. After entry of this Final Approval Order and Judgment, the Court shall
24 retain jurisdiction to construe, interpret, implement, and enforce the Stipulation, to hear and
25 resolve any contested challenge to a claim for settlement benefits, and to supervise and adjudicate
26 any dispute arising from or in connection with the distribution of settlement benefits.

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12. If the Stipulation does not become final and effective in accordance with the terms of the Stipulation, resulting in the return and/or retention of the Settlement Fund to Frito-Lay consistent with the terms of the Stipulation, then this Final Approval Order and Judgment, and all orders entered in connection herewith shall be rendered null and void and shall be vacated.

Dated: _____

BY ORDER OF THE COURT
HON. WINIFRED Y. SMITH
SUPERIOR COURT OF CALIFORNIA

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Exhibit "Clapp Resume"

Joseph Clapp, Esq., State Bar No. 99194
2790 Marineview Drive
San Leandro, CA 94577
(510) 590-7115
jc@asmlawyers.com

Practice Areas

Employment Litigation; Class Action Litigation; Trial and Appellate Practice.

Experience

Aiman-Smith & Marcy
7677 Oakport St., Suite 1150
Oakland, CA 94621
2012 to Present

Law Office of Joseph Clapp, San Leandro, CA
2010 to Present

Kumin Sommers LLP, San Francisco, CA
2009 to 2010

Herron & Herron, San Francisco, CA
1982 to 2008

General – Prosecuted hundreds of employment-related lawsuits as the lead counsel responsible for all phases of the litigation. Obtained numerous six- and seven-figure settlements and judgments.

Class Actions – Prosecuted numerous class actions in state and federal courts as the court-appointed lead class counsel.

Trials – Tried sixteen cases to jury verdict, court judgment, or arbitration award. Tried a class action case to judgment.

Appeals – Briefed and argued sixteen appeals in state or federal appellate courts. Appeals included Due Process issues, labor law preemption issues, and ERISA issues.

Notable Class Actions

Smith v. Genstar Capital, S.F. Superior Court No. 313964. Freight carrier declared bankruptcy without paying 700+ employees for three weeks of work. Result: \$3.5 million settlement from the venture capital fund that owned the carrier and additional \$1.5 million from the freight carrier's bankruptcy estate.

Nostrum v. Albertsons, Monterey Superior Court No. M 66712. Retail grocery chain denied meal periods to 900+ pharmacists. Result: \$6 million settlement.

Munoz v. UPS Freight, N.D.Ca. No. C07-00970 MHP. Freight carrier required 500+ line-haul drivers to wait, off-the-clock, while trailers were loaded. Result: \$3 million settlement.

Brawner v. Bank of America, N.D.Ca. No. 3:14-cv-02702-LB. Bank misclassified 100+ back office workers as exempt "administrative" employees. Result: \$2.25 million settlement.

Published Appellate Victories

George v. California Unemployment Insurance Appeals Board (2009) 179 Cal.App.4th 1475 (public employee's retaliation lawsuit survives claim and issue preclusion defenses).

Walker v. Berkeley Housing Authority, 951 F.2d 182 (9th Cir. 1991) (biased decision-maker violates public employee's Due Process rights).

Education

J.D., McGeorge School of Law, U.O.P.

Comment Editor, Pacific Law Journal

A.B., Economics, U.C. Berkeley

Publications

"Practical Tip: Drafting a Complaint for Wrongful Termination," 5 San Francisco Barrister Law Journal 13, September, 1986.

"Recognizing the Employee's Interests in Continued Employment - The California Cause of Action for Unjust Dismissal," 12 Pacific Law Journal 69, 1980.

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Exhibit "Rust"

40 years in legal administration
services.

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BBB Rating: A+

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(<https://www.bbb.org/minnesota/business-reviews/administrators-class-action-settlement/rust-consulting-inc-in-minneapolis-mn-11002239/#sealclick>)

Rust Consulting, an Exela (<https://www.exelatech.com/>) brand, provides consulting and administration services

to clients including law firms, companies across all industries, and governmental agencies at all levels. With a deep history in legal settlement administration, Rust also assists clients with other complex and time-sensitive matters such as data breach responses, recalls, and internal compliance remediation programs. Our experience includes more than 6,000 projects of all sizes and types.

The art and science of legal notification.

Rust's partnership with Kinsella Media (<http://www.kinsellamedia.com/>), a fellow Exela brand, sets us apart from other administrators. Kinsella Media has designed and implemented more international, national and statewide programs than any other firm, providing notice to unidentified class members and claimants. With a qualified notice expert, Kinsella Media provides comprehensive, fully integrated programs that withstand collateral attack.

A culture of giving back.

Rust and Kinsella make a priority of giving back to our communities and supporting causes we believe in. We partner with St. Jude Children's Research Hospital to raise funds for the annual St. Jude Give Thanks. Walk. (TM) fundraising campaign, which advances cures and means of prevention for pediatric catastrophic diseases through research and treatment. In addition, each October—National Breast Cancer Awareness Month—Rust and Kinsella reach out to our friends and clients through an annual campaign to raise awareness for and honor those affected by breast cancer. We also support various charitable initiatives that are important to our employees by matching funds.

OUR OFFICES

- ▶ Minneapolis, MN
- ▶ Faribault, MN
- ▶ Los Angeles, CA
- ▶ San Francisco, CA

UPCOMING see
EVENTS all

Jun **ACS**
07 - **National**
09 **Convention**
 2018

Jun **WAPA**
21 - **Conference**
22

Jul **2018 Public**
09 **Justice Gala**
 & Awards
 Dinner

RECENT see
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**Rust Receives
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from the Legal
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Exhibit "Dickstein CV"

MICHAEL E. DICKSTEIN

Toronto (416) 789-1369 San Francisco (415) 474-1449
md@DicksteinDisputeResolution.com

EDUCATION

HARVARD LAW SCHOOL, J.D. 1985
HARVARD UNIVERSITY, A.B. 1981

WORK EXPERIENCE

MEDIATOR, ARBITRATOR, ADR INSTRUCTOR, & CONSULTANT 1992-
Dickstein Dispute Resolution

I have successfully mediated a wide variety of employment and other cases (including disputes involving class action, contract, discrimination, sexual harassment, termination, wage, benefits, misclassification, independent contractor, non-compete, tort, intellectual property, commercial, personal injury, defamation, malpractice, franchise, and real estate issues). Examples include: mediating a series of more than 20 interconnected wage and hour class actions, with over a billion dollars in dispute; facilitating union/management contract negotiations between Canada's theatre owners and actors; mediating the intellectual property, tangible property, contract, and discrimination issues between a well-known dance company and its artistic director; arbitrating claims in a high profile sex discrimination case against a leading financial institution; being chosen to help mediate, and allocate settlement funds, with respect to thousands of sex and race discrimination claims against a major brokerage house; and mediating and arbitrating the full spectrum of individual and class employment claims.

Class Actions: I have mediated over 400 class actions across North America (including in New York, Toronto, Chicago, Boston, Washington D.C., Philadelphia, Pittsburgh, Montreal, Detroit, Miami, Atlanta, Nashville, Houston, Minneapolis, Kansas City, Columbus, Portland, Las Vegas, San Francisco, Los Angeles, San Diego and Orange County), with class sizes ranging from fewer than 100 class members to over 470,000. These actions have included wage, discrimination, consumer, and employment issues, and ranged across industries including the financial, retail, technology, government, restaurant, transportation, medical, customer service, security, sales, academic, casino, and service industries.

JUDGE PRO TEM/MEDIATOR 1992-
San Francisco Superior & Municipal Courts, & Alameda Municipal Court

I have worked as a mediator/settlement judge in the Superior Courts, a trial judge in Small Claims Court, and an appeals judge in Superior Court.

ADVISORY BOARD 2004-
NATIONAL CO-CHAIR 2001-2004

Workplace Section of ACR (Association for Conflict Resolution)

I am now on the advisory board of, and formerly ran, this approximately 1,100 member section of the leading organization for professionals in dispute resolution.

LECTURER 2005-
Stanford Law School

I teach negotiation and mediation to law, business and other students, as a member of the Gould Center for Conflict Resolution.

PARTNER 1992
ASSOCIATE 1985-91

Heller, Ehrman, White & McAuliffe- San Francisco office

(One of the leading American law firms at that time, it had approximately 700 lawyers worldwide)

As a partner, and an associate, in the firm's labour department, I assessed, managed and successfully resolved my clients' complex employment issues. My cases varied from large discrimination class actions, to individual sexual harassment disputes, and from lawsuits to resolve the meaning of a policy affecting tens of thousands of employees, to solitary contract disputes. I spoke on employment issues to clients, industry groups and others, and counselled my clients on avoiding the gamut of problems that arise at work. My clients ranged from major national banks and corporations to public interest groups, and from a plaintiff class of over 300 people, to individual named defendants.

ADJUNCT PROFESSOR

2003-2004

University of San Francisco (MBA program)

I designed and taught courses on "The Art of Negotiation, Mediation, and Conflict Resolution in Business" to MBA students.

MEDIATION & NEGOTIATION INSTRUCTOR

1996-

Stitt, Feld et al. (The Law Schools of the Universities of Notre Dame, Melbourne, and Windsor); The U.S District Court for N.D. CA; MWI; Mobius; Other leading ADR groups.

I teach introductory and advanced classes on negotiation and mediation worldwide. I have taught professional organizations, corporations, judges, executives, attorneys, academics, senior military officers, legislators, professionals, civil servants, HR representatives, actors, salespeople, IT workers, and the general public (for details see "Selected Presentations & Teaching").

LECTURER IN APPELLATE ADVOCACY

1990

Boalt Hall Law School (U.C. Berkeley)

I taught sexual discrimination law, legal writing, and oral advocacy, to first year law students.

MEDIATION & ADR PANEL MEMBERSHIPS

-ADR Chambers International (the leading Canadian International Arbitration and Mediation Organization): Mediation & Arbitration Panel

-Merrill Lynch Claims Resolution Process: Mediation panel for sex discrimination class action of 900 women

-Merrill Lynch Claims Distribution Process: Neutral panel to hear claims and assist special master in allocating a fund arising from the settlement of approximately 700 race discrimination claims

-Smith Barney Dispute Resolution Process: Arbitration Panels for employment class action

-U.S. District Court for the Northern District of California: Mediation Panel

-California Court of Appeals: Mediation Panel

-San Mateo Superior Court Multi-option ADR Project: Arbitration, Mediation, Early Neutral Evaluation, and Settlement Conference Panels

-Santa Clara Superior Court: Mediation and Early Neutral Evaluation Panels

-Contra Costa Superior Court: Mediation, Pro Tem, and Settlement Conference Panels

-Marin Superior Court/ Marin County Bar Ass.: ADR Panels

SELECTED PUBLICATIONS

-**"A day in the life of a Federal mediator..."**, interview comments on NPR's "Marketplace", October 18, 2013

-**"8 Steps to Negotiating a Deal."**, *CNN.com* (labeled a "Must Read" by CNN), October 10, 2013.

-**"The 10 Fastest Ways To Insure A Bad Result In Class Action Mediations"**, *Canadian Arbitration and Mediation Journal*, Vol. 19 No 1 Spring 2010.

-**"Let's NOT Just Get To The Point: Effectively Mediating Class Action Settlements"**, *American Bar Association Class Action and Derivative Suit Newsletter*, Vol. 18 No. 3 Spring/Summer 2008.

-**"Balancing Act"**, dialogue on ADR between 7 "leaders from both the bar and dispute resolution field", *Daily Journal Extra*, January 20, 2004, p. 12-17.

-**"Arbitration of Discrimination Claims in the Ninth Circuit" and "Arbitration of Discrimination Claims: The Fog Shrouded Ninth Circuit"**, summaries for the National Employment Law Institute's Human Resources Workbook (2002) and Employment Discrimination Law Update Manual (2001).

-**"Preparing for, and Attending, Mediation"**, a chapter in the *Alternative Dispute Resolution Practice Manual*, published by CCH Canadian Limited (2000).

-**"Mediating Employment Disputes"**, a chapter in the National Employment Law Institute's 2003 Employment Litigation Workbook, 2001 Employment Law Briefing Manual, 2001 Employment Litigation Workbook, 2000 Employment Law Litigation Manual, and 1999 Employment Discrimination Law Update Manual.

-**"Revitalizing the International Law Governing Concession Agreements"**, 6 Int'l Tax and Bus. Law. 54 (1988 U.C. Berkeley). Excerpted and republished in Weston, Falk & D'Amato, *International Law and World Order* (2d ed. 1990) (a leading international law text).

-**"Canada's Example Shows Drawback of English-Only Laws"**, Chicago Tribune, May 13 1997. Republished in *The Contemporary Reader* (6th ed. 1998), G. Goshgarian editor (a college level English text containing notable essays on contemporary issues by writers that have included Alice Walker, Arthur Schlesinger, Dave Barry, Maya Angelou, Camille Paglia, Susan Faludi, Cornel West, and William Bennett.)

SELECTED SPEECHES & PRESENTATIONS

-**Negotiation Essentials**, given to Meridiam executives & public infrastructure investment negotiators, Paris, France September 15-6, 2016; Paris, France March 21-4, 2016; Lakeville CT, November 19-20, 2015.

-**Mediating FLSA Cases**, given to the ABA ADR in Labor and Employment Law Committee, Palm Springs CA, February 13, 2015.

-**Building a Career in ADR**, given to the American Arbitration Association Higginbotham Fellows (A program for "up and coming diverse alternative dispute resolution professionals"), May 16, 2014.

-**Applied Mediation Course**, given to employees of the Government of Nunavut, Iqaluit, Canada, February 18-21, 2014.

-**Enhanced Negotiation Skills Workshop**, given to the United Food & Commercial Workers Union (UFCW) locals 175 & 633, Niagara-on-the Lake ON, June 24-26, 2013.

-**Advanced Negotiation Training**, given to General Dynamics, London ON, November 14-15, 2012.

-Successfully Mediating Multi-Party Cases: Looking Beyond The Litigation, given to the Marin County Bar Association, Marin CA, October 17, 2012.

-Mediating Wage & Hour Class Actions, given to in-house and outside employment counsel, Calistoga, CA, March 11, 2011.

-Difficult Conversations and Negotiation, given to lawyers at Devry Smith law firm, Deerhurst, Ontario, February 17, 2011.

-Class Action Summit: Effectively Mediating and Settling Class Actions, given to clients and attorneys of Littler Mendelson law firm, Rancho Palos Verdes, California, September 23, 2010.

-Class Action Mediation Training, given as part of the Impact Fund's "Class Action Training Institute", May 30, 2009.

-The Music of Negotiation: A Conversation in Concert, with the St. Lawrence String Quartet and Rob Kapilow, given to the public, at Stanford University, Palo Alto, California, October 30, 2008.

-Mediating Employment Class Actions: Lessons From The US Experience, given as part of the Law Society of Ontario's *Six-Minute Employment Lawyer* program, Toronto, Ontario, June 12, 2008.

-Class Action Summit and Roundtable: Mediation Mistakes and Challenges, given to clients and attorneys of Littler Mendelson law firm, Laguna Beach, California, March 6 2008.

-Labour Negotiations Workshop, given to the government of Bermuda's core negotiating team, heads of departments, and other key negotiators, Bermuda, December 10-14, 2007.

-Negotiation Skills Workshops, given to product and sales employees of Analog Devices, Munich, Germany November 13-16, and Munich Germany and Paris, France, May 8-11, 2007.

-Effective Negotiation Training, given to commercial bankers with the Canadian Imperial Bank of Commerce, Toronto, Canada, February 6-7, 2007.

-Intensive Negotiation Training, given to Vertex Corporation, Berwyn, Pennsylvania, November 7-9, 2006.

-"The Advanced Practitioner at Work: Narrative Mediation & Other Issues" and "Workplace Opportunities in ADR", given at the Association for Conflict Resolution's annual conference, Philadelphia, PA, October 26- October 28, 2006.

-Mediation Training, given to the Chartered Institute of Arbitrators, Hamilton, Bermuda, June 28-July 1, 2006.

-"Expectations, Skills and Success in Mediation: An Interactive Discussion Between Leading Mediators, Advocates, and Court Administrators", given to the Mediation Society and Bar Association of San Francisco, San Francisco, California, April 28, 2006.

-Advanced Mediation and Negotiation Training, given to a group including senior members of the military, judiciary, legislature and government, Port of Spain, Trinidad, November 29-December 2, 2005.

-"Mediation and Settlement Strategies for Class and Collective Actions", given to the National Employment Lawyers Association (NELA), Cambridge, Massachusetts, October 14, 2005.

-Intensive Negotiation Training, given to human resources and other employees at Vertex Corporation, Berwyn, Pennsylvania, October 17-19, 2005.

-**“The Advanced Practitioner at Work: Focusing on Issues of Interest to Advanced Practitioners of Workplace Mediation” and “Building and Expanding an Employment, Labor and Workplace Conflict Resolution Practice”**, given at the Association for Conflict Resolution’s annual conference, Minneapolis, Minnesota, September 29- October 1, 2005.

-**Intensive Negotiation Training**, given to employees at Vertex Corporation, Berwyn, Pennsylvania, April 26-28, 2005.

-**Negotiation Training** given to employees of Norcal, in conjunction with MWI, San Francisco, California, January 19, 2005.

- **Negotiation Advocacy: What litigators and corporate attorneys can learn from each other**, a half-day program given to attorneys in the bankruptcy and finance departments of Sheppard Mullin law firm, San Diego, CA, October 23, 2004.

- **“The Advanced Practitioner at Work: Challenges and Emerging Issues for Workplace Mediators”; “Building and Expanding an Employment, Labor and Workplace Conflict Resolution Practice”; and “Dialogue with the Joint Leadership of the ACR Workplace and Organizational Conflict Management (OCM) Sections”**, given at the Association for Conflict Resolution’s annual conference, Sacramento, California, September 29-October 2, 2004.

-**Alternative Dispute Resolution Workshop**, given in conjunction with the Bahamas Trade Union Congress, to top trade union officials, CEO’s and corporate representatives, Freeport, Bahamas, August 23-26, 2004.

-**“Alternative Dispute Resolution of EEO Claims”** given to the National Employment Law Institute’s Employment Discrimination Law Update, San Francisco, California, July 22, 2004 & Chicago, Illinois, July 29, 2004.

-**Alternative Dispute Resolution Workshop**, opened by the Minister of Labour and closed by the Prime Minister of the Bahamas, given in conjunction with the Bahamas Trade Union Congress, to top trade union officials, corporate representatives, and adjudicators, Nassau, Bahamas, May 24-28, 2004.

-**Designing and Implementing Corporate ADR Programs**, given to the National Employment Law Institute’s Human Resources Conference, San Francisco, CA, May 6, 2004.

-**“Building and Expanding an Employment ADR Practice”** given to the American Bar Association, Section of Dispute Resolution, annual conference, New York, N.Y., April 17, 2004.

-**Intensive Negotiation Training**, given to employees at Vertex Corporation, Berwyn, Pennsylvania, October 20-22, 2003.

-**“Mediation Training”** given to commissioners/judges of the Australian Industrial Relations Commission, Melbourne, Australia, October 7-10, 2003.

-**“Mediation Advocacy: Thinking Like A Mediator To Get The Most For Your Employment Clients”** given to the National Employment Lawyers Association (NELA), Vail, Colorado, June 27, 2003.

-**“Mediation Advocacy”** given to the National Employment Law Institute(NELI)’s Employment Litigation Workshop, San Francisco, California, June 13, 2003.

-**“Mediation Advocacy”** given to employment attorneys at Heller Ehrman law firm, Los Angeles, California, April 25, 2003.

-**“Lessons in Mediation and Negotiation Learned from Working Internationally”** given to law students at Hastings Law School, San Francisco, California, April 1, 2003.

-Negotiation Training, given to senior executives(including CEO, CFO, and COO) of Norcal, St. Helena, California, March 12, 2003

-Negotiation & Mediation Training, given to the public at the Glencree Centre for Reconciliation, Wicklow, Ireland, February 25-28, 2003.

-Panel Discussion: Negotiators Speak on Negotiation, given to the Princeton Club of Northern California, Palo Alto, California, February 12, 2003.

-"Negotiation In The Workplace", given to students at the University of San Francisco, School of Business and Management, San Francisco, California, October 1, 2002.

-"Speaking Softly and Carrying a Big Stick: How to Get More Through Negotiation and Mediation", given to the Barristers Club of San Francisco, Solo & Small Firm Practitioner Committee, San Francisco, California, September 19, 2002.

-Negotiation & Mediation Training, given to representatives of the St. Lucia Board of Education, and the top administrators of Sir Arthur Lewis Community College, in conjunction with the Stitt, Feld, Handy Group, Castries, Saint Lucia, June 25-27, 2002.

-"Negotiating Like A Lawyer: How To Talk Your Parents Into Almost Anything", given to highschool seniors on behalf of the U.S. District Court for the Northern District of California, San Francisco, California, May 29, 2002.

-Intensive Negotiation Training, given to employees at Vertex Corporation, in conjunction with Stitt, Feld, Handy Group, Berwyn, Pennsylvania, May 15-17, 2002.

-"Developments Affecting Arbitration & Mediation of Employment Disputes", given to the National Employment Law Institute's Human Resource Institute, San Francisco, California, May 9, 2002.

-Negotiation & Mediation Training, given to Human Resource professionals, and managers, of Agriculture Canada, in conjunction with Stitt, Feld et al., Winnipeg, Canada, March 18-21, 2002.

-Stanford Mediation Seminar, coached Stanford Law Students in mediation techniques, Palo Alto, California, January 14, 2002.

-"From International Training to Domestic Mediation: When Theory Meets Reality", given to the Bar Association of San Francisco, ADR section, January 10, 2002.

-"Arbitration of Discrimination Claims", given to the National Employment Law Institute's "Employment Discrimination Law Update" conference, San Francisco, California, July 20, 2001.

-Negotiation & Mediation Training, given to the public in conjunction with the Trillium Group and the University of Notre Dame Law School, Seattle, Washington, May 15-18, 2001.

-Mediation Training, given to arbitrators of the London Maritime Arbitrators Association, London, England, May 1-4, 2001.

-"Mediation Advocacy", given to the National Employment Law Institute's "Employment Law Briefing" conference, in Breckenridge, Colorado, March 1, 2001

-Advanced & Introductory Mediation and Negotiation trainings, given to the public in conjunction with the Trillium group and the University of Melbourne, Melbourne, Australia, November 14-17, 2000(introductory), November 21-24, 2000 (advanced).

-Mediation Training, given to retired Court of Appeals and High Court judges, senior barristers(QC's), and other prominent barristers and solicitors, chosen for training by ADR Chambers (a mediation group composed of retired judges and senior lawyers), London, England, July 3-6, 2000

-Negotiation Training, given to Deans and academic directors of Centennial College, with Stitt Feld et al., in Toronto Canada, June 25-27, 2000.

-Training for Special Mediation Counsel, given on behalf of the Federal District Court for the Northern District of California, to attorneys offering *pro bono* representation in Federal Court mediations, San Francisco, June 12, 2000.

-"Mediation Advocacy", given to the National Employment Law Institute's "Employment Law Litigation" conference, in San Francisco, June 8, 2000.

-Advanced Mediation Training, given to the public, with the Trillium Group and the University of Notre Dame Law School, in Phoenix, AZ, March 28 -31, 2000.

-"The Power of Mediation: What Litigators and Business Lawyers Can Learn From Each Other.", given to the Marin County Bar Association, Business Law and ADR sections, March 16, 2000.

-"Mediation in the USA and Canada", given to the judges on the Victorian Civil and Administrative Tribunal, in Melbourne, Australia, March 8, 2000 (with Allan Stitt).

-Mediation Training for the Australian Industrial Relations Board, given to judges and commissioners on the Board, with Stitt, Feld et al. and the University of Melbourne, in Melbourne, Australia, March 7 -10, 2000.

-Mediation and Negotiation Training, given to the public, with the Trillium Group and the University of Notre Dame Law School, in Cleveland, OH, January 18-21, 2000.

-Mediation and Negotiation Training for the British Dental Association, with the Trillium Group, in London, England, October 20-22, 1999.

-"Mediating Equal Employment Opportunity Disputes", given to the National Employment Law Institute's "Employment Discrimination Law Update" Seminar, San Francisco, CA, July 22, 1999.

-Mediation and Negotiation Training, given to the public, with Stitt, Feld et al. and the University of Windsor, Port of Spain, Trinidad, June 22-25, 1999.

-Mediation and Negotiation Training, given to the public, with the Trillium Group and the University of Notre Dame Law School, Cleveland, OH, May 25-28, 1999.

-"Mediation and Approaches to Negotiation", part of a presentation to Baker & McKenzie law firm at their firm retreat, San Francisco, CA, May 1, 1999.

PROFESSIONAL ACTIVITIES & QUALIFICATIONS

BAR MEMBERSHIPS & COURT ADMISSIONS: I have been a member of the California Bar since 1985, and am admitted to practice before the California Supreme Court, California Trial Courts and Courts of Appeal, United States Court of Appeals for the Ninth Circuit, and United States District Courts for the Northern and Eastern Districts of California.

DISTINGUISHED FELLOW: International Academy of Mediators.

ADVANCED PRACTITIONER, MEDIATION: Association for Conflict Resolution, Workplace Section.

PROFESSIONAL RECOGNITION: Northern California “Super Lawyer” (ADR) 2006, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 (5% of lawyers chosen); Who’s Who of American Lawyers; Who’s Who in America; Who’s Who in the World.

LANGUAGES: English and French

1 **PROOF OF SERVICE**

2 I, the undersigned, hereby declare: I am employed in the County of Alameda, California; I am
3 over eighteen years of age and not a party to the within action. I am either admitted to practice before
4 this Court or employed in the Office of an attorney admitted to practice in this Court. My business
5 address is 7677 Oakport St., Suite 1150, Oakland, California 94621.

6 On this date, I served the following:

7 **Declaration of Joseph Clapp in Support of Plaintiff's Motion for an Order**

- 8 **(1) Conditionally Certifying a**
9 **Settlement Class;**
10 **(2) Appointing Class Representative,**
11 **Class Counsel, and Claims Administrator;**
12 **(3) Preliminarily Approving Settlement;**
13 **(4) Authorizing Class Notice; and**
14 **(5) Scheduling a Final Approval Hearing.**

15 by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

16 Samantha D. Hardy, Esq.
17 Tara M. Duester, Esq.
18 Sheppard Mullin Richter & Hampton LLP
19 501 West Broadway, 19th Floor
20 San Diego, California 92101-3598

Attorneys for Defendants ROLLING FRITO-
LAY SALES, LP and FRITO-LAY, INC.

21 X [By Mail] I caused such envelope, with postage fully prepaid, to be placed in the United
22 States mail at Oakland, California.

23 — [By Overnight Delivery, UPS Next Day Air, C.C.P. § 1013(c)] UPS is a provider of
24 overnight delivery services. I placed the above described document(s) in an envelope or
25 package designated for use by UPS and delivered said designated envelope to an authorized
26 Office or drop box of UPS at Oakland, California, with delivery fees for overnight delivery
27 fully prepaid, and addressed to the addressee(s) above.

28 — [By Facsimile Transmission, C.C.P. § 1013(e), (f)] I caused such document to be transmitted
by facsimile transmission to a facsimile machine maintained by the person(s) listed in the
attached service list and at the fax numbers on that list which are the facsimile numbers last
given by the addressee(s) on documents filed in this cause. I received electronic confirmation
that said transmission had occurred.

— [By Personal Service] I caused such envelope to be delivered by hand to the above address.

— [By E-Mail] I caused such document to be delivered by electronic transmission/e-mail to the
above addressee.

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

31 Dated: May 25, 2018

32 
33 Norma Dale