

R. Rex Parris, Esq. (SBN 96567)
Alexander R. Wheeler (SBN 239541)
Kitty K. Szeto (SBN 258136)
Khail A. Parris (SBN 307296)
Ryan A. Crist (SBN 316653)

PARRIS LAW FIRM

43364 10th Street West
Lancaster, California 93534
Telephone: (661) 949-2595
Facsimile: (661) 949-7524

Attorneys for Plaintiffs

HANSON BRIDGETT LLP
SANDRA L. RAPPAPORT, SBN 172990
srappaport@hansonbridgett.com
LISA M. POOLEY, SBN 168737
lpooley@hansonbridgett.com
425 Market Street, 26th Floor
San Francisco, California 94105
Telephone: (415) 777-3200
Facsimile: (415) 541-9366

Attorneys for Defendants
LEPRINO FOODS COMPANY and
LEPRINO FOODS DAIRY PRODUCTS COMPANY

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ISAIAS VASQUEZ and LINDA HEFKE on
behalf of all other similarly situated individuals,

Plaintiffs,

v.

LEPRINO FOODS COMPANY, a Colorado
Corporation; LEPRINO FOODS DAIRY
PRODUCTS COMPANY, a Colorado
Corporation; and DOES 1-50, inclusive,

Defendants.

Case No. 1:17-cv-00796-AWI-BAM

CLASS ACTION

SETTLEMENT AGREEMENT AND RELEASE

1 This Settlement Agreement and Release (“Settlement Agreement” or “Settlement”) is
2 made and entered into by and between Plaintiffs Jerrod Finder, Jonathan Talavera, Isaias
3 Vasquez, Linda Hefke, John Perez, Andrew Howell, Donald Null, and Fred Walter (collectively
4 “Plaintiffs”), individually and on behalf of others similarly situated, and Defendants Leprino
5 Foods Company and Leprino Foods Dairy Products Company (collectively “Defendants” or
6 “Leprino”). Plaintiffs and Defendants are collectively referred to herein as “the Parties.”

7 **PROCEDURAL HISTORY AND BACKGROUND FACTS**

8 1. This Settlement Agreement globally resolves the following seven actions in their
9 entirety: *Finder v. Leprino Foods Company, et al.*; *Talavera v. Leprino Foods Company, et al.*;
10 *Vasquez, et al. v. Leprino Foods Company, et al.*; *Perez v. Leprino Foods Company, et al.*;
11 *Howell v. Leprino Foods Company, et al.*; *Null v. Leprino Foods Company, et al.*; and *Walter v.*
12 *Leprino Foods Company, et al.* (collectively “Leprino Cases”).

13 2. The Parties participated in an in-person mediation with Ninth Circuit Mediator,
14 Kyungah “Kay” Suk, on July 31, 2023 and September 18, 2023 and reached the following
15 settlement.

16 **NOW, THEREFORE**, the Parties hereby agree to settle and resolve the Leprino Cases
17 as follows:

18 **PRELIMINARY TERMS AND DEFINITIONS**

19 The following definitions are applicable to this Settlement Agreement. Definitions
20 contained elsewhere in this Settlement Agreement will also be effective:

21 3. “Action” means the Vasquez Action, defined below, the Perez Action, defined
22 below, the Finder/Talavera Action, defined below, the Howell Action, defined below, the Null
23 Action, defined below, and the Walter Action defined below.

24 4. “Appeal” means a timely appeal by a Class Member, defined below, to the Order
25 and Judgment approving the Settlement.

26 5. “Attorneys’ Fees and Costs” means reasonable attorney’s fees for Class Counsel,
27 defined below, litigation and resolution of the Action, and all reasonable costs incurred and to be
28 incurred by Class Counsel in the Action, including but not limited to, costs associated with

documenting the Settlement, providing any notices required as part of the Settlement or Court order, securing the Court's approval of the Settlement, administering the Settlement (separate and apart from Settlement Administration Costs, defined below), obtaining entry of an Order and Judgment approving the Settlement, and expenses for any experts, as approved by the Court. Class Counsel will request not more than forty percent (40%) of the Gross Settlement Fund, or One Million, Four Hundred Thousand Dollars and No Cents (\$1,400,000.00) in attorneys' fees, and not more than Eight Hundred Thousand Dollars and No Cents (\$800,000.00) in reasonable litigation costs and expenses. Defendants have agreed not to oppose Class Counsel's request for attorney's fees and costs and expenses as set forth above.

6. "Class Counsel" shall mean the Parris Law Firm and The Downey Law Firm, LLC.

7. "Court" means the United States District Court for the Eastern District of California.

8. "Class Period" shall mean November 15, 2009 through July 31, 2023.

9. "*Vasquez* Certified Class Period" shall mean May 8, 2013 through March 31, 2020.

10. "*Perez* Certified Class Period" shall mean April 13, 2013 through January 6, 2021.

11. "*Howell* Certified Class Period" shall mean April 24, 2014 through March 23, 2022.

12. "*Walter* Certified Class Period" shall mean February 28, 2016 through August 29, 2022.

13. "Class Members" shall mean all individuals who currently or formerly worked at Leprino's Lemoore West, Lemoore East, or Tracy facilities in the State of California as hourly, non-exempt employees at any time between November 15, 2009 and July 31, 2023, and includes the *Vasquez* Certified Class Members, the *Perez* Certified Class Members, the *Howell* Certified Class Members, and the *Walter* Certified Class Members.

14. "*Vasquez* Certified Class Members" shall mean the individuals who are currently

employed or were formerly employed by Leprino as hourly-paid, non-exempt employees at Leprino's Lemoore West facility in the State of California at any time during the *Vasquez* Certified Class Period.

15. "Perez Certified Class Members" shall mean the individuals who are currently employed or were formerly employed by Leprino as hourly-paid, non-exempt employees at Leprino's Lemoore East facility in the State of California at any time during the *Perez* Certified Class Period.

16. "Howell Certified Class Members" shall mean the individuals who are currently employed or were formerly employed by Leprino as hourly-paid, non-exempt employees at Leprino's Tracy facility in the State of California at any time during the *Howell* Certified Class Period.

17. "Walter Certified Class Members" shall mean the individuals who are currently employed or were formerly employed by Leprino as hourly, non-exempt employees at Leprino's Tracy facility in the State of California at any time during the *Walter* Certified Class Period.

18. "Class Notice" shall mean the Notice of Settlement substantially in the form attached hereto as **Exhibit "A,"** and approved by the Court.

19. "Certified Claims" means the claims that were certified in *Perez v. Leprino Foods Company, et al.* during the *Perez* Certified Class Period, *Howell v. Leprino Foods Company, et al.* during the *Howell* Certified Class Period, and *Walter v. Leprino Foods Company, et al.* during the *Walter* Certified Class Period.

20. "Effective Date" means the date when all of the following events have occurred: (1) the Settlement Agreement has been executed by all Parties; (2) the Court has given preliminary approval to the Settlement Agreement; (3) the Class Notice has been given to the Settlement Class, providing Class Members with an opportunity to object to the terms of the Settlement or to opt out of the Released Class Claims, defined below; (4) the Court has held a formal fairness hearing and entered a final order and judgment certifying the Settlement Class, approving the Settlement Agreement, and entering judgment on the Settlement Agreement (the "Final Order and Judgment"); and (5) in the event there are written objections filed prior to the

1 final fairness hearing which are not later withdrawn or denied, the later of the following events:
2 (a) the period for filing any appeal, writ or other appellate proceeding opposing the Court's final
3 order approving the Settlement Agreement has elapsed without any appeal, writ or other
4 appellate proceeding having been filed; or, (b) if any appeal, writ or other appellate proceeding
5 opposing the Court's final order approving the Settlement Agreement has been filed, five (5)
6 business days after any appeal, writ or other appellate proceedings opposing the Settlement
7 Agreement has been finally and conclusively dismissed with no right to pursue further remedies
8 or relief.

9 21. "Employer Tax Portion" means the amount required to pay all employer-side
10 payroll taxes required by law, including the employer-side FICA, FUTA, and SDI contributions.

11 22. "Final Approval" means the Court's Order granting final approval of the
12 Settlement and entering judgment thereon.

13 23. "Finder/Talavera Action" means the consolidated civil lawsuits styled Finder v.
14 Leprino Foods Company, et al., United States District Court for the Eastern District of California
15 Case No. 1:13-cv-02059-JLT-BAM and Talavera v. Leprino Foods Company, et al., United
16 States District Court for the Eastern District of California Case No. 1:15-cv-00105-JLT-BAM .
17 The Parties agree to stipulate to stay the Finder/Talavera Action until all distributions under this
18 Settlement have been made, at which point the Parties will file a stipulation to dismiss the
19 Finder/Talavera Action in its entirety, with prejudice.

20 24. "Gross Settlement Fund" means the Maximum Settlement Amount, defined
21 below. The Gross Settlement Fund is an all-in common fund settlement. There will be no
22 reversion of any portion of the Gross Settlement Fund to Defendants.

23 25. "Howell Action" means the civil lawsuit styled Howell v. Leprino Foods
24 Company, et al., United States District Court for the Eastern District of California Case No.
25 1:18-cv-01404-JLT-BAM. The Parties agree to stipulate to stay the Howell Action until all
26 distributions under this Settlement have been made, at which point the Parties will file a
27 stipulation to dismiss the Howell Action in its entirety, with prejudice.

28 26. "Individual Settlement Payment" means each Participating Class Member's,

defined below, respective share of the Net Settlement Amount, defined below. The Individual Settlement Payment includes the PAGA Payment.

27. “Labor & Workforce Development Agency Payment” means the payment of Seven Thousand, Five Hundred Dollars and No Cents (\$7,500.00) from the PAGA Settlement, defined below, to the California Labor & Workforce Development Agency for its portion of the civil penalties paid under the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”).

28. “Maximum Settlement Amount” means the amount of Three Million, Five Hundred Thousand Dollars and No Cents (\$3,500,000.00), to be paid by Defendants which is inclusive of Attorneys’ Fees and Costs, Plaintiff Enhancement Payments, the PAGA Settlement, Settlement Administration Costs, Employer Tax Portion (including but not limited to FICA and FUTA). Defendants' settlement payment shall not exceed the Maximum Settlement Amount.

29. “Net Settlement Amount” means the portion of the Gross Settlement Fund remaining after deducting the Plaintiff Enhancement Payments, Attorney’s Fees and Costs, Employer Tax Portion, the PAGA Settlement, and Settlement Administration Costs, from the Gross Settlement Fund. The entire Net Settlement Amount will be distributed to the Participating Class Members, defined below. There will be no reversion of any portion of the Net Settlement Amount to Defendants.

30. “Null Action” means the civil lawsuit styled Null v. Leprino Foods Company, et al., Superior Court of the State of California for the County of Kings Case No. 13C0310. The Parties agree to stipulate to stay the Null Action until all distributions under this Settlement have been made, at which point the Parties will file a stipulation to dismiss the Null Action as to Null's individual claims, with prejudice. At the same time, the Parties will file a stipulation to dismiss the Null Action as to the representative claims in its entirety, without prejudice.

31. “Objection” means a Class Member’s valid and timely written objection to the Settlement Agreement. For an Objection to be valid, it must include: (i) the objector’s full name, signature, address, and telephone number; (ii) a written statement of all grounds for the objection accompanied by any legal support for such objection; (iii) copies of papers, briefs, or

1 other documents upon which the objection is based, if any; and (vi) be postmarked on or before
2 the Response Deadline, defined below. Alternatively, any Class Member may object by
3 appearing at the Final Approval Hearing either with or without submitting a written Objection.

4 32. "PAGA Members" means all persons employed by Leprino in California as non-
5 exempt employees at any time during the PAGA Period, defined below.

6 33. "PAGA Payment" means the payment of Two Thousand, Five Hundred Dollars
7 and No Cents (\$2,500.00) from the PAGA Settlement, defined below, to be distributed to the
8 PAGA Members for civil penalties under the PAGA. PAGA Members cannot opt out of the
9 PAGA Payment under any circumstances.

10 34. "PAGA Period" means the period from November 12, 2012 through the Release
11 Date.

12 35. "PAGA Settlement" means the amount of Ten Thousand Dollars and No Cents
13 (\$10,000.00) payable from the Gross Settlement Fund for civil penalties under PAGA, which
14 includes the Labor & Workforce Development Agency Payment and PAGA Payment.

15 36. "Participating Class Member" means any Class Member who does not submit a
16 timely and valid Request for Exclusion, defined below.

17 37. "Parties" means Plaintiffs and Defendants collectively.

18 38. "Perez Action" means the civil lawsuit styled Perez v. Leprino Foods Company,
19 et al., United States District Court for the Eastern District of California Case No. 1:17-cv-00686-
20 JLT-BAM. The Parties agree to stipulate to stay the Perez Action until all distributions under
21 this Settlement have been made, at which point the Parties will file a stipulation to dismiss the
22 Perez Action in its entirety, with prejudice.

23 39. "Plaintiff Enhancement Payments" means payments to the Plaintiffs in the Action
24 in exchange for general releases, as approved by the Court. The Plaintiff Enhancement
25 Payments will be paid from the Gross Settlement Fund and will be in addition to each Plaintiff's
26 Individual Settlement Payment. Any funds allocated to the Plaintiff Enhancement Payments but
27 not awarded by the Court will be included in the Net Settlement Amount and distributed pro rata
28 to the Participating Class Members. Plaintiffs will be solely responsible to pay any and all

1 applicable taxes on the payments made pursuant to this paragraph, and the Settlement
2 Administrator will issue IRS Forms 1099 to Plaintiffs for the Plaintiff Enhancement Payments.

3 40. "Plaintiffs" means Jerrod Finder, Jonathan Talavera, Isaías Vasquez, Linda
4 Hefke, John Perez, Andrew Howell, Donald Null, and Fred Walter.

5 41. "Preliminary Approval" means the Court order granting preliminary approval of
6 the Settlement.

7 42. "Release Date" shall mean the date of the last signature on this Settlement
8 Agreement.

9 43. "Released Class Claims" means all claims under state, federal or local law,
10 whether statutory, common law or administrative law, alleged in the operative complaints in the
11 Action, or that could have been alleged based on the factual allegations in the operative
12 complaints in the Action, including: (1) Failure to Pay Minimum Wage; (2) Failure to Pay
13 Overtime Wages; (3) Failure To Provide Meal Periods and Failure to Pay One Hour of Pay at
14 Regular Rate of Compensation; (4) Failure To Provide Rest Periods and Failure to Pay One Hour
15 of Pay at Regular Rate of Compensation; (5) Failure to Furnish Accurate Wage Statements; (6)
16 Failure to Pay Earned Wages Upon Termination; (7) Conversion; and (8) Unfair Competition in
17 Violation of California Business and Professions Code Section 17200, *et seq.*, including, but not
18 limited to, claims for injunctive relief; punitive damages; liquidated damages, penalties of any
19 nature; interest; fees; costs; and all other claims and allegations made or which could have been
20 made based on the allegations in the operative complaints in the Action, from November 15,
21 2009 through the Release Date. The released claims specifically include all claims for alleged
22 violations of California Labor Code sections 201, 202, 203, 204, 210, 218, 218.5, 218.6, 225.5,
23 226, 226.3, 226.6, 226.7, 510, 512, 558, 1174, 1194, 1194.2, 1197.1, 1198, and 2699; California
24 Code of Civil Procedure sections 382 and 1021.5, and applicable Wage Order(s).

25 44. "Released Parties" means Defendants and all their respective present and former
26 parent companies, subsidiaries, divisions, shareholders, members, principals, officers, directors,
27 exempt employees, agents, attorneys, insurers, successors and assigns, and any individual or
28 entity which could be liable for any of the Released Class Claims as a joint employer, and

Defendants' counsel of record in the Action.

45. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a request to be excluded from the Settlement. The Request for Exclusion must: (i) set forth the name, address, telephone number and last four digits of the Social Security Number of the Class Member requesting exclusion; (ii) be signed by the Class Member; (iii) be returned to the Settlement Administrator; (iv) clearly state that the Class Member does not wish to be included in the Settlement; and (v) be postmarked on or before the Response Deadline, defined below.

46. “Response Deadline” means the deadline by which Class Members must postmark to the Settlement Administrator Requests for Exclusion, or postmark Objections to the Settlement Administrator. The Response Deadline will be forty-five (45) calendar days from the initial mailing of the Class Notice by the Settlement Administrator, unless the 45th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open.

47. “Settlement Administration Costs” means the amount paid to the Settlement Administrator for the reasonable costs of administration of the Settlement and distribution of payments from the Gross Settlement Fund, which Settlement Administration Costs shall not exceed Twenty Five Thousand Three Hundred Seventy Five Dollars and Ninety Four Cents (\$25,375.94). These costs, will include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing Class Notices, creating and maintaining a web site and toll-free telephone number, calculating Individual Settlement Payments, and distributing the Gross Settlement Fund as set forth herein, and providing necessary reports and declarations. These costs shall be paid from the Gross Settlement Fund. Any funds allocated to Settlement Administration Costs but not incurred by or otherwise paid to the Settlement Administrator will be included in the Net Settlement Amount and distributed pro rata to the Participating Class Members.

48. “Settlement Administrator” means Phoenix Class Action Administration Solutions, or any other third-party class action settlement administrator agreed to by the Parties

1 and approved by the Court for the purposes of administering this Settlement. The Parties each
2 represent that they do not have any financial interest in the Settlement Administrator or
3 otherwise have a relationship with the Settlement Administrator that could create a conflict of
4 interest.

5 49. "Settlement Class" means all Participating Class Members.

6 50. "Vasquez Action" means the civil lawsuit styled Vazquez, et al. v. Leprino Foods
7 Company, et al., United States District Court for the Eastern District of California Case No.
8 1:17-cv-00796-AWI-BAM. Leprino won a complete defense verdict in the Vasquez Action
9 after a jury trial in district court. Plaintiffs' Isaias Vazquez and Linda Hefke's appeal of the jury
10 verdict in the Vasquez Action is pending in the United States Court of Appeals for the Ninth
11 Circuit. Leprino's conditional cross-appeal of certain orders in the Vasquez Action also is
12 pending in the United States Court of Appeal for the Ninth Circuit. The Parties agree that Class
13 Counsel will prepare a stipulation or motion for the Parties to remand the Vasquez Action to the
14 District Court to effectuate this Settlement.

15 51. "Walter Action" means the civil lawsuit styled Walter v. Leprino Foods
16 Company, et al., United States District Court for the Eastern District of California Case No.
17 2:20-cv-00700-JLT-BAM. The Parties agree to stipulate to stay the Walter Action until all
18 distributions under this Settlement have been made, at which point the Parties will file a
19 stipulation to dismiss the Walter Action in its entirety, with prejudice.

20 52. "Workweek(s)" means each seven-day period(s) commencing on Sunday at 12:00
21 a.m. and ending on a Saturday at 11:59 p.m. in which a Class Member was employed as an
22 hourly, non-exempt employee by Leprino Foods Company in California during the Class Period.

23 **TERMS OF SETTLEMENT**

24 53. Defendants agree to pay Three Million Five Hundred Thousand Dollars
25 (\$3,500,000.00) (the "Maximum Settlement Amount") on an "all in," non-reversionary basis,
26 inclusive of all Individual Settlement Payments, Employer Tax Portion, PAGA Settlement,
27 Plaintiff Enhancement Payments, Class Counsel's Attorneys' Fees and Costs, and Settlement
28 Administration Costs. The Maximum Settlement Amount includes the employer portion of all

1 payroll taxes.

2 54. Funding of the Maximum Settlement Amount. Defendants will deposit the
3 Maximum Settlement Amount, via wire transfer into a Qualified Settlement Account (“QSA”) to
4 be established by the Settlement Administrator within fifteen ten (15) days of the Effective Date.

5 55. Class Counsel’s Fees and Costs. Defendants agree not to oppose any application
6 or motion by Class Counsel for Attorneys’ Fees and Costs, to be determined by the Court. Class
7 Counsel will seek an award of attorneys’ fees not to exceed forty percent (40%) of the Gross
8 Settlement Sum, or One Million, Four Hundred Thousand Dollars and No Cents (\$1,400,000.00),
9 and actual and reasonable litigation costs and expenses not to exceed Eight Hundred Thousand
10 Dollars and No Cents (\$800,000.00). The payment of Class Counsel’s Attorneys’ Fees and
11 Costs shall be made from the Gross Settlement Sum. Any funds allocated to Attorneys’ Fees and
12 Costs but not awarded by the Court will be included in the Net Settlement Amount and
13 distributed pro rata to the Participating Class Members. The Settlement Administrator will issue
14 IRS forms 1099 to Class Counsel for Attorneys’ Fees and Costs. The Settlement Administrator
15 shall electronically wire the attorneys’ fees and costs to Class Counsel no later than five (5)
16 calendar days after receipt of the Maximum Settlement Amount.

17 56. To the extent any attorneys or law firm other than Class Counsel seek to recover
18 attorneys’ fees and/or costs in the Action, such dispute shall be adjudicated by the judge deciding
19 preliminary and/or final approval of the Settlement Agreement. The attorneys’ fees and costs
20 incurred, if any, in such a dispute will be borne by Class Counsel and Defendants will have no
21 obligation to pay any amount to resolve any such dispute. The amount (if any) awarded to said
22 other attorneys or law firms shall be paid out of the amount allocated by the Court for Class
23 Counsel’s Attorneys’ Fees and Costs. In no event shall Leprino be responsible for paying any
24 amounts above the Maximum Settlement Amount for any disputed attorneys’ fees and/or costs
25 between any attorneys. In other words, the Maximum Settlement Amount will not change due to
26 any additional attorneys’ fees and/or costs claim or as a result of any dispute between any
27 attorneys.

28 57. Plaintiff Enhancement Payments. In exchange for general releases, Defendants

1 agree not to oppose Class Counsel's application or motion for Plaintiff Enhancement Payments
2 totaling Fifty Thousand Dollars (\$50,000.00) broken down as follows: Plaintiffs Jerrod Finder
3 (\$5,000.00), Jonathan Talavera (\$5,000.00), Isaias Vasquez (\$10,000.00), Linda Hefke
4 (\$10,000.00), John Perez (\$5,000.00), Andrew Howell (\$5,000.00), Donald Null (\$5,000.00),
5 and Fred Walter (\$5,000.00). The payment of the Plaintiff Enhancement Payments shall be
6 made from the Gross Settlement Fund, and shall be in addition to each Plaintiff's Individual
7 Settlement Payment. Any funds allocated to Plaintiff Enhancement Payments but not awarded
8 by the Court will be included in the Net Settlement Amount and distributed pro rata to the
9 Participating Class Members. Plaintiffs will be solely responsible to pay any and all applicable
10 taxes on the payments made pursuant to this paragraph and the Settlement Administrator shall
11 issue IRS Forms 1099 to Plaintiffs for the Plaintiff Enhancement Payments. The Settlement
12 Administrator shall issue the Plaintiff Enhancement Payments directly to Plaintiffs no later than
13 five (5) calendar days after receipt of the Gross Settlement Fund.

14 58. Settlement Administration Costs. The Settlement Administrator will be paid for
15 the reasonable costs of administration of the Settlement and distribution of payments from the
16 Gross Settlement Fund, which Settlement Administration Costs shall not exceed Twenty Five
17 Thousand Three Hundred Seventy Five Dollars and Ninety Four Cents. These costs, will
18 include, *inter alia*, the required tax reporting on the Individual Settlement Payments and
19 Individual PAGA Payments, the issuing of 1099 and W-2 IRS Forms, distributing Class Notices,
20 creating and maintaining a web site and toll-free telephone number, calculating Individual
21 Settlement Payments and Individual PAGA Payments, and distributing the Gross Settlement
22 Fund as set forth herein, and providing necessary reports and declarations. These costs shall be
23 paid from the Gross Settlement Fund. Any funds allocated to Settlement Administration Costs
24 but not incurred by or otherwise paid to the Settlement Administrator will be included in the Net
25 Settlement Amount and distributed pro rata to the Participating Class Members.

26 59. The Parties agree that after deducting Class Counsel's Attorneys' Fees and Costs,
27 the Plaintiff Enhancement Payments, Labor & Workforce Development Agency Payment, and
28 Settlement Administration Costs from the Maximum Settlement Amount, the remaining amount

1 shall represent the “Net Settlement Amount.” The Net Settlement Amount shall be distributed
2 pro rata to Class Members who do not submit a valid and timely Request for Exclusion based on
3 the number of Workweeks each Class Member was employed as an hourly, non-exempt
4 employee of Leprino in the State of California during the Class Period (“Individual Settlement
5 Payments”). The Settlement Administrator shall issue the Individual Settlement Payments
6 directly to the Class Members no later than five (5) calendar days after receipt of the Maximum
7 Settlement Amount.

8 60. Defendants represent that there are approximately 3,300 Class Members during
9 the Class Period who were employed as hourly, non-exempt employees of Leprino in California
10 for approximately 2,000,000 Workweeks.

11 **SETTLEMENT PAYMENT CALCULATION**

12 61. The Net Settlement Amount shall be determined by deducting the following
13 amounts from the Maximum Settlement Amount of \$3,500,000.00: (1) Class Counsel’s
14 Attorneys’ Fees and Costs, approved by the Court; (2) Employer Tax Portion; (3) the Settlement
15 Administration Costs not to exceed \$25,375.94; (4) the Plaintiff Enhancement Payments; and (5)
16 \$7,500.00 to the California Labor and Workforce Development Agency for its share of the
17 penalties pursuant to the Private Attorneys General Act of 2004 (“Labor & Workforce
18 Development Agency Payment”).

19 62. Each Individual Settlement Payment shall be calculated by dividing the Class
20 Member’s total number of Workweek(s) employed as an hourly, non-exempt employee of
21 Leprino in the State of California during the Class Period as reflected in Defendants’ records by
22 the total number of Workweek(s) for all Class Members employed as hourly, non-exempt
23 employees of Leprino in the State of California during the Class Period. The resulting number
24 shall be multiplied by the Net Settlement Amount to arrive at each Individual Settlement
25 Payment.

26 63. Each Individual Settlement Payment will be allocated twenty percent (20%)
27 wages, for which an IRS Form W-2 shall be issued and traditional payroll taxes and withholdings
28 will be made, and eighty percent (80%) interest and penalties, for which an IRS Form 1099 shall

1 be issued and no withholdings will be made. Class Members shall be responsible for any
2 personal income taxes owed on the amounts they receive. The Settlement Administrator shall
3 issue appropriate tax forms with each Individual Settlement Payment.

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

28 65. No Credit to Benefit Plans. Each Individual Settlement Payment paid to Class

Members under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, shall be excluded from and will not be utilized or considered to calculate any additional benefits under any benefit plans to which any Class Member may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Member may be entitled under any benefit plans.

66. The entire Net Settlement Amount will be disbursed to all Class Members who do not submit timely and valid Requests for Exclusion. If there are any timely and valid Requests for Exclusion from Class Members, the Settlement Administrator shall not include and Workweeks attributable to such individuals as part of the calculation of the total classwide qualifying Workweeks for all Participating Class Members under paragraph 62 above, so that the amount available to the Participating Class Members equals 100% of the Net Settlement Amount.

67. Class Members shall have one hundred and twenty (120) days to cash Individual Settlement Payments. Any settlement checks not cashed after 120 days from the date of mailing of Individual Settlement Payments shall be sent to the State of California Unclaimed Property Fund in the Class Members' names.

NOTICE PROCESS

68. Phoenix Class Action Administration Solutions confirmed that it maintains a Commercial Cyber Insurance Policy that covers data breaches and that it has added Leprino as a third-party beneficiary to that policy for purposes of administering this Settlement only. Provided that Phoenix Class Action Administration Solutions maintains Leprino as a third-party beneficiary of its Commercial Cyber Insurance Policy and such coverage is confirmed, within five (5) calendar days after the Court's entry of an order granting preliminary approval of this Settlement Agreement, Defendants shall provide to Phoenix Class Action Administration Solutions as the Settlement Administrator a Class Member List which includes the first and last name, last known mailing address, telephone number, social security number, dates of

1 employment as an hourly-paid, non-exempt employee in the State of California during the Class
2 Period, and Workweek(s) for every Class Member. Plaintiffs shall ensure that all information
3 provided to the Settlement Administrator shall be kept confidential and shall not be disclosed,
4 either in writing or orally, by the Settlement Administrator, except that the Settlement
5 Administrator shall be permitted to confirm the total number of Class Members and total number
6 of aggregate workweeks as reflected in the Class Member List with Class Counsel and
7 Defendants' counsel. Plaintiffs shall ensure that that the Settlement Administrator shall use due
8 care with respect to the storage, custody, use, and/or dissemination of the confidential
9 information. Plaintiffs shall ensure that such information must be stored in a secure fashion and
10 all persons who access the data must agree to keep it confidential.

11 69. Within five (5) calendar days after receipt of the Class Member List, the
12 Settlement Administrator shall send the Notice, substantially in the form attached hereto as
13 Exhibit A and as approved by the Court, to the Class Members.

14 70. The Settlement Administrator will use the United States Postal Service National
15 Change of Address ("NCOA") List to verify the accuracy of all addresses on the Class Member
16 list before the initial mailing date to ensure that the Notice is sent to all Class Members at the
17 addresses most likely to result in immediate receipt of the claim documents. It will be
18 conclusively presumed that, if an envelope so mailed has not been returned within thirty (30)
19 calendar days of the mailing, the Class Member received the Notice. With respect to any
20 returned envelopes, the Settlement Administrator will perform a routine skip trace procedure to
21 obtain a current address and, if an updated address is located, shall then re-mail the envelope to
22 such address within three (3) court days of the receipt of the returned envelope.

23 71. Certification Reports. The Settlement Administrator will provide all counsel with
24 a weekly report that certifies the number of Class Members who have submitted a valid Request
25 for Exclusion, Objection, and whether any Class Member submitted a challenge to any
26 information contained in the Class Notice. Additionally, the Settlement Administrator will
27 provide to counsel for the Parties any updated reports regarding the administration of the
28 Settlement Agreement as needed or requested.

72. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

DISPUTE, REQUEST FOR EXCLUSION, AND OBJECTION PROCESS

73. Each Class Member's unique Notice will state his or her total number of Workweeks and Individual Settlement Payment prior to tax withholdings. Class Members will have forty-five (45) calendar days from the mailing of the Notice ("Response Deadline") to dispute his or her total number of Workweeks by submitting documentary evidence to the contrary to the Settlement Administrator. No Workweek dispute documentation will be considered if postmarked after the 45 calendar-day period. Any disputes regarding a Class Member's total Workweeks will be resolved and decided by the Settlement Administrator prior to the date of mailing the Individual Settlement Payments, and the Settlement Administrator's decision will be final, binding, and non-appealable.

74. Leprino has the option to rescind this Settlement Agreement if more than Five Percent (5%) of the Class Members timely and validly submit a Request for Exclusion. If Leprino rescinds this Settlement Agreement pursuant to this provision, Leprino shall be solely responsible for all settlement administration costs incurred by the Settlement Administrator up to the date of rescission.

75. Class Members may submit a Request for Exclusion by following the directions in the Notice. Any Request for Exclusion must be postmarked not more than forty-five (45) calendar days after the date the Notice is mailed to the Class Members (or not more than ten (10) calendar days after the date the Notice is re-mailed, in the circumstance described above). Requests for Exclusion that do not include all required information, or that are not submitted on a timely basis, will be deemed null, void, and ineffective. Persons who are eligible to, and do, submit valid and timely Requests for Exclusion will not participate in the settlement, nor will they be bound by the terms of the proposed settlement, if it is approved, or the final judgment in this Action.

////

19993388.1

76. Objections to the settlement must be submitted to the Settlement Administrator and postmarked not more than forty-five (45) calendar days after the date the Notice is mailed to the Class Members (or not more than ten (10) calendar days after the date the Notice is re-mailed, in the circumstance described above). The Settlement Administrator shall promptly forward any Objections received to counsel for the Parties. Class Counsel and Counsel for Defendants shall file any responses to Objections no later than fifteen (15) court days before the date of the final fairness and approval hearing. The Class Notice shall include specific instructions to Class Members for submitting Objections. A Class Member who wishes to object but who fails to comply with the instructions set forth in the Class Notice shall be deemed not to have objected.

77. Plaintiffs agree that they will not file any Objection to the Settlement or any Request for Exclusion from the Settlement.

RELEASE OF CLAIMS

78. **Release by Class Members.** Upon the Settlement Administrator's receipt of the Maximum Settlement Amount, all Class Members who do not timely submit a Request for Exclusion fully release the Released Parties, defined above, from the Released Class Claims, defined above, from November 15, 2009 through the Release Date, defined above.

79. **Release by Defendants.** Following Final Approval and dismissal of the Leprino Cases, Defendants agree to waive their Bill of Costs totaling \$65,297.26 in *Vasquez, et al. v. Leprino Foods Company, et al.*, Case No. 1:17-cv-00796-JLT-BAM filed on April 21, 2023. Provided that the Court grants final approval of the Settlement, Defendants agree not to seek to collect any portion of said Bill of Costs from Plaintiffs, Class Members, or Class Counsel.

80. **General Release by Plaintiffs.** In consideration and upon payment of the Plaintiff Enhancement Payments, each Plaintiff, their respective heirs, agents, successors, and assigns hereby release and forever discharge the Released Parties from all rights, claims, demands, liabilities, actions, damages, causes of action, charges of whatever nature, that each Plaintiff has or could have against the Released Parties, whether legal, equitable, statutory or otherwise (including any claims arising under or based on common law), arising from or in any

1 way related to each Plaintiff's respective employment with Leprino, relating to any matter
2 arising or accruing up to and including the date of entry of a Court order granting approval of
3 this Settlement, whether known or unknown. Such claims include any and all known and
4 unknown claims for violation of the California Labor Code, the California Government Code,
5 the California Business and Professions Code, the Private Attorneys General Act, the applicable
6 Industrial Welfare Commission Orders or any similar state or federal law, whether for economic
7 damages, non-economic damages, liquidated damages, punitive damages, restitution, penalties,
8 alleged unpaid wages, interest, other monies, or other relief based on any facts, circumstances,
9 transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to
10 act that have been asserted or could have been asserted based on the facts alleged in this
11 litigation through the date of entry of a Court order granting final approval of this Settlement,
12 including any and all claims that Plaintiffs have arising out of or relating directly or indirectly in
13 any manner whatsoever to the facts alleged or which could have been alleged or asserted in the
14 operative Complaints in the Action, including but not limited to any and all claims under PAGA
15 and California Labor Code Sections 200-204, 210, 216, 218, 218.5, 218.6, 225.5, 226, 226.3,
16 226.6 226.7, 500, 510, 512, 516, 558, 1174, 1174.5, 1194, 1194.2, 1197.1, 1198, and 2698, *et*
17 *seq.*, California Code of Civil Procedure sections 382 and 1021.5, and applicable Wage Order(s),
18 based on the facts alleged in the Action through the date of entry of a Court order granting
19 approval of this Settlement. Each named Plaintiff hereby executes a general release of all claims
20 and a waiver of rights under Code of Civil Procedure Section 1542, including but not limited to a
21 release of any and all claims under the Age Discrimination in Employment Act, the Americans
22 with Disabilities Act, the Family Medical Leave Act, Title VII of the Civil Rights Act, the
23 California Fair Employment and Housing Act and the California Family Rights Act. Named
24 Plaintiffs shall waive the right to participate in, or to receive recovery from, any other
25 representative action, class action or PAGA action brought by any other employee against any
26 Released Party.

27 81. It being the intent of Plaintiffs and Defendants to fully and finally compromise
28 and settle all matters of any nature that have arisen up to and including the date of this Settlement

1 Agreement, Plaintiffs waive all rights and benefits afforded under California Civil Code section
2 1542, which provides:

3 **“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
4 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**
5 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
6 **RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
7 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR**
8 **OR RELEASED PARTY.”**

9 82. Settlement Terms Bind All Class Members Who Do Not Submit A Request for
10 Exclusion. Any Class Member who does not submit a timely and valid Request for Exclusion
11 will be bound by its terms, including those pertaining to the Released Class Claims, as well as
12 any Judgment entered by the Court if it grants final approval of the Settlement.

13 **SETTLEMENT APPROVAL PROCESS**

14 83. The Parties agree to seek preliminary and final approval of this Settlement
15 Agreement in *Vasquez, et al. v. Leprino Foods Company, et al.*, Case No. 1:17-cv-00796-JLT-
16 BAM, before Magistrate Judge Barbara A. McAuliffe.

17 84. Class Certification of Finder/Talavera. For settlement purposes only, the Parties
18 agree that the consolidated Finder/Talavera Action shall be certified and this Settlement
19 Agreement is contingent upon the approval and certification by the Court of the Finder/Talavera
20 Action. Defendants do not waive, and instead expressly reserve, all rights to challenge the
21 propriety of certification of the Finder/Talavera Action defined in this Settlement Agreement for
22 any purpose should the Court not approve the Settlement. In the event either preliminary or final
23 approval of the Settlement is not obtained or, if obtained, is reversed upon appeal, the Parties
24 shall be returned to their respective positions in the Finder/Talavera Action as they existed
25 immediately prior to the execution of this Settlement Agreement. Furthermore, nothing said or
26 represented in connection with obtaining approval of the Court with respect to this settlement,
27 either on a preliminary or final basis, shall be admissible for any purpose other than to obtain
28 approval by the Court of this Settlement.

1 85. Class Counsel shall be responsible for preparing the Motion for Preliminary
2 Approval and the Motion for Final Approval. Class Counsel agree to file Plaintiffs' Motion by
3 no later than October 16, 2023, to be heard as soon as feasible on the Court's calendar. Class
4 Counsel agree to provide Leprino's counsel with a draft of Plaintiffs' Motion for Preliminary
5 Approval and Plaintiffs' Motion for Final Approval, along with all supporting documents for the
6 motions, respectively, at least five (5) business days prior to filing each motion.

7 86. Not later than ten (10) calendar days after this Settlement Agreement is filed in
8 court, Defendants agree to provide notice of the Settlement pursuant to the Class Action Fairness
9 Act of 2005, 28 U.S.C. section 1715 ("CAFA Notice").

10 87. Class Counsel agrees to provide a copy of this Settlement Agreement to the Labor
11 & Workforce Development Agency at the same time they submit it to the Court.

12 88. Within ten (10) calendar days of the Response Deadline, Plaintiffs will file the
13 Motion for Final Approval of this Settlement Agreement.

14 89. Other than filing Plaintiffs' motions for preliminary and final approval of the
15 Settlement, Plaintiffs and Class Counsel agree that they will not publicize the settlement in any
16 way, including on Class Counsel's or any other website. Plaintiffs and Class Counsel also agree
17 not to disclose or make any comments to the media or any persons about the settlement of the
18 Leprino Cases, other than in response to inquiries from Class Members. However, Class
19 Counsel may add the Maximum Settlement Amount to any aggregate verdict and settlement
20 count without naming or referencing the Leprino Cases in any way.

21 90. While preliminary and final approval are pending, the Parties agree to stay all
22 proceedings in *Finder v. Leprino Foods Company, et al.*; *Talavera v. Leprino Foods Company,*
23 *et al.*; *Perez v. Leprino Foods Company, et al.*; *Howell v. Leprino Foods Company, et al.*; *Null v.*
24 *Leprino Foods Company, et al.*; and *Walter v. Leprino Foods Company, et al.*

25 91. Within five (5) calendar days of final approval, Class Counsel will file the final
26 approval order and stipulations of dismissal, with prejudice, in *Finder v. Leprino Foods*
27 *Company, et al.*; *Talavera v. Leprino Foods Company, et al.*; *Perez v. Leprino Foods Company,*
28 *et al.*; *Howell v. Leprino Foods Company, et al.*; and *Walter v. Leprino Foods Company, et al.*

92. Within five (5) calendar days of Defendant's deposit of the Maximum Settlement Amount, Plaintiff Null will file a request for dismissal with prejudice of his individual claims and a dismissal without prejudice as to the PAGA claims of the State of California and the aggrieved employees in *Null v. Leprino Foods Company, et al.*

93. Within five (5) calendar days of Defendant's deposit of the Maximum Settlement Amount, Class Counsel and Leprino will dismiss their appeal and conditional cross-appeal, respectively, in *Vasquez, et al. v. Leprino Foods Company*, Case Nos. 23-15721 and 23-15778. All parties to the appeal and cross-appeal will bear their own attorneys' fees and costs associated with the appeal and cross-appeal.

NO ADMISSION

94. Nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants, and Defendants expressly deny any such liability. The Parties hereto have entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document and shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408 and/or any other similar law, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement.

PARTIES' AUTHORITY

95. The signatories hereto hereby represent that they are fully authorized to enter into this stipulation and bind the Parties hereto to the terms and conditions hereof.

MUTUAL FULL COOPERATION/RETURN TO STATUS QUO

96. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including, but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or

otherwise, to effectuate this Settlement Agreement and the terms set forth herein. If for any reason the Settlement is not approved, including without limitation, at the preliminary or final approval stage, the Parties agree to address any concerns raised by the Court using best efforts and working together in good faith to obtain approval; among other things, if the Court does not grant Plaintiffs' motion(s) for preliminary and/or final approval, Plaintiffs agree that they will file further motions for approval if necessary. If, however, the Parties are unable to obtain final approval, they agree that the Leprino Cases shall return to the status quo pre execution of the July 31, 2023 Short Agreement by the Parties at the mediation before Mediator Kayungah "Kay" Suk of the Ninth Circuit Court of Appeals.

MUTUAL PREPARATION

97. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

MODIFICATION

98. This Settlement Agreement may not be changed, altered, amended or modified, except in writing and signed by the Parties, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

ENTIRE AGREEMENT

99. This Settlement Agreement contains the entire agreement between the Parties relating to the proposed Settlement and transaction contemplated herein, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

////

1 **BINDING ON ASSIGNS**

2 100. This Settlement Agreement shall be binding upon and inure to the benefit of the
3 Parties hereto and their respective heirs, trustees, executors, administrators, successors and
4 assigns.

5 **COUNTERPARTS**

6 101. This Settlement Agreement may be executed in counterparts, and when each party
7 has signed and delivered at least one such counterpart, each counterpart shall be deemed an
8 original, and, when taken together with other signed counterparts, shall constitute one Settlement
9 Agreement, which shall be binding upon and effective as to the Parties. For purposes of this
10 Settlement Agreement, a facsimile signature shall be as valid and enforceable as an original.

11 **COURT'S CONTINUING JURISDICTION**

12 102. The parties consent to the United States District Court, Eastern District of
13 California, and to the Judge who approves the Settlement Agreement (or other Judge as may in
14 the future be assigned the Leprino Cases) to retain jurisdiction over the Leprino Cases and this
15 Settlement Agreement in order to enforce, construe, and interpret this Settlement Agreement and
16 the settlement, to supervise all notices, the administration of the settlement and this Agreement
17 and distribution of the Maximum Settlement Amount, and to hear, adjudicate, and resolve any
18 disputes arising from or related to the settlement and/or this Agreement.

19 **INTERIM STAY OF PROCEEDINGS**

20 103. The Parties agree to hold all proceedings in the Leprino Cases, except such
21 proceedings necessary to implement and complete the Settlement, in abeyance pending approval
22 of this Settlement Agreement, including the deadline for Plaintiff Null to bring *Null v. Leprino*
23 *Foods Company, et al.* to trial pursuant to California Code of Civil Procedure section 583.310.

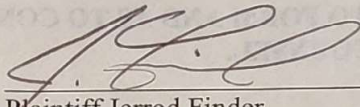
24 **PLEASE READ CAREFULLY. THIS SEPARATION AGREEMENT AND**
25 **GENERAL RELEASE INCLUDES A RELEASE OF ALL KNOWN OR**
26 **UNKNOWN CLAIMS BY PLAINTIFFS.**

27 ////

28 ////

1 IT IS SO STIPULATED AND AGREED.

2 Date: 10/09/2023


Plaintiff Jerrod Finder

3
4 Date: _____

Plaintiff Jonathan Talavera

5
6 Date: _____

Plaintiff Isaias Vasquez

7
8 Date: _____

Plaintiff Linda Hefke

9
10 Date: _____

Plaintiff John Perez

11
12 Date: _____

Plaintiff Andrew Howell

13
14 Date: _____

Plaintiff Donald Null

15
16 Date: _____

Plaintiff Fred Walter

17
18 Date: _____

Defendant Leprino Foods Company

19
20 By: _____
Jon Alby
Senior Vice President-General Counsel

21
22 Date: _____

Defendant Leprino Foods Dairy Products Company

23
24 By: _____
Jon Alby
Senior Vice President-General Counsel

1 **IT IS SO STIPULATED AND AGREED.**

2 Date: _____

Plaintiff Jerrod Finder

3
4 Date: 10-09-2023

Jonathan Talavera
Plaintiff Jonathan Talavera

5
6 Date: _____

Plaintiff Isaias Vasquez

7
8 Date: 10-10-2023

Linda Hefke
Plaintiff Linda Hefke

9
10
11 Date: _____

Plaintiff John Perez

12
13 Date: _____

Plaintiff Andrew Howell

14
15 Date: _____

Plaintiff Donald Null

16
17
18 Date: _____

Plaintiff Fred Walter

19
20 Date: _____

Defendant Leprino Foods Company

21
22 By: _____

Jon Alby
Senior Vice President-General Counsel

23
24 Date: _____

Defendant Leprino Foods Dairy Products Company

25
26 By: _____

Jon Alby
Senior Vice President-General Counsel

1 IT IS SO STIPULATED AND AGREED.

2 Date: _____
3 Plaintiff Jerrod Finder

4 Date: _____
5 Plaintiff Jonathan Talavera

6 Date: _____
7 Plaintiff Ismael Vasquez

8 Date: _____
9 Plaintiff Linda Heske

10
11 Date: _____
12 Plaintiff John Perez

13 Date: _____
14 Plaintiff Andrew Howell

15 Date: _____
16 Plaintiff Donald Null

17 Date: _____
18 Plaintiff Fred Walter

19 Date: _____
20 Defendant Leprino Foods Company

21 By: _____
22 Jon Alby
23 Senior Vice President-General Counsel

24 Date: _____
25 Defendant Leprino Foods Dairy Products Company

26 By: _____
27 Jon Alby
28 Senior Vice President-General Counsel

1 **IT IS SO STIPULATED AND AGREED.**

2 Date: _____

Plaintiff Jerrod Finder

4 Date: _____

Plaintiff Jonathan Talavera

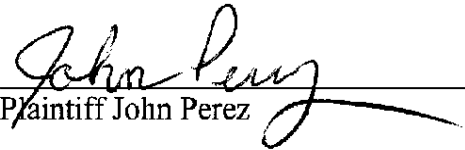
6 Date: _____

Plaintiff Isaias Vasquez

8 Date: _____

Plaintiff Linda Hefke

10 Date: 10/9/23

11 
Plaintiff John Perez

13 Date: _____

Plaintiff Andrew Howell

15 Date: _____

Plaintiff Donald Null

17 Date: _____

Plaintiff Fred Walter

19 Date: _____

Defendant Leprino Foods Company

21 By: _____

Jon Alby

Senior Vice President-General Counsel

23 Date: _____

Defendant Leprino Foods Dairy Products Company

25 By: _____

Jon Alby

Senior Vice President-General Counsel

1 IT IS SO STIPULATED AND AGREED.

2 Date: _____

Plaintiff Jerrod Finder

4 Date: _____

Plaintiff Jonathan Talavera

6 Date: _____

Plaintiff Isaias Vasquez

8 Date: _____

Plaintiff Linda Hefke

10 Date: _____

Plaintiff John Perez

12 Date: Oct 16, 2023

Andrew Howell Jr.
Plaintiff Andrew Howell

14 Date: _____

Plaintiff Donald Null

16 Date: _____

Plaintiff Fred Walter

18 Date: _____

Defendant Leprino Foods Company

20 By: _____
Jon Alby
Senior Vice President-General Counsel

22 Date: _____

Defendant Leprino Foods Dairy Products Company

24 By: _____
Jon Alby
Senior Vice President-General Counsel

Andrew Howell Jr.

IT IS SO STIPULATED AND AGREED.

Date: _____

Plaintiff Jerrod Finder

Date: _____

Plaintiff Jonathan Talavera

Date: _____

Plaintiff Isaias Vasquez

Date: _____

Plaintiff Linda Hefke

Date: _____

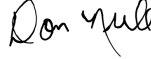
Plaintiff John Perez

Date: _____

Plaintiff Andrew Howell

Date: 10/5/2023

DocuSigned by:

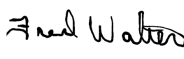


DB4FD4776C7B43D

Plaintiff Donald Null

Date: 10/5/2023

DocuSigned by:



D1C70869851E49E

Plaintiff Fred Walter

Date: _____

Defendant Leprino Foods Company

By: _____

Jon Alby

Senior Vice President-General Counsel

Date: _____

Defendant Leprino Foods Dairy Products Company

By: _____

Jon Alby

Senior Vice President-General Counsel

1 IT IS SO STIPULATED AND AGREED.

2 Date: _____

Plaintiff Jerrod Finder

4 Date: _____

Plaintiff Jonathan Talavera

6 Date: _____

Plaintiff Isaias Vasquez

8 Date: _____

Plaintiff Linda Hefke

10 Date: _____

Plaintiff John Perez

12 Date: _____

Plaintiff Andrew Howell

14 Date: _____

Plaintiff Donald Null

16 Date: _____

Plaintiff Fred Walter

18 Date: 10/5/2023

Defendant Leprino Foods Company

20 By: _____

Jon Alby

Senior Vice President-General Counsel

22 Date: 10/5/2023

Defendant Leprino Foods Dairy Products Company

24 By: _____

Jon Alby

Senior Vice President-General Counsel

1 **IT IS AGREED AS TO FORM AND AS TO CONTENT AS TO THOSE PROVISIONS**
2 **APPLICABLE TO COUNSEL.**

3 Date: October 11, 2023

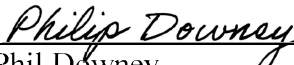
Class Counsel

4 By: 

5 Kitty K. Szeto
6 Parris Law Firm
7 Attorneys for Plaintiffs

8 Date: October 8, 2023

Class Counsel

9 By: 

10 Phil Downey
11 The Downey Law Firm, LLC
12 Attorneys for Plaintiffs

13
14
15 Date: _____

Defense Counsel

16 By: _____

17 Sandra L. Rappaport
18 Lisa M. Pooley
19 Hanson Bridgett, LLC
20 Attorneys for Defendants

1 **IT IS AGREED AS TO FORM AND AS TO CONTENT AS TO THOSE PROVISIONS**
2 **APPLICABLE TO COUNSEL.**

3 Date: _____

Class Counsel

4 By: _____

5 Kitty K. Szeto
6 Parris Law Firm
7 Attorneys for Plaintiffs

8 Date: _____

Class Counsel

9 By: _____

10 Phil Downey
11 The Downey Law Firm, LLC
12 Attorneys for Plaintiffs

13
14
15 Date: October 11, 2023

Defense Counsel

16 By: Lisa M. Pooley

17 Sandra L. Rappaport
18 Lisa M. Pooley
19 Hanson Bridgett, LLC
20 Attorneys for Defendants

NOTICE OF SETTLEMENT

IF YOU WERE EMPLOYED BY LEPRINO FOODS COMPANY IN CALIFORNIA AS A NON-EXEMPT HOURLY WORKER AT ANY TIME BETWEEN NOVEMBER 15, 2009 AND JULY 31, 2023, YOU MAY BE ENTITLED TO MONEY FROM THIS SETTLEMENT.

A court authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.

On [Preliminary Approval Date], the Court in this action granted preliminary approval of a proposed settlement as set forth in the Settlement Agreement concerning the lawsuit noted above (“the Lawsuit”). You are receiving this Notice because you worked for Defendant Leprino Foods Company or Leprino Foods Dairy Products Company (collectively “Defendants” or “Leprino”) as an hourly, non-exempt employee in California at some point between November 15, 2009 and July 31, 2023, and you may be entitled to share in the funds to be made available for the proposed settlement of this case.

You are not being sued. However, your rights may be affected by the legal proceedings in the Lawsuit. If the proposed settlement of this class action is granted final approval by the Court, you may have the right to be paid a share of the proposed settlement funds.

You do **NOT** have to do anything if you want to participate in this settlement.
A check will be automatically mailed to you.

PLEASE READ THIS ENTIRE NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY THE PROPOSED SETTLEMENT DESCRIBED IN THIS NOTICE.

You have received this Notice because Defendants’ records indicate that you are a member of the Settlement Class. This notice is designed to inform you about your options in this Settlement, all of which are dependent on the Court’s final approval of the Settlement.

1. What Is This Case About?

Plaintiffs Jerrod Finder, Jonathan Talavera, Isaias Vasquez, Linda Hefke, John Perez, Andrew Howell, Donald Null, and Fred Walters (collectively “Plaintiffs”) worked for Defendants. They sued Defendants on behalf of other hourly, non-exempt employees of Defendants in the State of California between November 15, 2009 and July 31, 2023, claiming various wage-and-hour violations. The parties have agreed to settle this dispute without any finding of wrongdoing by Defendants. The settlement resolves the following seven actions, appeals, and cross-appeals in their entirety: *Finder v. Leprino Foods Company, et al.*; *Talavera v. Leprino Foods Company, et al.*; *Vasquez, et al. v. Leprino Foods Company, et al.*; *Perez v. Leprino Foods Company, et al.*; *Howell v. Leprino Foods Company, et al.*; *Null v. Leprino Foods Company, et al.*; and *Walter v. Leprino Foods Company, et al.* (collectively “Leprino Cases”). Below is a brief description of the pending claims in each case.

Finder v. Leprino Foods Company, et al. (“Finder”): This is a putative class action lawsuit on behalf of hourly, non-exempt employees who currently work or formerly worked at Leprino’s Lemoore West, Lemoore East, or Tracy facilities at any time between November 15, 2009 through July 31, 2023. Plaintiff Finder claims that Leprino’s second meal break policy is facially unlawful and deprives employees of second meal breaks, that Leprino failed to provide accurate itemized wage statements, and that Leprino failed to provide waiting time penalties to employees. This is also a representative action pursuant to the Private Attorneys General Act of 2004 (“PAGA”). Plaintiff Finder seeks PAGA penalties on behalf of the State of California and aggrieved employees for the same alleged claims described in this paragraph.

Talavera v. Leprino Foods Company, et al. ("Talavera"): This is a putative class action lawsuit on behalf of hourly, non-exempt employees who currently work or formerly worked at Leprino's Lemoore West, Lemoore East, or Tracy facilities at any time between January 21, 2011 through July 31, 2023. Plaintiff *Talavera* alleges that Leprino failed to pay minimum wages, failed to compensate employees for all hours worked, failed to pay overtime wages, failed to provide legally-compliant meal and rest periods, failed to provide waiting time penalties, failed to properly itemize paystubs, and made unlawful deductions from wages. This is also a representative action pursuant to the PAGA. Plaintiff *Talavera* seeks PAGA penalties on behalf of the State of California and aggrieved employees for the same alleged claims described in this paragraph.

Vasquez, et al. v. Leprino Foods Company, et al. ("Vasquez"): This is a certified class action lawsuit on behalf of hourly, non-exempt employees who currently work or formerly worked for Leprino at its Lemoore West facility in the State of California at any time between May 8, 2013 through March 31, 2020. Plaintiffs claimed that Leprino had policies and practices that effectively placed the hourly employees on-call during all meal and rest breaks. This case went to trial in 2023 and the jury rendered a verdict for Leprino, finding that Leprino did not violate the law. Both sides have cross-appeals on file before the Ninth Circuit Court of Appeal.

Perez v. Leprino Foods Company, et al. ("Perez"): This is a certified class action lawsuit on behalf of hourly, non-exempt employees who currently work or formerly worked for Leprino at its Lemoore East facility in the State of California at any time between April 13, 2013 through January 6, 2021. Plaintiff *Perez* alleged essentially the exact same "on call" theory of liability at Leprino's Lemoore East facility, plus additional claims for donning and doffing equipment off the clock. Leprino filed a motion for summary judgment and decertification, which is fully briefed. The Parties are awaiting a decision.

Howell v. Leprino Foods Company, et al. ("Howell"): This is a certified class action lawsuit on behalf of hourly, non-exempt employees who currently work or formerly worked at Leprino's Tracy facility in the State of California at any time between April 24, 2014 through March 23, 2022. Plaintiff *Howell* claimed that Leprino had policies and practices that effectively placed the hourly employees on-call during all meal and rest breaks.

Walter v. Leprino Foods Company, et al. ("Walter"): This is a certified class action lawsuit on behalf of hourly, non-exempt employees who currently work or formerly worked at Leprino's Tracy facility in the State of California at any time between February 28, 2016 through August 29, 2022. Plaintiff *Walter* claimed that Leprino failed to provide legally-compliant meal periods due to Leprino's rounding policies and practices.

Null v. Leprino Foods Company, et al. ("Null"): This is a representative action pursuant to the PAGA. Plaintiff *Null* seeks PAGA penalties on behalf of the State of California and aggrieved employees who currently work for formerly worked for Leprino at its Lemoore East facility in the State of California at any time between January 8, 2018 to the present. Plaintiff *Null* claims that Leprino violated the same wage-and-hour laws as in the lawsuits above.

The Leprino Cases are being settled as a "class action." In a class action, the plaintiff, also referred to as a class representative, sues on behalf of himself and other persons with similar claims. The Settlement includes the following groups of Leprino hourly, non-exempt employees in the State of California:

- "Class Members" shall mean all individuals who currently or formerly worked at Leprino's Lemoore West, Lemoore East, or Tracy facilities in the State of California as an hourly, non-exempt employee at any time between November 15, 2009 and July 31, 2023, and includes the members of the certified classes in *Vasquez*, *Perez*, *Howell*, and *Walter*.

Based on Defendants' records, you are a Class Member and you may receive money from the proposed settlement. If the Court approves the proposed settlement at the Final Approval Hearing scheduled for _____ the proposed settlement will bind all Class Members. If the Court does not approve the proposed settlement, the Settlement Agreement will have no effect or precedential value in any subsequent proceedings in the Lawsuit or in any other litigation.

2. How Can I Receive Money From The Settlement?

You do not have to do anything to receive money from this settlement. A check will be automatically mailed to you if the Court grants final approval of the settlement.

3. Will I Be Subject To Discipline Or Retaliation If I Participate In The Settlement?

No.

4. How Much Is The Settlement?

Defendants have agreed to pay \$3,500,000.00 ("Maximum Settlement Amount") to settle the Released Claims defined below. After attorneys' fees and costs, Plaintiff Enhancement Payments, PAGA Settlement, and Settlement Administration Costs are deducted from the Maximum Settlement Amount, the remaining amount ("Net Settlement Amount") will be automatically distributed to Settlement Class Members who do not opt out.

5. How Much Money Will I Receive?

The Net Settlement Amount of approximately \$_____ prior to deduction for payroll taxes will be paid out to Settlement Class Members who do not opt out.

Your individual share of the Net Settlement Amount before deduction for payroll taxes will be calculated based on the total number of weeks you were employed by Defendants as an hourly, non-exempt employee in the State of California during the Class Period as reflected in Defendants' records ("Workweeks").

Your total number of Workweeks is _____. If you disagree with this number, you must provide the correct dates of employment during the Class Period along with supporting documentation to the Settlement Administrator by mail no later than [45 days after mailing].

Your Individual Settlement Payment shall be calculated by dividing the total number of Workweeks listed above by the total number of Workweeks for all Class Members employed as hourly, non-exempt employees of Leprino in the State of California during the Class Period, and multiplying the resulting number by the Net Settlement Amount. Your estimated Individual Settlement Payment is \$_____. This amount may change depending on final rulings from the Court. Applicable payroll deductions will be made for withholding of state and federal taxes. Your Individual Settlement Payment will be allocated 20% as wages, subject to withholding of applicable taxes, and 80% to interest and penalties reported on an IRS Form 1099. You will have 120 days to cash your checks. If you do not cash your check within 120 days of the mailing of the check, your check will be cancelled and funds associated with your cancelled check will be sent in your name to the Unclaimed Property Fund, <https://ucpi.sco.ca.gov/UCP>.

6. When Will I Receive the Money?

Please be patient. This Settlement must be approved by the Court before any payments can be issued.

7. Can I Object To The Settlement?

Yes. To object, you must mail a written statement of objection to the Settlement Administrator at the address listed on the last page of this Notice.

Your written objection and/or notice of intent to appear must be postmarked or delivered to the Settlement Administrator no later than [45 days after mailing].

Your written objection must: contain your full name, dates of employment as an employee of Defendants, and signature; contain the case name and number of the Lawsuit; set forth the legal and factual basis for the objection; and identify any counsel representing you in connection with the objection.

If you fail to make your objections in the manner specified above, you shall be deemed to have waived any objections and you shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement Agreement, or any aspect of the proposed settlement, including, without limitation, the fairness, reasonableness or adequacy of the proposed settlement, the Plaintiff Enhancement Payment, or any award of attorneys' fees or reimbursement of costs and expenses.

If the Court rejects your objection, you will still be bound by the terms of the Settlement Agreement and you will still receive your settlement check.

8. Can I Opt Out of The Settlement?

Yes. To opt out, you must submit to the Settlement Administrator a written request for exclusion that is postmarked on or before [45 days after mailing]. To be considered valid, a Class Member's request for exclusion must be in writing, signed by the Class Member, and contain the Class Member's name, address, the last four digits of the Class Member's Social Security number, and telephone number, and clearly indicate that the Class Member desires to be excluded from the settlement. If a timely and valid request for exclusion is not received by the Settlement Administrator from a Class Member on or before the response deadline, then that Class Member will be deemed to have forever waived his or her right to seek exclusion from the Settlement and Settlement Class and shall be bound by the Settlement and Judgment. Class Members who validly request exclusion from the Settlement by submitting a valid and timely request for exclusion shall not be bound by the terms of the Settlement, shall not be allowed to object to the Settlement, and shall not be entitled to any benefits or payments as a result of the Settlement.

9. What Happens If I Do Nothing?

You will receive money from this settlement and you will be bound by the Release described below.

10. What Rights Am I Giving Up?

Upon the Settlement Administrator's receipt of the Maximum Settlement Amount, all Class Members who do not timely opt out of the settlement fully release the Released Parties from the Released Claims from November 15, 2009 through the Release Date.

"Released Class Claims" means all claims under state, federal or local law, whether statutory, common law or administrative law, alleged in the operative complaints in the Action, or that could have been alleged based on the factual allegations in the operative complaints in the Action, including: (1) Failure to Pay Minimum Wage; (2) Failure to Pay Overtime Wages; (3) Failure To Provide Meal Periods and Failure to Pay One Hour of Pay at Regular Rate of Compensation; (4) Failure To Provide Rest Periods and Failure to Pay One Hour of Pay at Regular Rate of Compensation; (5) Failure to Furnish Accurate Wage Statements; (6) Failure to Pay Earned Wages Upon Termination; (7) Conversion; and (8) Unfair Competition in Violation of California Business and Professions Code Section 17200, *et seq.*, including, but not limited to, claims for injunctive relief; punitive damages; liquidated damages, penalties of any nature; interest; fees; costs; and all other claims and allegations made or which could have been made based on the allegations in the operative complaints in the Action, from November 15, 2009 through the Release Date. The released claims specifically include all claims for alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 218, 218.5, 218.6, 225.5, 226, 226.3, 226.6, 226.7, 510, 512, 558, 1174, 1194, 1194.2, 1197.1, 1198, and 2699; California Code of Civil Procedure sections 382 and 1021.5, and applicable Wage Order(s).

“Released Parties” means Defendants and all their respective present and former parent companies, subsidiaries, divisions, shareholders, members, principals, officers, directors, exempt employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Class Claims as a joint employer, and Defendants’ counsel of record in the Action.

“Release Date” means November 15, 2009 through October 16, 2023.

11. Who Are The Class Representatives?

The Court has appointed Plaintiffs Jerrod Finder, Jonathan Talavera, Isaias Vasquez, Linda Hefke, John Perez, Andrew Howell, and Fred Walters as the Class Representatives to represent you in this settlement. They will ask the Court to approve a Plaintiff Enhancement Payment for Plaintiffs Jerrod Finder, Jonathan Talavera, Isaias Vasquez, Linda Hefke, John Perez, Andrew Howell, Donald Null, and Fred Walters in an amount not to exceed a total of \$50,000 to be paid from the Maximum Settlement Amount, in exchange for general releases of all claims relating to their employment with Defendants.

12. How Will The Attorneys’ Fees For The Class Be Paid?

You do not need to pay any portion of either Class Counsel’s or Defendants’ attorneys’ fees and costs. All payment for Class Counsel’s attorneys’ fees and costs will be deducted from the Maximum Settlement Amount. Class Counsel will ask the Court to approve an award of attorneys’ fees’ in the amount of \$1,400,000 to Class Counsel for their work in prosecuting this Lawsuit and obtaining this Settlement on your behalf. Class Counsel will also ask the Court to approve an award of \$800,000 to Class Counsel for reimbursement of the costs and expenses they have incurred on behalf of the Class.

13. When And Where Is The Final Approval Hearing?

The Final Approval Hearing has been scheduled on _____ at __:__ a.m. before the Honorable Barbara A. McAuliffe in Courtroom ____ of the United States District Court for the Eastern District of California located at 2500 Tulare Street, ____th Floor, Fresno, California 93721, at which time Judge McAuliffe will determine: (1) whether the proposed settlement should be approved as fair, reasonable and adequate to the Class Members and (2) whether the proposed Final Approval Order and Judgment should be entered by the Court. The Final Approval Hearing date and time may change without further notice given to you. Please contact the Settlement Administrator at the address and telephone below to find out if there has been a change to the date and time of the Final Approval Hearing.

You Are Not Required To Attend The Final Approval Hearing.

14. Where Can I Get Additional Information?

This Notice provides only a summary of the matters relating to the proposed settlement. For more information or questions, you may contact the Settlement Administrator as follows:

SETTLEMENT ADMINISTRATOR

P.O. Box _____

City, California Zip Code _____

Telephone: (888) 369-3780

Facsimile: (714) 824-8591

PLEASE DO NOT CALL OR CONTACT THE COURT WITH QUESTIONS ABOUT THE PROPOSED SETTLEMENT OR THE SETTLEMENT PROCESS.