

1 JOAN B. TUCKER FIFE (SBN: 144572)
jfife@winston.com
2 WINSTON & STRAWN LLP
101 California Street, 35th Floor
3 San Francisco, CA 94111
Telephone: (415) 591-1000
4 Facsimile: (415) 591-1400

5 CAITLIN W. TRAN (SBN: 305626)
cwtran@winston.com
6 WINSTON & STRAWN LLP
333 South Grand Avenue, Suite 3800
7 Los Angeles, CA 90071
Telephone: (213) 615-1700
8 Facsimile: (213) 615-1750

9 Attorneys for Defendant
10 LAND O' LAKES, INC.

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

14 JOHN COOK, individually and on
15 behalf of all others similarly situated

16 Plaintiff,

17 vs.

18 LAND O'LAKES, INC.; and DOES
1 through 20, inclusive,

19 Defendants.

Case No.

[Tulare County Superior Court Case No.:
282373)

**DEFENDANT LAND O'LAKES, INC.'S
NOTICE OF REMOVAL OF CIVIL
ACTION TO FEDERAL COURT**

Complaint filed: March 6, 2020

1 TO PLAINTIFF AND HIS ATTORNEYS OF RECORD AND TO THE
2 CLERK OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN
3 DISTRICT OF CALIFORNIA:

4 PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. Sections 1331, 1332,
5 1441, and 1446, Defendant Land O’Lakes, Inc. (“Defendant”) hereby removes the
6 above-captioned matter from the Superior Court of the State of California in and for
7 the County of Tulare, to this Court, and states:

8 **JURISDICTIONAL STATEMENT**

9 **I. INTRODUCTION**

10 1. This case is hereby removed from state court to federal court because
11 this court has original jurisdiction over this action pursuant to 28 U.S.C. Sections
12 1441(c) and 1446. This notice is based upon the original jurisdiction of the United
13 States District Court over the parties under 28 U.S.C. Section 1331 based upon the
14 existence of a federal question as stated below.

15 2. Further, this case is hereby removed from state court to federal court
16 pursuant to 28 U.S.C. Section 1332 because (1) diversity of citizenship exists
17 between the parties, (2) although Plaintiff John Cook’s (“Plaintiff”) Complaint does
18 not specify the amount of damages sought, the relief Plaintiff seeks demonstrates the
19 amount in controversy in this case exceeds \$5,000,000. Therefore, this Court has
20 original jurisdiction under 28 U.S.C. § 1332(d).

21 **II. VENUE**

22 3. The action was filed in Superior Court for the State of California,
23 County of Tulare. Venue therefore properly lies in the United States District Court
24 for the Eastern District of California pursuant to 28 U.S.C. Sections 84(b), 1391, and
25 1441(a).

26 **III. THE STATE COURT ACTION IN THIS CASE**

27 4. On March 6, 2020, Plaintiff commenced an action in the Superior Court
28 of the State of California for the County of Tulare entitled *John Cook v. Land*

1 *O'Lakes, Inc.*, Case No. 282373. The Complaint was served on Defendant on or
2 about March 18, 2020. A true and correct copy of the Summons and Complaint are
3 attached hereto as **Exhibit A**.

4 5. The Complaint alleges claims for: (1) failure to pay minimum wages; (2)
5 failure to pay overtime wages; (3) failure to pay reporting time pay; (4) failure to
6 provide meal periods; (5) failure to permit rest breaks; (6) failure to provide accurate
7 itemized wage statements; (7) failure to pay all wages due upon separation of
8 employment; and (8) violation of Business and Professions Code ¶ 17200, *et seq.*
9 (Complaint ¶¶ 38-89.) The Complaint does not expressly enumerate any claim under
10 federal law and omits that the terms and conditions of Plaintiff's employment were
11 subject to a Collective Bargaining Agreement ("CBA").

12 6. On April 15, 2020, Defendant timely filed an Answer to Plaintiff's
13 Complaint in state court, a copy of which is attached hereto **Exhibit D** as.

14 **IV. JOINDER**

15 7. Defendant is not aware of any other defendant having been served with a
16 copy of the Complaint.

17 **V. FEDERAL QUESTION JURISDICTION BASED ON LABOR** 18 **MANAGEMENT RELATIONS ACT SECTION 301 PREEMPTION**

19 **A. A Claim is Preempted by the LMRA When Resolution of the Claim** 20 **Depends on Analysis of a Collective Bargaining Agreement ("CBA").**

21 8. The relief sought in the Complaint arises under, and is preempted by,
22 Section 301 of the Labor Management Relations Act (29 U.S.C. § 185) ("LMRA").
23 Thus, this is a civil action of which this Court has original jurisdiction under 28
24 U.S.C. Section 1331, and is one which may be removed to this court by Land
25 *O'Lakes, Inc.* pursuant to the provisions of 28 U.S.C. Section 1441.

26 9. Section 301 of the LMRA provides federal jurisdiction over "suits for
27 violation of contracts between an employer and a labor organization." 29 U.S.C. §
28 185(a). State law claims alleging a breach of a CBA are completely preempted by
Section 301 of the LMRA. *Id.*; *Allis-Chalmers Corp. v. Lueck*, 471 U.S. 20 (1985).

1 “The preemptive force of section 301 is so powerful as to displace entirely any state
2 claim based on a collective bargaining agreement, and any state claim whose
3 outcome depends on analysis of the terms of the agreement.” *Young v. Anthony’s*
4 *Fish Grottos, Inc.*, 830 F.2d 993, 997 (9th Cir. 1987) (citations omitted); *see also*
5 *Ramirez v. Fox Television Station*, 998 F.2d 743, 748 (9th Cir. 1993) (the LMRA
6 preempts a state law claim if the resolution of that claim depends upon the meaning
7 of a collective bargaining agreement), quoting *Lingle v. Norge Div. of Magic Chef,*
8 *Inc.*, 486 U.S. 399, 305-06 (1988).

9 10. Section 301 has been held to preempt California state law claims that are
10 substantially dependent on interpretation of a collective bargaining agreement.
11 *Firestone v. Southern Cal. Gas. Co.*, 219 F.3d 1063, 1066-67 (9th Cir. 2000). In
12 determining whether resolution of a state claim requires interpretation of a CBA, the
13 “touchstone” of the analysis “is the nature of the plaintiff’s underlying claim.” *Levy v.*
14 *Skywalker Sound*, 108 Cal. App. 4th 753, 763, (2003) (finding plaintiff’s claim for
15 unpaid wages based on provisions of the California Labor Code was preempted
16 because it “rest[ed] entirely on his claim that the . . . agreement entitled him to wages
17 at the level set by the CBA”).

18 **B. Plaintiff’s Employment was Governed by a CBA.**

19 11. Plaintiff was employed by Land O’Lakes, Inc. from approximately
20 August 2007 to September 2019 as a non-exempt production employee at the Tulare,
21 California location. (Declaration of Robert Scott [“Scott Dec.”] ¶ 2.) As a production
22 employee at the Tulare location, Plaintiff was a union member of the Teamsters
23 Local 517, Creamery Employees and Drivers, Public, Professional and Medical
24 Employees Union (the “Union” or “Teamsters”). (Scott Dec. ¶ 3.) At all times
25 relevant to this case, Plaintiff’s employment was subject to a CBA between Land
26 O’Lakes, Inc. and Teamsters, which includes terms and conditions governing wages,
27 work schedules, hours of work, meal periods, rest periods, working conditions,
28 grievances, and arbitrations. (Scott Dec. ¶¶ 3, 4, Ex. 1.)

1 12. The Union is a labor organization within the meaning of Section 2(5) of
2 the NLRA and 301(a) of the LRMA, 29 U.S.C. Sections 152(5) and 185(a).

3 13. Land O’Lakes, Inc. is an employer within the meaning of the LMRA, 29
4 U.S.C. Section 152(2).

5 14. Section I of the CBA specifically states that the Union is the sole agent
6 for the purpose of collective bargaining for all bargaining employees covered by the
7 provisions of the CBA, which establish rates of pay, hours of work, and other
8 conditions of employment, as set forth above. (Scott Dec. ¶¶ 3, 5, Ex. 1.)

9 **C. Plaintiff’s Claims are Preempted by Section 301 of the LMRA**

10 **1. Plaintiff’s Failure to Reference Section 301 of the LMRA in**
11 **His Complaint Does not Preclude Removal.**

12 15. The Complaint omits the fact that Plaintiff was a member of the Union
13 and employed by Land O’Lakes, Inc. through a CBA. But the “[m]ere omission of
14 reference to Section 301 in the complaint does not preclude federal subject matter
15 jurisdiction.” *Fristoe v. Reynolds Afetals Co.*, 615 F.2d 1209, 1212 (9th Cir. 1990). A
16 plaintiff may not avoid removal by “artfully pleading” his complaint to conceal the
17 true nature of the complaint. *See Young v. Anthony’s Fish Grottos, Inc.*, 830 F.2d
18 993, 997 (9th Cir. 1987) (holding that plaintiff’s state law claim was preempted
19 because it implicated provisions of the CBA, even though the complaint made no
20 mention of a CBA). The Court may look beyond the face of the Complaint, and at the
21 facts stated in the Notice of Removal, to determine whether the claims asserted are in
22 fact preempted by Section 301. *See Lippitt v. Raymond James Financial Servs., Inc.*,
23 340 F.3d 1033, 1041 (9th Cir. 2003); *Schroeder v. Trans World Airlines, Inc.*, 702
24 F.2d 189, 191 (9th Cir. 1983), *overruled in part on other grounds in Moore-Thomas*
25 *v. Alaska Airlines, Inc.*, 553 F.3d 1241 (9th Cir. 2009). Thus, the fact that Plaintiff
26 has not made specific reference to Section 301 in his Complaint does not preclude
27 removal. *See Milne Employees Ass’n v. Sun Carriers, Inc.*, 960 F.2d 1401, 1406 (9th
28 Cir. 1991).

1 16. An artfully pled state law claim should be “recharacterized” as a federal
2 claim under the “complete preemption” doctrine, which provides that the preemptive
3 force of Section 301 “converts an ordinary state law complaint into one stating a
4 federal claim for purposes of the well-pleaded complaint rule” and is removable to
5 federal court. *Caterpillar Inc. v. Williams*, 482 U.S. 386, 393 (1987); *Franchise Tax*
6 *Bd. v. Construction Laborers Vacation Trust*, 463 U.S. 1, 23 (1983) (“[I]f a federal
7 cause of action completely preempts a state cause of action, any complaint that comes
8 within the scope of the federal cause of action necessarily ‘arises’ under federal
9 law.”). Section 301 of the LMRA is a federal statute that can have complete
10 preemptive force. *Avco v. Aero Lodge No. 735*, 390 U.S. 557, 558-62 (1968); *see also*
11 *Buck v. Cemex, Inc.*, No. 1:13-cv-00701-LJO-MJS, 2013 WL 4648579, at *2 (E.D.
12 Cal. Aug. 29, 2013). Even if a right exists independently of a CBA, when resolution
13 of a state-law claim is “substantially dependent on analysis of a collective-bargaining
14 agreement,” the claim is preempted by Section 301 of the LMRA. *Paige v. Henry J.*
15 *Kaiser Co.*, 826 F.2d 857, 861 (9th Cir. 2001) (citing *Caterpillar, Inc.*, 482 U.S. at
16 394); *see also Hyles v. Mensing*, 849 F.2d 1213, 1215-16 (9th Cir. 1988).

17 17. Plaintiff’s claims are “founded directly on rights created by collective
18 bargaining agreements” and/or are substantially dependent on an analysis and
19 interpretation of the terms of the parties’ CBA. *See Hayden v. Reickerd*, 957 F.2d
20 1506, 1509 (9th Cir. 1991); *see also Caterpillar Inc.*, 482 U.S. at 394. Plaintiff’s
21 claims, therefore, necessarily require that the Court interpret the provisions of the
22 relevant CBA, and they are preempted by Section 301 of the LMRA.

23 **2. Resolution of Plaintiff’s Claims Will Require Substantial**
24 **Interpretation of the Various Provisions of the Relevant CBA.**

25 18. The Court cannot simply look to state law to resolve Plaintiff’s artfully
26 pled claims for breach of a CBA. Thus, Plaintiff’s claims cannot be adjudicated
27 without interpretation of numerous CBA provisions that govern his employment.
28 Plaintiff asserts the following causes of action: (1) failure to pay minimum wages; (2)

1 failure to pay overtime wages; (3) failure to pay reporting time pay; (4) failure to
2 provide meal periods; (5) failure to permit rest breaks; (6) failure to provide accurate
3 itemized wage statements; (7) failure to pay all wages due upon separation of
4 employment; and (8) violation of Business and Professions Code ¶ 17200, *et seq.*
5 (Complaint ¶¶ 38-89.)

6 19. The applicable CBA contains specific language governing time worked,
7 wages, overtime, and meal and rest periods. The CBA also provides for a grievance
8 process and requires binding arbitration to resolve any disputes arising under the
9 CBA. Resolution of Plaintiff's claims will require the Court to interpret, at a
10 minimum, all of these provisions:

11 20. *Wages, Hours, and Overtime.* The CBA sets forth the parties' mutual
12 agreement regarding all issues pertaining to employee wages, including but not
13 limited to pay for minimum straight time wages, night work pay, overtime pay,
14 double time pay, work schedules, show-up time, call-back pay, and reporting pay.
15 (Scott Dec. ¶ 3, Ex. 1.) Plaintiff's claims revolve around his allegations that he was
16 not paid minimum wages, overtime wages, or reporting time pay when he reported to
17 work and was sent home early without being paid half a day's wages. (Complaint ¶¶
18 38-53.) To determine the validity of Plaintiff's claims, the Court will need to review
19 and analyze a multitude of provisions governing wages throughout CBA and interpret
20 these provisions to determine how they interact with one another.

21 21. *Meal and Rest Periods.* The CBA provides for meal periods and rest
22 periods (referred to as "relief periods"). (Scott Dec. ¶ 3, Ex. 1.) The focus of
23 Plaintiff's claims is that his first and second meal periods were not compliant, and
24 that he was required to be "on duty" during meal and rest periods. (Complaint ¶¶ 54-
25 69.) The CBA lays out the conditions under which employees are entitled to meal
26 periods and relief periods, which are different from those conditions under the
27 California Labor Code, and which will require interpretation of the CBA. (Scott Dec.
28 ¶ 3, Ex. 1.)

1 22. *California Labor Code*. To the extent state law applies, employees may
2 waive their rights under certain provisions of the California Labor Code governing
3 payment of wages and overtime through a valid CBA. “In other words, where the
4 CBA contains rules governing overtime (among other things), those rules effectively
5 displace the relevant provisions of the California Labor Code.” *Van Bebber v. Dignity*
6 *Health*, No. 119CV00264DADEPG, 2019 WL 4127204, at *3 (E.D. Cal. Aug. 30,
7 2019). Section 204(c) governing payment of wages provides that “when employees
8 are covered by a collective bargaining agreement that provides different pay
9 arrangements, those arrangements shall apply to the covered employees.” Section 514
10 provides that “Sections 510 and 511 [governing overtime and alternative workweek
11 schedules] do not apply to an employee covered by a valid collective bargaining
12 agreement if the agreement expressly provides for the wages, hours of work, and
13 working conditions of the employees, and if the agreement provides premium wage
14 rates for all overtime hours worked and a regular hourly rate of pay for those
15 employees of not less than 30 percent more than the state minimum wage.”

16 23. Here, the CBA meets those criteria: it provides for wages, hours, and
17 working conditions; and specifically calls for and define premium pay for all
18 overtime hours worked; in addition to expressly requiring that employees be paid at
19 an hourly rate of more than 30% above the state minimum wage (2019 hourly rates
20 under the CBA range from \$22.74 to \$30.84). (Scott Dec. ¶ 3, Ex. 1.) The Ninth
21 Circuit recently held that if a CBA meets the requirements of Section 514, overtime
22 claims are controlled by the CBA rather than by Section 510, and are therefore
23 preempted. *See Curtis v. Irwin Indus., Inc.*, 913 F.3d 1146 (9th Cir. 2019) (finding
24 plaintiff’s California Labor Code Section 510 claim was preempted by Section 301 of
25 the LMRA because plaintiff was covered by a collective bargaining agreement that
26 specified “the wages, hours of work, and working conditions of the employees, and ...
27 premium wage rates for all overtime hours worked and a regular hourly rate of pay
28

1 for those employees of not less than 30 percent more than the state minimum wage.”)
2 Thus, Plaintiff’s claims are preempted by Section 301 of the LMRA.

3 24. *Grievance and Arbitration Procedure.* Plaintiff’s claims are also
4 removable because he did not exhaust his remedies under the parties’ CBA. The
5 grievance and arbitration procedure set forth in the CBA covers “all disputes arising
6 out of the Agreement.” (Scott Dec. ¶ 3, Ex. 1.) The CBA requires arbitration of
7 claims as the exclusive remedy for any alleged violations of the CBA including, but
8 not limited to, claims relating to wages, overtime, and meal and rest periods. Plaintiff
9 has waived his right to pursue statutory rights in court and the CBA must be
10 interpreted to resolve Plaintiff’s claims. *Cortez v. Doty Bros. Equipment Co.*, 15 Cal.
11 App. 5th 1, 12 (2017) (a CBA may waive an employee’s right to pursue statutory
12 rights in court as long as the waiver is “clear and unmistakable.”) Thus, Plaintiff’s
13 wage claims must be arbitrated.

14 25. State court lawsuits properly removed on preemption grounds may then
15 be deferred to arbitration, if the parties to the CBA have so agreed. *See Livadas v.*
16 *Bradshaw*, 512 U.S. 107, 142, fn. 18 (1994). Here, the parties have entered into an
17 agreement that provides that an alleged violation of the CBA is subject to the
18 grievance and arbitration procedures set forth therein. The terms and conditions of
19 the CBA govern all the conduct that forms the basis for Plaintiff’s complaint, and
20 thus are essential to the resolution of Plaintiff’s claims. Because all of Plaintiff’s
21 claims are, in essence, alleged violations of the relevant CBA, the Court will
22 necessarily have to interpret the grievance and arbitration provisions to analyze
23 Plaintiff’s claims in this case. For example, the Court must determine whether
24 Plaintiff was first required to exhaust the grievance procedures, whether he did in fact
25 exhaust those procedures, and whether he agreed to arbitrate all or some of his
26 claims, all of which are questions reserved for federal courts under the LMRA. The
27 promotion of extra-judicial dispute resolution is another purpose of Section 301
28 preemption. This Court has pointed out that “grievance and arbitration procedures

1 provide certain procedural benefits, including a more prompt and orderly settlement
2 of CBA disputes than that offered by the ordinary judicial process,” and that “the
3 labor arbitrator is usually the appropriate adjudicator for CBA disputes.” *Van Bebbler*,
4 2019 WL 4127204, at *2 (internal quotations omitted). Accordingly, each of
5 Plaintiff’s claims arises under Section 301 of the LMRA, and is therefore preempted
6 by federal law. Removal to federal court is warranted.

7 **D. This Court has Supplemental Jurisdiction Over Plaintiff’s Other**
8 **Claims.**

9 26. To the extent any of Plaintiff’s state law claims are not completely
10 preempted by Section 301 or are not so inextricably intertwined with or dependent on
11 an interpretation of the CBA, these claims are within the supplemental jurisdiction of
12 this Court under 29 U.S.C. Section 1367(a) because they relate to and emanate from
13 the same employment relationship between Plaintiff and Defendant that is the subject
14 of the federal question claims. All the pleaded claims thus emanate from, and form
15 part of the same “case or controversy,” such that they should all be tried in one
16 action. *See Nishimoto v. Federman-Backrach & Assoc.*, 903 F.2d 709, 714 (9th Cir.
17 1990). Considerations of convenience, judicial economy, and fairness to the litigants
18 strongly favor this Court exercising jurisdiction over all claims in the Complaint. *See*
19 *Executive Software v. U.S. Dist. Court*, 24 F.3d 1545, 1557 (9th Cir. 1994).
20 Accordingly, by virtue of 28 U.S.C. § 1441, Defendant is entitled to remove all
21 Plaintiff’s claims to this Court.

22 27. In the alternative, any such other claims for relief are separate and
23 independent claims which are properly removable to this Court pursuant to 28 U.S.C.
24 Section 1332(d), as discussed in Section VI.

25 28. Thus, this action is removable in its entirety.

26 **VI. DIVERSITY JURISDICTION PURSUANT TO THE CLASS ACTION**
27 **FAIRNESS ACT (“CAFA”)**

28 29. Pursuant to CAFA, “[t]he district courts shall have original jurisdiction
of any civil action in which the matter in controversy exceeds the sum or value of

1 \$5,000,000, exclusive of interest and costs, and is a class action in which . . . any
2 member of a class of plaintiffs is a citizen of a State different from any defendant.”
3 28 U.S.C. § 1332(d)(2)(A). In addition, CAFA provides for jurisdiction in the district
4 courts only where the proposed class involves 100 or more members, or where the
5 primary defendants are not States, State Officials, or other governmental entities. 28
6 U.S.C. § 1332(d)(5). Thus, as set forth below, this is a civil action over which this
7 Court has original jurisdiction under 28 U.S.C. section 1332(d) because, based on the
8 allegations that Plaintiff set forth in the Complaint: it is a civil action filed as a class
9 action involving more than 100 members; the amount in controversy exceeds the sum
10 of \$5,000,000, exclusive of interest and costs; Plaintiff and Defendant are citizens of
11 different states; and no Defendant is a state, state official, or government entity.

12 **A. Numerosity**

13 30. CAFA provides that the district courts shall not have jurisdiction over
14 actions “where the number of members of all proposed plaintiff classes in the
15 aggregate is less than 100.” 28 U.S.C. § 1332(d)(5). Plaintiff’s proposed putative
16 class includes all California citizens currently or formerly employed as non-exempt
17 employees by Defendants at their California manufacturing centers within four years
18 prior to the filing of this action (*i.e.*, March 6, 2016) to the date of class certification.
19 (Complaint ¶ 20.) There are approximately 1,094 putative individuals in California
20 who fall within the scope of Plaintiff’s proposed putative class. (Scott Dec. ¶ 6.)

21 **B. Diversity of Citizenship**

22 31. CAFA’s diversity requirement is satisfied when any member of a class
23 of plaintiffs is a citizen of a state different from any defendant. 28 U.S.C. §
24 1332(d)(2). The citizenship of the parties is determined by their citizenship status at
25 the action’s commencement. *See Mann v. City of Tucson*, 782 F. 2d 790, 794 (9th
26 Cir. 1986).

27 32. *Plaintiff’s Citizenship*. To establish citizenship for diversity purposes, a
28 natural person must be (i) a citizen of the United States, and (ii) a domiciliary of a

1 particular state. *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001).
2 “A person's domicile is [his] permanent home, where [he] resides with the intention
3 to remain or to which [he] intends to return.” *Id.* The Complaint alleges that Plaintiff
4 “is a citizen of California.” (Complaint ¶ 11.) Plaintiff was employed by and
5 performed his work for Land O’Lakes, Inc. in the State of California. (Scott Dec. ¶ 7;
6 Complaint ¶ 11.) Further, based on information from Plaintiff’s personnel file, which
7 includes information he submitted to Defendant throughout the course of his
8 employment, Plaintiff consistently listed a California address as his current address,
9 which demonstrates his “intention to remain” in California and establishes domicile
10 in California. (Scott Dec. ¶ 8.) *See Wilson v. CitiMortgage*, No. 5:13-CV-02294-
11 ODW SP, 2013 WL 6871822, at *2 (C.D. Cal. Dec. 17, 2013) (noting that other
12 objective facts, including plaintiff’s place of employment, may further establish a
13 plaintiff’s citizenship for purposes of removal).

14 33. *Defendant’s Citizenship.* Land O’Lakes, Inc. was, at the time of filing
15 this action, and still is, a citizen of a state other than California – specifically, the
16 state of Minnesota. A corporation is deemed to be a citizen of the state in which it
17 was incorporated and of the state where it has its principal place of business. 28
18 U.S.C. § 1332(c). Under the “nerve center” test, a corporation’s principal place of
19 business is “the place where a corporation’s officers direct, control, and coordinate
20 the corporation’s activities.” *Hertz Corp. v. Friend, et al.*, 599 U.S. 77, 80-81, 91-93
21 (2010). Land O’Lakes, Inc. is incorporated in the State of Minnesota. (Declaration of
22 Sarina Bourdaux [“Bourdaux Dec.”] ¶ 3.) Moreover, under the “nerve center” test,
23 Land O’Lakes, Inc.’s principal place of business is also in Minnesota. Land O’Lakes,
24 Inc.’s headquarters are located in Arden Hills, Minnesota, and many key members of
25 Land O’Lakes, Inc.’s executive and management teams including, but not limited to,
26 the President and Chief Executive Officer, Chief Technology Officer, Chief
27 Operating Officer, Chief Financial Officer, Chief Supply Chain Officer, Chief
28 Marketing Officer, Chief Human Resources Officer, Senior Vice Presidents,

1 Presidents, Executive Vice Presidents, and General Counsel each work out of Land
2 O'Lakes, Inc.'s principal executive office in Arden Hills, Minnesota. (*Id.*) In addition
3 to conducting the executive meetings in Minnesota, these officers primarily perform
4 their day-to-day job duties in Minnesota, including controlling, directing, and
5 coordinating the activities of Land O'Lakes, Inc. Land O'Lakes, Inc.'s payroll and
6 benefits are also processed in its principal executive office in Arden Hills, Minnesota.
7 (*Id.*)

8 34. *Doe defendants.* The presence of Doe defendants has no bearing on
9 diversity with respect to removal. *See* 28 U.S.C. § 1441(b) ("In determining whether
10 a civil action is removable on the basis of the jurisdiction under section 1332(a) of
11 this title, the citizenship of defendants sued under fictitious names shall be
12 disregarded."); *Fristoe v. Reynolds Metals Co.*, 615 F.2d 1209, 1213 (9th Cir. 1980)
13 (unnamed defendants need not join in the removal petition). Thus, the existence of
14 Doe defendants 1 through 20 does not deprive this Court of jurisdiction.

15 35. Diversity of citizenship exists under CAFA in accordance with 28
16 U.S.C. § 1332(d)(2) because Plaintiff is a citizen of California and Defendant is a
17 citizen of Minnesota. *See* 28 U.S.C. § 1332(d)(2) (where the amount in controversy is
18 satisfied, "[t]he district courts shall have original jurisdiction of any civil action . . . in
19 which . . . any member of a class of plaintiffs is a citizen of a State different from any
20 defendant.").

21 **C. The Amount in Controversy Exceeds \$5,000,000**

22 36. CAFA authorizes the removal of class action cases in which, among
23 other factors mentioned above, the amount in controversy for all class members
24 exceeds \$5,000,000. 28 U.S.C. § 1332(d). Plaintiff does not specifically allege an
25 amount of damages and/or recoverable penalties in the Complaint, nor does he allege
26 that the aggregate amount in controversy is less than \$5,000,000. Therefore,
27 Defendant "need include only a plausible allegation that the amount in controversy
28 exceeds the jurisdictional threshold." *Dart Cherokee Basin Operating Co., LLC v.*

1 *Owens*, 135 S. Ct. 547, 549 and 553 (2014) (holding defendants need not submit
2 “evidence” establishing CAFA jurisdiction in their removal papers; rather, defendants
3 only need to provide “a short and plain statement of the grounds for removal”); *see*
4 *also Al-Najjar v. Kindred Healthcare Operating, Inc.*, No. CV176166PSGFFMX,
5 2017 WL 4862067, at *2 (C.D. Cal. Oct. 26, 2017).

6 37. In determining whether the amount in controversy exceeds \$5,000,000,
7 the Court must presume Plaintiff will prevail on each and every one of his claims.
8 *Kenneth Rothschild Trust v. Morgan Stanley Dean Witter*, 199 F. Supp. 2d 993, 1001
9 (C.D. Cal. 2002), *citing Burns v. Windsor Ins. Co.*, 31 F.3d 1092, 1096 (11th Cir.
10 1994) (the amount in controversy analysis presumes that “plaintiff prevails on
11 liability”) and *Angus v. Shiley Inc.*, 989 F.2d 142, 146 (3d Cir. 1993) (“the amount in
12 controversy is not measured by the low end of an open-ended claim, but rather by
13 reasonable reading of the value of the rights being litigated”). Here, Land O’Lakes,
14 Inc. denies the merit of each of Plaintiff’s claims, including the alleged putative class,
15 amounts claimed, and the theories upon which he seeks recovery; however, for
16 purposes of determining whether jurisdiction exists pursuant to CAFA, Plaintiff’s
17 Complaint, as drafted, plausibly alleges that the amount in controversy for all class
18 members exceeds \$5,000,000, exclusive of interest and costs.

19 38. During the proposed class period (*i.e.*, March 6, 2016 to the present),
20 putative class members’ wages ranged from approximately \$10.48 per hour to \$40.83
21 per hour. (Scott Dec. ¶ 9.) The weighted average hourly rate of pay for all members
22 of the putative class was \$20.93. (*Id.*) In the aggregate, putative class members
23 worked approximately 149,025 total workweeks during the class period. (*Id.* ¶ 10.)
24 During the class period, putative class members typically worked full-time schedules
25 of approximately 40 hours per week. (*Id.* ¶ 11.) Putative class members were paid
26 biweekly, and there were, and are, 26 pay periods per year during the proposed class
27 period. (*Id.* ¶ 12.)
28

1 39. Among other monetary relief, Plaintiff seeks to recover unpaid overtime
2 and double time wages on the theory that Defendant “failed to pay” Plaintiff and
3 class members overtime and double time wages because Plaintiff and class members
4 worked shifts of eight hours or more and twelve hours or more, and Defendant did
5 not include non-discretionary wages in the rate of pay computation, failed to pay for
6 off-the-clock work during meal breaks and security checks, and failed to provide
7 reporting time pay. (Complaint ¶¶ 44-50.) Taking Plaintiff’s allegations as true, the
8 amount in controversy for Plaintiff’s overtime claims could range from
9 \$4,678,639.88 (1 unpaid overtime hour per week x 20.93(1.5) overtime rate x
10 149,025 workweeks) to \$23,393,199.40 (5 unpaid overtime hours per week x
11 20.93(1.5) overtime rate x 149,025 workweeks), *without even taking into account*
12 *Plaintiff’s allegations regarding double overtime*. The amount in controversy on
13 Plaintiff’s Second Cause of Action alone makes up, *at a minimum*, nearly \$4.7
14 million of the \$5 million jurisdictional minimum under CAFA. More likely, the
15 amount in controversy exceeds CAFA by more than \$18 million.

16 40. Plaintiff seeks meal period premiums equal to one additional hour of pay
17 for each day a meal period was not provided. (Complaint ¶¶ 54-62.) The Complaint
18 provides no specific allegation as to the number of first and second meal periods
19 Plaintiff claims he and other putative class members were not provided per week.
20 Rather, the Complaint broadly alleges that “Defendants *failed to provide* Plaintiff and
21 class members timely, uninterrupted, off-duty meal periods,” such that “Plaintiff and
22 class members were *not able* to take required off-duty meal periods during their
23 shifts.” (Complaint ¶ 31 (emphasis added).) The Complaint further alleges that
24 Defendant required class members to be “on duty” during meal and rest periods such
25 that they were not provided with legally compliant meal and rest periods under
26 California law. (*Id.*) Finally, Plaintiff alleges Defendant “*routinely failed* to provide
27 Plaintiff and class members with a second, off-the-clock meal break for shifts lasting
28 longer than ten hours.” (*Id.* (emphasis added).) Plaintiff’s meal period claims amount

1 to, *at a minimum*, one (1) meal period violation per week or, more likely, five (5)
2 meal period violations per week.¹ Therefore, the amount in controversy on this
3 aspect of Plaintiff’s claim could range from \$3,119,093.25 (one (1) violation per
4 week x \$20.93 per hour x 149,025 workweeks during the applicable statute of
5 limitations period) to \$15,595,466.20 (five (5) violations per week x \$20.93 per hour
6 x 149,025 workweeks during the applicable statute of limitations period). Adding this
7 range of potential damages to the minimum of nearly \$4.7 million in unpaid overtime
8 Plaintiff seeks is further evidence that the amount in controversy exceeds \$5 million.

9 41. Plaintiff also seeks rest break premium pay equal to one additional hour
10 of pay at the employee’s regular rate of compensation for each workday that the rest
11 period was not provided. (Complaint ¶¶ 63-69.) Again, while Plaintiff’s Complaint
12 provides no specific allegation as to the precise number of rest periods Plaintiff
13 claims that he and the other putative members were not provided per week during the
14 applicable statute of limitations period, Plaintiff alleges that “Defendants *failed to*
15 *provide* Plaintiff and class members timely, uninterrupted, on-the-clock rest periods
16 of no less than ten minutes for every four hours worked, or major fraction thereof.
17 Defendants also *routinely* failed to provide Plaintiff and class members with a third
18 rest period for shifts lasting longer than ten hours.” (Complaint ¶ 33 (emphasis
19 added).) The Complaint further alleges: “Plaintiff and class members *did not* receive
20 a ten (10) minute rest period for every four (4) hours or major fraction thereof
21 worked.” (Complaint ¶ 66 (emphasis added).) Plaintiff’s rest period claims amount
22 to, *at a minimum*, one (1) rest period violation per week or, more likely, five (5) rest
23

24 ¹ For purposes of removal, “courts have assumed a 100% violation rate in calculating
25 the amount in controversy when the complaint does not allege a more precise
26 calculation.” *Coleman*, 730 F. Supp. 2d at 1149; *see also Muniz v. Pilot Travel*
27 *Centers, LLC*, No. CIV S-07-0325 FCD EFB, 2007 WL 1302504, at *4 (E.D. Cal.
28 May 1, 2007) (assuming a 100% violation rate for removal where defendants assumed
one missed meal period and one missed rest period per day over the course of four
years because “plaintiff alleges a common course of conduct in violation of the law”).
Similarly, Plaintiff does not allege a precise calculation and Land O’Lakes, Inc. could
properly calculate the amount in controversy based on a 100% violation rate.

1 period violations per week.² As the calculation of premiums for rest period violations
2 is the same as the calculation for meal period violations, the amount in controversy
3 on this aspect of Plaintiff's claim could range from \$3,119,093.25 (one (1) violation
4 per week x \$20.93 per hour x 149,025 workweeks during the applicable statute of
5 limitations period) to \$15,595,466.20 (five (5) violations per week x \$20.93 per hour
6 x 149,025 workweeks during the applicable statute of limitations period). Adding this
7 low range of alleged rest break damages of \$3.1 million to \$3.1 million in unpaid
8 meal period premiums, and a minimum of nearly \$4.7 million in unpaid overtime, is
9 further evidence that the amount in controversy exceeds \$5 million.

10 42. Statutory penalties may also be counted in determining the amount in
11 controversy. *See Mackall v. Healthsource Glob. Staffing, Inc.*, No. 16-CV-03810-
12 WHO, 2016 WL 4579099, at *6 (N.D. Cal. Sept. 2, 2016) (denying plaintiff's motion
13 to remand and finding defendant's calculation of waiting time penalties based on
14 each putative class member's entitlement to one workday's wages for 30 days to be
15 reasonable). Here, the Complaint alleges that Plaintiff and the other putative class
16 members are entitled to penalties pursuant to California Labor Code section 203, and
17 seeks penalties for waiting time penalties of "regular daily wages for each day they
18 were not paid, at their regular hourly rate of pay, up to a thirty (30) day maximum."
19 (Complaint ¶ 82.) Although the Complaint does not specify the dollar amount of
20 penalties being sought, aggregating the low range of alleged overtime, meal and rest
21 break damages, and waiting time penalties, *the amount in controversy well exceeds*
22 *the minimum of \$5 million.*

23 43. Plaintiff also seeks to recover statutory penalties pursuant to Labor Code
24 section 226(a), based on Land O'Lakes, Inc.'s alleged failure to provide accurate
25 itemized wage statements to each member of the putative class. (Complaint ¶¶ 70-
26 76.) If Plaintiff and the other members of the putative class prevail on their claim for
27 failure to pay minimum wages, overtime wages, or failure to provide required meal

28 ² See case authority at FN 1.

1 or rest period breaks, they would be entitled to recover statutory penalties of \$50.00
2 for the initial pay period in which a violation of Section 226(a) occurred and \$100.00
3 per employee for each violation in a subsequent pay period, not to exceed an
4 aggregate penalty of \$4,000.00 per employee. Cal. Lab. Code § 226. This further
5 establishes that the amount in controversy exceeds \$5,000,000.

6 44. The Complaint seeks an unspecified amount of attorneys' fees in
7 connection with Plaintiff's Complaint. (Complaint, Prayer for Relief.) These attorney
8 fees may be included in determining the amount in controversy. *Galt G/S v. JSS*
9 *Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998) ("where an underlying statute
10 authorizes an award of attorneys' fees...such fees may be included in the amount in
11 controversy"); *see also Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005).
12 In the Ninth Circuit, the "benchmark" for acceptable attorney's fees in class action
13 settlements is 25% of recovery. *Powers v. Eichen*, 229 F.3d 1249, 1256 (9th Cir.
14 2000). However, the exact percentage varies depending on the facts of the case, and
15 in "many common fund cases, the award exceeds that benchmark." *Knight v. Red*
16 *Door Salons, Inc.*, No. 08-01520, 2009 WL 248367 (N.D. Cal. Feb. 2, 2009). For
17 purposes of this analysis only, assuming an award of attorneys' fees consisting of
18 25% of the total alleged damages that have allegedly accrued to date (based on the
19 low and high end of overtime and meal and rest break damages) yields a total ranging
20 from \$2,729,206.57- \$13,646,032.95 in attorneys' fees alone.

21 45. Presuming, as it must for purposes of determining jurisdiction under
22 CAFA, that Plaintiff will prevail on even a subset of the claims asserted in the
23 Complaint, the data set forth above clearly establishes it is more probable than not
24 that the amount in controversy in this action exceeds \$5,000,000. ***At a minimum, the***
25 ***amount in controversy amounts to \$10,916,826.28; alternatively, the amount in***
26 ***controversy may amount to \$54,584,131.80, which is well beyond the threshold for***
27 ***CAFA removal purposes.*** Therefore, the aggregate claimed damages by Plaintiff on
28

1 behalf of himself and all members of the putative class, exclusive of interest and
2 costs, exceeds the jurisdictional amount in controversy.

3 **VII. COMPLIANCE WITH STATUTORY REQUIREMENTS**

4 46. Pursuant to 28 U.S.C. § 1446(a), Defendant attaches hereto a true and
5 correct copy of the Summons and Complaint as **Exhibit A** and a true and correct
6 copy of the Civil Case Cover Sheet as **Exhibit B**. A true and correct copy of the
7 Tulare Superior Court Alternative Dispute Resolution Package is attached hereto as
8 **Exhibit C**. A true and correct copy of Defendant’s Answer to Plaintiff’s Complaint is
9 attached hereto as **Exhibit D**. These are the only process, pleadings, or orders in the
10 State Court’s file that have been served on Defendant up to the date of filing this
11 Notice of Removal.

12 47. In accordance with 28 U.S.C. § 1446(b), this Notice is timely filed with
13 this Court. Pursuant to 28 U.S.C. § 1446(b), “a notice of removal may be filed within
14 thirty days after receipt by the defendant, through service or otherwise.” 28 U.S.C. §
15 1446(b). Defendant was served with Plaintiff’s Complaint on March 18, 2020.
16 Accordingly, this Notice is timely.

17 48. As required by 28 U.S.C. § 1446(d), Defendant will provide written
18 notice of the filing of this Notice of Removal to Plaintiff’s attorneys of record, and
19 will promptly file a copy of this Notice of Removal with the Clerk for the Superior
20 Court of the State of California in and for Tulare County.

21 WHEREFORE, Defendant respectfully requests that these proceedings, entitled
22 *John Cook v. Land O’Lakes, Inc.*, Case No. 282373, now pending in the Superior
23 Court of the State of California in and for Tulare County, be removed to this Court.

24 Dated: April 17, 2020

WINSTON & STRAWN LLP

25
26 By: /s/ Caitlin W. Tran
Joan B. Tucker Fife
Caitlin W. Tran
27 Attorneys for Defendant
28 LAND O’LAKES, INC.

EXHIBIT A

3/18/20 e 90.05

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

LAND O'LAKES, INC., and DOES 1 through 20, inclusive,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

JOHN COOK, individually and on behalf of all others similarly situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es)
Superior Court of the State of California, County of Tulare
221 S. Mooney Blvd., Visalia, CA 93291

CASE NUMBER: (Número del Caso):

282373

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante que no tiene abogado, es):

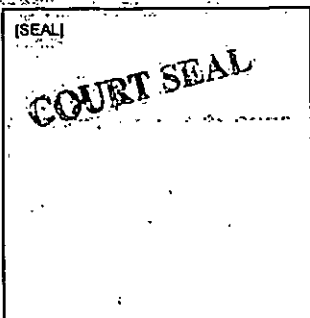
Jessica L. Campbell, AEGIS LAW FIRM, PC, 9811 Irvine Center Dr., Ste. 100, Irvine, CA 92618, 949.379.6250

DATE: (Fecha) MAR 06 2020

Clerk, by (Secretario) ANNA L LARA

Deputy (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación, use el formulario Proof of Service of Summons; (POS-010).)



NOTICE TO THE PERSON SERVED: You are served.

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):
- 3. on behalf of (specify): **Land O'Lakes Inc**
 under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- 4. by personal delivery on (date) **3/18/20**



1 **LEBE LAW, APLC**
JONATHAN M. LEBE (State Bar No. 284605)
2 Jon@lebelaw.com
ZACHARY GERSHMAN (State Bar No. 348002)
3 Zachary@lebelaw.com
777 S. Alameda Street, Second Floor
4 Los Angeles, CA 90021
Telephone: (213) 358-7046
5 Facsimile: (310) 820-1258

6 **AEGIS LAW FIRM, PC**
SAMUEL A. WONG, State Bar No. 217104
7 KASHIF HAQUE, State Bar No. 218672
JESSICA L. CAMPBELL, State Bar No. 280626
8 9811 Irvine Center Drive, Suite 100
9 Irvine, California 92618
Telephone: (949) 379-6250
10 Facsimile: (949) 379-6251

11 Attorneys for Plaintiff John Cook,
12 individually and on behalf of all others similarly situated:

FILED
TULARE COUNTY SUPERIOR COURT
VISATA DIVISION

MAR 06 2020

STEPHANIE CAMERON, CLERK
BY: ~~ANNA L. LARA~~

CASE MANAGEMENT CONFERENCE

Hearing Date: 7-14-2020
8:30am
Department: 2

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **FOR THE COUNTY OF TULARE**

15 JOHN COOK, individually and on behalf
16 of all others similarly situated

17 Plaintiff;

18 vs.

19 LAND O'LAKES, INC.; and DOES 1
20 through 20, inclusive;

21 Defendants:

Case No. **282373**

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Pay Reporting Time Pay;
4. Failure to Provide Meal Periods;
5. Failure to Permit Rest Breaks;
6. Failure to Provide Accurate Itemized Wage Statements;
7. Failure to Pay All Wages Due Upon Separation of Employment; and
8. Violation of Business and Professions Code §§ 17200, *et seq.*

DEMAND FOR JURY TRIAL



1 Plaintiff John Cook, individually and on behalf of others similarly situated, alleges as
2 follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff John Cook ("Plaintiff") brings this putative class action against
5 defendants Land O'Lakes, Inc., and DOES 1 through 20, inclusive (collectively,
6 "Defendants"), on behalf of himself individually and a putative class of non-exempt employees
7 employed by Defendants at their California manufacturing centers.

8 2. Defendants operate manufacturing centers which process dairy products.

9 3. Through this action, Plaintiff alleges that Defendants have engaged in a
10 systematic pattern of wage and hour violations under the California Labor Code and Industrial
11 Welfare Commission ("IWC") Wage Orders, all of which contribute to Defendants' deliberate
12 unfair competition.

13 4. Plaintiff is informed and believes, and thereon alleges, that Defendants have
14 increased their profits by violating state wage and hour laws by, among other things:

15 (a) Failing to pay minimum wages;

16 (b) Failing to pay overtime and doubletime wages at the proper rates;

17 (c) Failing to pay Reporting Time Pay;

18 (d) Failing to provide meal periods or compensation in lieu thereof;

19 (e) Failing to authorize or permit rest breaks or provide compensation in lieu thereof;

20 (f) Failing to provide accurate itemized wage statements; and

21 (g) Failing to pay all wages due upon separation of employment.

22 5. For at least four years prior to the filing of this action and through to the present,
23 Defendants consistently maintained and enforced against the class the following
24 unlawful practices and policies, in violation of California state wage and hour laws:

25 (a) Defendants forced class members to submit to unpaid "security checks"
26 when leaving the facility at the beginning and end of their shifts and during meal
27 and rest breaks.

28

1 (b) Although class members were under Defendants' control while waiting
2 in line for and undergoing these security checks, Defendants did not compensate
3 class members for this time worked.

4 (c) Defendants forced class members to go through these same security
5 checks when leaving for their meal periods. The security checks, coupled with
6 Defendants' other meal period policies, shorten the Class Members' meal
7 periods to less than the thirty minutes required under California law. Thus,
8 Defendants have had a policy of requiring Class Members within the State of
9 California, including Plaintiffs, to work at least five (5) hours without a lawful
10 meal period and failing to pay such employees one (1) hour of pay at the
11 employees' regular rate of compensation for each workday that the full thirty-
12 minute meal period was not provided, as required by California state wage and
13 hour laws.

14 (d) Defendants have failed to pay Reporting Time Pay to employees who
15 would report to work and sent home early without being paid half a day's
16 wages.

17 (e) Defendants have failed to pay overtime and doubletime wages at the
18 regular rate of pay by failing to account for shift differentials and other earned
19 wages when calculating overtime and doubletime wages.

20 (f) Defendants have required class members to be "on duty" during meal
21 and rest periods such that they have not been provided with legally compliant
22 meal and rest periods under California law.

23 (g) Defendants have failed to provide second meal periods for shifts longer
24 than 10 hours or third rest periods for shifts longer than 10 hours.

25 6. Plaintiff brings this lawsuit seeking monetary relief against Defendants on
26 behalf of himself and all others similarly situated in California to recover, among other things,
27 unpaid wages and benefits, interest, attorneys' fees, costs and expenses and penalties pursuant
28 to Labor Code §§ 201-203, 210, 226, 226.7, 510, 512, 1194, 1194.2, 1197 and 1198.

JURISDICTION AND VENUE

1
2 7. This is a class action, pursuant to California Code of Civil Procedure § 382. The
3 monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdictional limits
4 of the Superior Court and will be established according to proof at trial.

5 8. This Court has jurisdiction over this action pursuant to the California
6 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all
7 causes except those given by statutes to other courts. The statutes under which this action is
8 brought do not specify any other basis for jurisdiction.

9 9. This Court has jurisdiction over all Defendants because, upon information and
10 belief, they are citizens of California, have sufficient minimum contacts in California or
11 otherwise intentionally avail themselves of the California market so as to render the exercise of
12 jurisdiction over them by the California courts consistent with traditional notions of fair play
13 and substantial justice.

14 10. Venue is proper in this Court because, upon information and belief, Defendants
15 reside, transact business or have offices in this county and the acts and omissions alleged herein
16 took place in this county.

17 **THE PARTIES**

18 11. Plaintiff is a citizen of California. Plaintiff was employed by Defendants during
19 the Class Period in California.

20 12. Plaintiff is informed and believes, and thereon alleges, that Defendants at all
21 times hereinafter mentioned, were and are employers as defined in and subject to the Labor
22 Code and IWC Wage Orders, whose employees were and are engaged throughout this county
23 and the State of California.

24 13. Plaintiff is unaware of the true names or capacities of the defendants sued herein
25 under the fictitious names DOES 1-through 20, but will seek leave of this Court to amend this
26 Complaint and serve such fictitiously named defendants once their names and capacities
27 become known.

28 14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted

1 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
2 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant
3 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as
4 the employer and/or joint employer of Plaintiff and the class members.

5 15. Plaintiff is informed and believes, and thereon alleges, that each and all of the
6 acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or
7 DOES 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on
8 the other's behalf. The acts of any and all Defendants were in accordance with, and represent,
9 the official policy of Defendants.

10 16. At all relevant times, Defendants, and each of them, acted within the scope of
11 such agency or employment, or ratified each and every act or omission complained of herein.
12 At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of
13 each and all the other Defendants in proximately causing the damages herein alleged.

14 17. Plaintiff is informed and believes, and thereon alleges, that each of said
15 Defendants is in some manner intentionally, negligently or otherwise responsible for the acts,
16 omissions, occurrences and transactions alleged herein.

17 **CLASS ACTION ALLEGATIONS**

18 18. Plaintiff brings this action under Code of Civil Procedure § 382 on behalf of
19 himself and all others similarly situated who were affected by Defendants' Labor Code,
20 Business and Professions Code §§ 17200 and IWC Wage Order violations.

21 19. All claims alleged herein arise under California law for which Plaintiff seeks
22 relief authorized by California law.

23 20. Plaintiff's proposed Class consists of and is defined as follows:

24 Class

25 All California citizens currently or formerly employed as non-exempt employees
26 by Defendants at their California manufacturing centers within four years prior to
the filing of this action to the date of class certification.

27 ///

28 ///

1 21. Plaintiff also seeks to certify the following Subclass of employees:

2 Waiting Time Subclass

3 All members of the Class who separated their employment from Defendants
4 within three years prior to the filing of this action to the date of class certification.

5 22. Members of the Class and Subclass described above will be collectively referred
6 to as "class members." Plaintiff reserves the right to establish other or additional subclasses, or
7 modify any Class or Subclass definition, as appropriate based on investigation, discovery and
8 specific theories of liability.

9 23. This action has been brought and may properly be maintained as a class action
10 under the California Code of Civil Procedure § 382 because there are common questions of law
11 and fact as to the Class that predominate over questions affecting only individual members
12 including, but not limited to:

13 (a) Whether Defendants paid Plaintiff and class members all minimum wage
14 compensation;

15 (b) Whether Defendants paid Plaintiff and class members overtime and doubletime
16 compensation at the proper rates;

17 (c) Whether Defendants paid Plaintiff and class members all Reporting Time Pay;

18 (d) Whether Defendants deprived Plaintiff and class members of compliant meal
19 periods or required Plaintiff and class members to work through meal periods
20 without compensation;

21 (e) Whether Defendants deprived Plaintiff and class members of compliant rest
22 breaks;

23 (f) Whether Defendants failed to timely pay Plaintiff and former class members all
24 wages due upon termination or within 72 hours of resignation;

25 (g) Whether Defendants failed to furnish Plaintiff and class members with accurate,
26 itemized wage statements; and

27 (h) Whether Defendants engaged in unfair business practices in violation of Business
28 & Professions Code §§ 17200, *et seq.*

29 24. There is a well-defined community of interest in this litigation and the Class is

1 readily ascertainable:

2 (a) Numerosity: The members of the Class are so numerous that joinder of all
3 members is impractical. Although the members of the Class are unknown
4 to Plaintiff at this time, on information and belief, the Class is estimated to
5 be greater than 100 individuals. The identity of the class members are
6 readily ascertainable by inspection of Defendants' employment and payroll
7 records.

8 (b) Typicality: The claims (or defenses, if any) of Plaintiff are typical of the
9 claims (or defenses, if any) of the Class because Defendants' failure to
10 comply with the provisions of California wage and hour laws entitled each
11 class member to similar pay, benefits and other relief. The injuries
12 sustained by Plaintiff are also typical of the injuries sustained by the Class
13 because they arise out of and are caused by Defendants' common course of
14 conduct as alleged herein.

15 (c) Adequacy: Plaintiff is qualified to, and will fairly and adequately represent
16 and protect the interests of all members of the Class because it is in his best
17 interest to prosecute the claims alleged herein to obtain full compensation
18 and penalties due to him and the Class. Plaintiff's attorneys, as proposed
19 class counsel, are competent and experienced in litigating large
20 employment class actions and are versed in the rules governing class action
21 discovery, certification and settlement. Plaintiff has incurred and,
22 throughout the duration of this action, will continue to incur attorneys' fees
23 and costs that have been and will be necessarily expended for the
24 prosecution of this action for the substantial benefit of each class member.

25 (d) Superiority: The nature of this action makes the use of class action
26 adjudication superior to other methods. A class action will achieve
27 economies of time, effort and expense as compared with separate lawsuits,
28 and will avoid inconsistent outcomes because the same issues can be

1 adjudicated in the same manner and at the same time for each Class. If
2 appropriate this Court can, and is empowered to, fashion methods to
3 efficiently manage this case as a class action.

4 (e) Public Policy Considerations: Employers in the State of California and
5 other states violate employment and labor laws every day. Current
6 employees are often afraid to assert their rights out of fear of direct or
7 indirect retaliation. Former employees are fearful of bringing actions
8 because they believe their former employers might damage their future
9 endeavors through negative references and/or other means. Class actions
10 provide the class members who are not named in the complaint with a
11 type of anonymity that allows for the vindication of their rights at the
12 same time as affording them privacy protections.

13 **GENERAL ALLEGATIONS**

14 25. At all relevant times mentioned herein, Defendants employed Plaintiff and other
15 persons as non-exempt employees at their California manufacturing centers.

16 26. Plaintiff was employed in a non-exempt position at Defendants' California
17 manufacturing center.

18 27. Defendants continue to employ non-exempt employees at their California
19 manufacturing centers.

20 28. Plaintiff is informed and believes, and thereon alleges, that at all times herein
21 mentioned, Defendants were advised by skilled lawyers, employees and other professionals
22 who were knowledgeable about California's wage and hour laws, employment and personnel
23 practices and the requirements of California law.

24 29. Plaintiff is informed and believes, and thereon alleges, that Defendants
25 ~~improperly calculated the overtime and doubletime rate of pay for Plaintiff and Class Members~~
26 because the rates did not include non-discretionary wages, including, but not limited to, shift
27 premiums, and/or other incentive pay into the computation of their regular rate of pay for
28 purposes of calculating the overtime and doubletime rate of pay.

1 30. Plaintiff is informed and believes, and thereon alleges, that Defendants failed to
2 pay all Reporting Time Pay when Plaintiff and Class Members would report to work on the day
3 of their scheduled shift, and Defendants failed to put Plaintiff and Class Members to work or
4 furnished less than half of their usual day's work, and did not pay them Reporting Time Pay

5 31. Upon information and belief, Defendants failed to provide Plaintiff and class
6 members timely, uninterrupted, off-duty meal periods of no less than thirty minutes before their
7 fifth hour of work. Based on the lack of proper coverage and scheduling of meal periods
8 during these employees' shifts, Plaintiff and class members were not able to take required off-
9 duty meal periods during their shifts. Defendants also required class members to be "on duty"
10 during meal and rest periods such that they have not been provided with legally compliant meal
11 and rest periods under California law. Defendants routinely failed to provide Plaintiff and class
12 members with a second, off-the-clock meal break for shifts lasting longer than ten hours.
13 These policies, among others, have resulted in a denial of these employees' rights to 30-minute
14 meal periods in violation of California law.

15 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Plaintiff and class members were entitled to receive all required meal
17 periods or payment of one (1) additional hour of pay at Plaintiff and class members' regular
18 rate of pay when they did not receive a timely meal period. In violation of the Labor Code and
19 IWC Wage Orders, Plaintiff and class members did not receive all timely meal periods or
20 payment of one (1) additional hour of pay at Plaintiff and class members' regular rate of pay
21 when they did not receive a timely, uninterrupted meal periods.

22 33. Upon information and belief, Defendants failed to provide Plaintiff and class
23 members timely, uninterrupted, on-the-clock rest period of no less than ten minutes for every
24 four hours worked, or every major fraction thereof. Defendants also routinely failed to provide
25 ~~Plaintiff and class members with a third rest period for shifts lasting longer than ten hours.~~
26 These policies, among others, have resulted in a denial of these employees' rights to a ten-
27 minute rest period in violation of California law.

28 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and class members were entitled to receive all rest breaks or
2 payment of one (1) additional hour of pay at Plaintiff and class members' regular rate of pay
3 when a rest break was missed. In violation of the Labor Code and IWC Wage Orders, Plaintiff
4 and class members did not receive all rest breaks or payment of one (1) additional hour of pay
5 at Plaintiff and class members' regular rate of pay when a rest break was missed.

6 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that Plaintiff and class members were entitled to receive itemized wage
8 statements that accurately showed their gross and net wages earned, inclusive dates of pay
9 periods, total hours worked and all applicable hourly rates in effect and the number of hours
10 worked at each hourly rate in accordance with California law. In violation of the Labor Code,
11 Plaintiff and class members were not provided with accurate itemized wage statements.

12 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and Waiting Time Subclass members were entitled to timely
14 payment of wages due upon separation of employment. In violation of the Labor Code,
15 Plaintiff and Waiting Time Subclass members did not receive payment of all wages within
16 permissible time periods.

17 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known they had a duty to compensate Plaintiff and class members, and Defendants
19 had the financial ability to pay such compensation but willfully, knowingly and intentionally
20 failed to do so all in order to increase Defendants' profits.

21 **FIRST CAUSE OF ACTION**

22 **FAILURE TO PAY MINIMUM WAGES**

23 **(Violation of Labor Code §§ 1194, 1194.2, and 1197; Violation of IWC Wage Order § 3)**

24 38. Plaintiff hereby re-allege and incorporate by reference all paragraphs above as
25 though fully set forth herein.

26 39. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees
27 fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser
28 wage than the minimum so fixed is unlawful.

1 40. During the relevant time period, Defendants paid Plaintiff and class members
2 less than minimum wages when, for example, Defendants required Plaintiff and class members
3 to work off-the-clock during meal breaks, during security checks when Plaintiff and class
4 members were under Defendants' control, and when Defendants failed to provide Plaintiff and
5 class members with required Reporting Time Pay. To the extent these hours do not qualify for
6 the payment of overtime or doubletime, Plaintiff and class members were not being paid at
7 least minimum wage for their work.

8 41. During the relevant time period, Defendants regularly failed to pay at least
9 minimum wage to Plaintiff and class members for all hours worked pursuant to Labor Code
10 §§ 1194 and 1197.

11 42. Defendants' failure to pay Plaintiff and class members the minimum wage as
12 required violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and class
13 members are entitled to recover the unpaid balance of their minimum wage compensation as
14 well as interest, costs and attorney's fees.

15 43. Pursuant to Labor Code § 1194.2, Plaintiff and class members are entitled to
16 recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest
17 thereon.

18 **SECOND CAUSE OF ACTION**

19 **FAILURE TO PAY OVERTIME WAGES**

20 **(Violation of Labor Code §§ 510, 1194 and 1198; Violation of IWC Wage Order)**

21 44. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
22 though fully set forth herein.

23 45. Labor Code § 1198 and the applicable IWC Wage Order provide that it is
24 unlawful to employ persons without compensating them at a rate of pay either one and one-half
25 or two times the person's regular rate of pay, depending on the number of hours worked by the
26 person on a daily or weekly basis.

27 46. Pursuant to California Labor Code §§ 510 and 1194, during the relevant time
28 period, Defendants were required to compensate Plaintiff and class members for all overtime

1 hours worked, calculated at one and one-half (1½) times the regular rate of pay for hours
2 worked in excess of eight (8) hours per day and/or forty (40) hours per week and for the first
3 eight (8) hours of the seventh consecutive work day, with doubletime after eight (8) hours on
4 the seventh day of any work week, or after twelve (12) hours in any work day.

5 47. Plaintiff and class members were non-exempt employees entitled to the
6 protections of California Labor Code §§ 510 and 1194.

7 48. During the relevant time period, Defendants failed to pay Plaintiff and class
8 members overtime and doubletime wages at the correct rate because they failed to include non-
9 discretionary wages, including, but not limited to, shift premiums, and/or other incentive pay in
10 the computation of their overtime and doubletime rate of pay, which caused Plaintiff and Class
11 Members to not be paid all overtime and doubletime wages owed. Defendants failed to pay
12 Plaintiffs and class members overtime and doubletime wages for all overtime hours worked
13 when they required Plaintiffs and class members to work off-the-clock during meal breaks, or
14 for work performed during off-the-clock security checks, and when Defendants failed to
15 provide Reporting Time Pay. Because Plaintiff and class members worked shifts of eight
16 hours or more, and twelve hours or more, this unpaid time qualified for overtime premium
17 payment, and doubletime premium payment.

18 49. In violation of state law, Defendants have knowingly and willfully refused to
19 perform their obligations and compensate Plaintiff and class members for all wages earned as
20 alleged above.

21 50. Defendants' failure to pay Plaintiff and class members the unpaid balance of
22 overtime and doubletime compensation, as required by California law, violates the provisions
23 of Labor Code §§ 510 and 1198, and is therefore unlawful.

24 Pursuant to Labor Code § 1194, Plaintiff and class members are entitled to
25 ~~recover their unpaid overtime and doubletime compensation as well as interest, costs and~~
26 attorneys' fees.

27 ///

28 ///

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PAY REPORTING TIME PAY**

3 **(Violation of IWC Wage Order)**

4 51. Plaintiffs re-allege and incorporate herein by this reference each and every
5 allegation set forth in all previous paragraphs of the Complaint as if fully set forth herein.

6 52. Section 5 of the applicable IWC Wage Order requires that on each workday that
7 an employee reports for work as scheduled but is not put to work or is furnished less than half
8 of the employee's usual or scheduled day's work, the employee shall be paid for half the usual
9 or scheduled day's work, but in no event for less than two (2) hours nor more than four (4)
10 hours at the employee's regular rate of pay, which shall not be less than the minimum wage.
11 Section 5 of the applicable Wage Order denominates this as "Reporting Time Pay."

12 53. During the Class Period, Plaintiffs and the Class were required to report to work
13 but were not put to work and would be sent home early. Accordingly, for those times that
14 Plaintiffs and the Class were required to report to work but were not put to work or were
15 furnished with less than half of their usual scheduled day's work, Plaintiffs and the rest of the
16 Class are entitled to recover from Defendants compensation for half a day's work, plus interest
17 thereon, together with their reasonable attorneys' fees and costs.

18 **FOURTH CAUSE OF ACTION**

19 **FAILURE TO PROVIDE MEAL PERIODS**

20 **(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order)**

21 54. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
22 though fully set forth herein.

23 55. Labor Code § 226.7 provides that no employer shall require an employee to work
24 during any meal period mandated by the IWC Wage Orders.

25 56. Section 11 of the applicable IWC Wage Order states, "no employer shall employ
26 any person for a work period of more than five (5) hours without a meal period of not less than
27 30 minutes, except that when a work period of not more than six (6) hours will complete the
28 day's work the meal period may be waived by mutual consent of the employer and the

1 employee.”

2 57. Labor Code § 512(a) provides that an employer may not require, cause or permit
3 an employee to work for a period of more than five (5) hours per day without providing the
4 employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if
5 the total work period per day of the employee is not more than six (6) hours, the meal period
6 may be waived by mutual consent of both the employer and the employee.

7 58. Labor Code § 512(a) also provides that an employer may not employ an
8 employee for a work period of more than ten (10) hours per day without providing the employee
9 with a second meal period of not less than thirty (30) minutes, except that if the total hours
10 worked is no more than twelve (12) hours, the second meal period may be waived by mutual
11 consent of the employer and the employee only if the first meal period was not waived.

12 59. During the relevant time period, Plaintiff and class members did not receive
13 compliant meal periods for each five hours worked per day as a result of, among other things,
14 lack of proper coverage and scheduling of meal periods during these employees’ shifts.
15 Defendants have also required class members to be “on duty” during meal and rest periods such
16 that they have not been provided with legally compliant meal and rest periods under California
17 law. Finally, Defendants also routinely failed to provide Plaintiff and class members with a
18 second, off-the-clock meal break for shifts lasting longer than ten hours.

19 60. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order require
20 an employer to pay an employee one additional hour of pay at the employee’s regular rate of
21 compensation for each work day that a meal period is not provided.

22 61. At all relevant times, Defendants failed to pay Plaintiff and class members all
23 meal period premiums due for meal period violations pursuant to Labor Code § 226.7(b) and
24 section 11 of the applicable IWC Wage Order.

25 ~~62. As a result of Defendants’ failure to pay Plaintiff and class members an~~
26 additional hour of pay for each day a meal period was not provided, Plaintiff and class members
27 suffered and continue to suffer a loss of wages and compensation.

28 ///

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PERMIT REST BREAKS**

3 **(Violation of Labor Code §§ 226.7; Violation of IWC Wage Order)**

4 63. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
5 though fully set forth herein.

6 64. Labor Code § 226.7(a) provides that no employer shall require an employee to
7 work during any rest period mandated by the IWC Wage Orders.

8 65. Section 12 of the applicable IWC Wage Order states “every employer shall
9 authorize and permit all employees to take rest periods, which insofar as practicable shall be in
10 the middle of each work period” and the “authorized rest period time shall be based on the total
11 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
12 fraction thereof” unless the total daily work time is less than three and one-half (3½) hours.

13 66. During the relevant time period, Plaintiff and class members did not receive a ten
14 (10) minute rest period for every four (4) hours or major fraction thereof worked.

15 67. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order
16 requires an employer to pay an employee one additional hour of pay at the employee’s regular
17 rate of compensation for each workday that the rest period is not provided.

18 68. At all relevant times, Defendants failed to pay Plaintiff and class members all
19 rest period premiums due for rest period violations pursuant to Labor Code § 226.7(b) and
20 section 12 of the applicable IWC Wage Order.

21 69. As a result of Defendants’ failure to pay Plaintiff and class members an
22 additional hour of pay for each day a rest period was not provided, Plaintiff and class members
23 suffered and continue to suffer a loss of wages and compensation.

24 **SIXTH CAUSE OF ACTION**

25 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

26 **(Violation of Labor Code § 226; Violation of IWC Wage Order)**

27 70. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
28 though fully set forth herein.

1 71. Labor Code § 226(a) requires Defendants to provide each employee with an
2 accurate wage statement in writing showing nine pieces of information, including: (1) gross
3 wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units
4 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
5 deductions, provided that all deductions made on written orders of the employee may be
6 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period
7 for which the employee is paid, (7) the name of the employee and the last four digits of his or
8 her social security number or an employee identification number other than a social security
9 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable
10 hourly rates in effect during the pay period and the corresponding number of hours worked at
11 each hourly rate by the employee.

12 72. During the relevant time period, Defendants have knowingly and intentionally
13 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiff
14 and class members. The deficiencies include, among other things, the failure to correctly state
15 the gross and net wages earned, accurate inclusive dates of the pay period, and all applicable
16 hourly rates in effect and the number of hours worked at each hourly rate by Plaintiff and class
17 members.

18 73. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiff
19 and class members have suffered injury and damage to their statutorily protected rights.
20 Specifically, Plaintiff and class members have been injured by Defendants' intentional
21 violation of California Labor Code § 226(a) because they were denied both their legal right to
22 receive, and their protected interest in receiving, accurate itemized wage statements under
23 California Labor Code § 226(a). Plaintiff has had to file this lawsuit in order to determine the
24 extent of the underpayment of wages, thereby causing Plaintiff to incur expenses and lost time.
25 ~~Plaintiff would not have had to engage in these efforts and incur these costs had Defendants~~
26 provided the accurate wages earned. This has also delayed Plaintiff's ability to demand and
27 recover the underpayment of wages from Defendants.

28 74. California Labor Code § 226(a) requires an employer to pay the greater of all

1 actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred,
2 and one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods,
3 plus attorney's fees and costs, to each employee who was injured by the employer's failure to
4 comply with California Labor Code § 226(a).

5 75. Defendants' violations of California Labor Code § 226(a) prevented Plaintiff
6 and class members from knowing, understanding and disputing the wages paid to them, and
7 resulted in an unjustified economic enrichment to Defendants. As a result of Defendants'
8 knowing and intentional failure to comply with California Labor Code § 226(a), Plaintiff and
9 class members have suffered an injury, and the exact amount of damages and/or penalties is all
10 in an amount to be shown according to proof at trial.

11 76. Plaintiff and class members are also entitled to injunctive relief under California
12 Labor Code § 226(h), compelling Defendants to comply with California Labor Code § 226, and
13 seek the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

14 **SEVENTH CAUSE OF ACTION**

15 **FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT AND**
16 **WITHIN THE REQUIRED TIME**

17 (Violation of Labor Code §§ 201, 202 and 203; Violation of IWC Wage Order)

18 77. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
19 though fully set forth herein.

20 78. California Labor Code §§ 201 and 202 provide that if an employer discharges an
21 employee, the wages earned and unpaid at the time of discharge are due and payable
22 immediately, and that if an employee voluntarily leaves his employment, his wages shall
23 become due and payable not later than seventy-two (72) hours thereafter, unless the employee
24 has given seventy-two (72) hours previous notice of his intention to quit, in which case the
25 employee is entitled to his wages at the time of quitting.

26 79. During the relevant time period, Defendants willfully failed to pay Plaintiff and
27 Waiting Time Subclass members all their earned wages upon termination including, but not
28 limited to, proper minimum wages, Reporting Time Pay, and overtime and doubletime

1 compensation, either at the time of discharge or within seventy-two (72) hours of their leaving
2 Defendants' employ.

3 80. Defendants' failure to pay Plaintiff and Waiting Time Subclass members all
4 their earned wages at the time of discharge or within seventy-two (72) hours of their leaving
5 Defendants' employ is in violation of Labor Code §§ 201 and 202.

6 81. California Labor Code § 203 provides that if an employer willfully fails to pay
7 wages owed immediately upon discharge or resignation in accordance with Labor Code §§ 201
8 and 202, then the wages of the employee shall continue as a penalty from the due date at the
9 same rate until paid or until an action is commenced; but the wages shall not continue for more
10 than thirty (30) days.

11 82. Plaintiff and Waiting Time Subclass members are entitled to recover from
12 Defendants the statutory penalty which is defined as Plaintiff's and Waiting Time Subclass
13 members' regular daily wages for each day they were not paid, at their regular hourly rate of
14 pay, up to a thirty (30) day maximum pursuant to Labor Code § 203.

15 **EIGHTH CAUSE OF ACTION**

16 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.**

17 83. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
18 though fully set forth herein.

19 84. Defendants' conduct, as alleged herein, has been and continues to be unfair,
20 unlawful and harmful to Plaintiff and class members. Plaintiff seek to enforce important rights
21 affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

22 85. Defendants' activities, as alleged herein, violate California law and constitute
23 unlawful business acts or practices in violation of California Business and Professions Code
24 §§ 17200, *et seq.*

25 ~~86. A violation of Business and Professions Code §§ 17200, *et seq.* may be~~
26 predicated on the violation of any state or federal law.

27 87. Defendants' policies and practices have violated state law in at least the
28 following respects:

- 1 (a) Failing to pay all minimum wages owed to Plaintiff and class members
2 in violation of Labor Code §§ 1194.2, and 1197;
- 3 (b) Failing to pay all overtime and doubletime wages at the proper rate to
4 Plaintiff and class members in violation of Labor Code §§ 510, 1194 and
5 1198;
- 6 (c) Failing to pay all Reporting Time Pay in violation of Section 5 of the
7 applicable IWC Wage Order;
- 8 (d) Failing to provide timely meal periods without paying Plaintiff and class
9 members premium wages for every day said meal periods were not
10 provided in violation of Labor Code §§ 226.7 and 512;
- 11 (e) Failing to authorize or permit rest breaks without paying Plaintiff and
12 class members premium wages for every day said rest breaks were not
13 authorized or permitted in violation of Labor Code § 226.7;
- 14 (f) Failing to provide Plaintiff and class members with accurate itemized
15 wage statements in violation of Labor Code § 226; and
- 16 (e) Failing to timely pay all earned wages to Plaintiff and Waiting Time
17 Subclass members upon separation of employment in violation of Labor
18 Code §§ 201, 202 and 203.

19 88. Defendants intentionally avoided paying Plaintiff and class members' wages and
20 monies, thereby creating for Defendants an artificially lower cost of doing business in order to
21 undercut their competitors and establish and gain a greater foothold in the marketplace.

22 89. Pursuant to Business and Professions Code §§ 17200, *et seq.* Plaintiff and class
23 members are entitled to restitution of the wages unlawfully withheld and retained by
24 Defendants during a period that commences four years prior to the filing of the Complaint; an
25 award of attorneys' fees pursuant to Code of Civil Procedure § 1021.5 and other applicable
26 laws; and an award of costs.

27 ///

28 ///

PRAYER FOR RELIEF

1
2 Plaintiff, on his own behalf and on behalf of all others similarly situated, pray for relief
3 and judgment against Defendants, jointly and severally, as follows:

4 1. For certification of this action as a class action, including certifying the Class
5 and Subclass alleged by Plaintiff;

6 2. For appointment of John Cook as the class representatives;

7 3. For appointment of Lebe Law, APLC, and Aegis Law Firm, PC as class counsel
8 for all purposes;

9 4. For compensatory damages in an amount according to proof with interest
10 thereon;

11 5. For economic and/or special damages in an amount according to proof with
12 interest thereon;

13 6. For reasonable attorneys' fees, costs of suit and interest to the extent permitted
14 by law, including pursuant to Code of Civil Procedure § 1021.5, Labor Code §§ 226(e) and
15 1194;

16 7. For statutory penalties to the extent permitted by law, including those pursuant
17 to the Labor Code and IWC Wage Orders;

18 8. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;

19 9. For an order requiring Defendants to restore and disgorge all funds to each
20 employee acquired by means of any act or practice declared by this Court to be unlawful, unfair
21 or fraudulent and, therefore, constituting unfair competition under Business and Professions
22 Code §§ 17200, *et seq.*;

23 10. For an award of damages in the amount of unpaid compensation including, but
24 not limited to, unpaid wages, benefits and penalties, including interest thereon;

25 11. For pre-judgment interest; and

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12. For such other relief as the Court deems just and proper.

Dated: March 5, 2020.

LEBE LAW, APLC

By: 
Jonathan M. Lebe
Attorney for Plaintiff John Cook

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable of right by jury.

Dated: March 5, 2020

LEBE LAW, APLC

By: 
Jonathan M. Lebe
Attorney for Plaintiff John Cook

EXHIBIT B

FOR COURT USE ONLY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Jessica L. Campbell, Esq. SBN 2807
AEGIS LAW FIRM, PC
9811 Irvine Center Drive, Suite 100
Irvine, CA 92618

TELEPHONE NO.: 949.379.6250

FAX NO.: 949.379.6251

FILED

TULARE COUNTY SUPERIOR COURT
VISALIA DIVISION

MAR 06 2020

STEPHANIE CAMERON, CLERK
BY: ANNA L. LATA

ATTORNEY FOR (Name): Plaintiff John Cook

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Tulare

STREET ADDRESS: 221 S. Mooney Blvd.

MAILING ADDRESS:

CITY AND ZIP CODE: Visalia, CA 93291

BRANCH NAME:

CASE NAME:

John Cook v. Land O'Lakes, Inc., et al.

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation

Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

282373

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

Auto (22)
 Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
 Product liability (24)
 Medical malpractice (45)
 Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

Business tort/unfair business practice (07)
 Civil rights (08)
 Defamation (13)
 Fraud (16)
 Intellectual property (19)
 Professional negligence (25)
 Other non-PI/PD/WD tort (35)

Employment

Wrongful termination (36)
 Other employment (15)

Contract

Breach of contract/warranty (06)
 Rule 3.740 collections (09)
 Other collections (09)
 Insurance coverage (18)
 Other contract (37)

Real Property

Eminent domain/Inverse condemnation (14)
 Wrongful eviction (33)
 Other real property (26)

Unlawful Detainer

Commercial (31)
 Residential (32)
 Drugs (38)

Judicial Review

Asset forfeiture (05)
 Petition re: arbitration award (11)
 Writ of mandate (02)
 Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

Antitrust/Trade regulation (03)
 Construction defect (10)
 Mass tort (40)
 Securities litigation (28)
 Environmental/Toxic tort (30)
 Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

Enforcement of judgment (20)

Miscellaneous Civil Complaint

RICO (27)
 Other complaint (not specified above) (42)

Miscellaneous Civil Petition

Partnership and corporate governance (21)
 Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. Large number of separately represented parties
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c. Substantial amount of documentary evidence
- d. Large number of witnesses
- e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): Nine

5. This case: is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: March 5, 2020

Jessica L. Campbell

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.



INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
Auto (22)—Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)	Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	Construction Defect (10)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort	Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)	Claims Involving Mass Tort (40)
Asbestos (04)	Negligent Breach of Contract/Warranty	Securities Litigation (28)
Asbestos Property Damage	Other Breach of Contract/Warranty Collections (e.g., money owed, open book accounts) (09)	Environmental/Toxic Tort (30)
Asbestos Personal Injury/Wrongful Death	Collection Case—Seller Plaintiff	Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
Product Liability (not asbestos or toxic/environmental) (24)	Other Promissory Note/Collections Case	Enforcement of Judgment
Medical Malpractice (45)	Insurance Coverage (not provisionally complex) (18)	Enforcement of Judgment (20)
Medical Malpractice—Physicians & Surgeons	Auto Subrogation	Abstract of Judgment (Out of County)
Other Professional Health Care Malpractice	Other Coverage	Confession of Judgment (non-domestic relations)
Other PI/PD/WD (23)	Other Contract (37)	Sister State Judgment
Premises Liability (e.g., slip and fall)	Contractual Fraud	Administrative Agency Award (not unpaid taxes)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)	Other Contract Dispute	Petition/Certification of Entry of Judgment on Unpaid Taxes
Intentional Infliction of Emotional Distress	Real Property	Other Enforcement of Judgment Case
Negligent Infliction of Emotional Distress	Eminent Domain/Inverse Condemnation (14)	Miscellaneous Civil Complaint
Other PI/PD/WD	Wrongful Eviction (33)	RICO (27)
Non-PI/PD/WD (Other) Tort	Other Real Property (e.g., quiet title) (26)	Other Complaint (not specified above) (42)
Business Tort/Unfair Business Practice (07)	Writ of Possession of Real Property	Declaratory Relief Only
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)	Mortgage Foreclosure	Injunctive Relief Only (non-harassment)
Defamation (e.g., slander, libel) (13)	Quiet Title	Mechanics Lien
Fraud (16)	Other Real Property (not eminent domain, landlord/tenant, or foreclosure)	Other Commercial Complaint Case (non-tort/non-complex)
Intellectual Property (19)	Unlawful Detainer	Other Civil Complaint (non-tort/non-complex)
Professional Negligence (25)	Commercial (31)	Miscellaneous Civil Petition
Legal Malpractice	Residential (32)	Partnership and Corporate Governance (21)
Other Professional Malpractice (not medical or legal)	Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)	Other Petition (not specified above) (43)
Other Non-PI/PD/WD Tort (35)	Judicial Review	Civil Harassment
Employment	Asset Forfeiture (05)	Workplace Violence
Wrongful Termination (36)	Petition Re: Arbitration Award (11)	Elder/Dependent Adult Abuse
Other Employment (15)	Writ of Mandate (02)	Election Contest
	Writ—Administrative Mandamus	Petition for Name Change
	Writ—Mandamus on Limited Court Case Matter	Petition for Relief From Late Claim
	Writ—Other Limited Court Case Review	Other Civil Petition
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal—Labor Commissioner Appeals	

EXHIBIT C



Superior Court of the State of California

COUNTY OF TULARE
CIVIL LEGAL PROCESSING
221 S. Mooney Blvd., Room 201
Visalia, California 93291
Telephone: (559) 730-5000

ALTERNATIVE DISPUTE RESOLUTION PACKAGE

This is Tulare County Superior Court's Alternative Dispute Resolution (ADR) Package. The package contains:

1. The court's current ADR Referral List;
2. Tulare County Superior Court's Local Rule 600 on Case Management Conferences;
3. Information about ADR.

At the time a civil complaint is filed, the clerk will issue a hearing date and time for the Case Management Conference (CMC). This information is placed on the front page of the complaint. Plaintiff must serve notice of the CMC hearing and this ADR Package on each defendant with the summons and complaint.

All parties appearing in the action are ordered to meet and confer prior to the CMC date regarding an agreed upon mediator and mediation date and time under Local Rule 600(a)(5).

Each party must file and serve a CMC statement on Judicial Council form CM-110 no later than 15 calendar days before the CMC hearing under California Rules of Court, rule 3.725 and Local Rule 600(a)(6).

Counsel and unrepresented parties are required to be present, either in person or by CourtCall (See Local Rule 108 regarding CourtCall), at the CMC hearing and have authority to enter into a mediation agreement if the parties have agreed to mediate. Each party appearing shall also have sufficient information and understanding of the case in order to evaluate it accurately.

Please be advised that monetary and/or terminating sanctions shall be imposed against parties and counsel who fail to comply with state and local rules regarding case management conferences without good cause.

ADR REFERRAL LIST January 2018		
NAME	HOURLY RATE	PROFILE INFORMATION
Honorable Howard R. Broadman (Ret.) 300 N. Willis Visalia, CA. 93291 Phone: (559) 738-1800 Fax: (559) 738-1102 Email: judgebroadman@judgebroadman.com	\$475.00 per hour	Click Here Resume on file
Kenneth M. Byrum 5080 California Ave #200 Bakersfield, CA 93309 Phone: (661) 861-6191 Fax: (661) 861-6190 Email: ken@kmbmediation.com	\$300.00 per hour	Click Here Resume on file
Russell D. Cook 1233 West Shaw, Suite 100 Fresno, CA 93711 Phone: (559) 225-2510 Fax: (559) 229-3941 Email: rdcook@rdcooklaw.com	\$285.00 per hour	Click Here Resume on file
Valerie V. Flugge 45406 South Fork Drive Three Rivers, CA 93271 Phone: (559) 802-4234 Email: Valerie@sequoiamediation.com	\$250.00 per hours	Click Here Resume on file
Donald H. Glasrud Dietrich, Glasrud, Mallek & Aune 5250 North Palm Ave, Suite 402 Fresno, CA 93704 Phone: (559) 435-5250 Fax: (559) 435-8776 Email: dhg@dgmLaw.com	\$375.00 per hour	Click Here Resume on file
M. Troy Hazelton 3585 W. Beechwood Ave, Suite 101 Fresno, CA 93711 Phone: (559) 431-1300 Fax: (559) 431-1442 Email: Thazelton@pgllp.com	\$195.00 per hour	Click Here Resume on file
Lee M. Jacobson 1690 W. Shaw Avenue, Suite 201 Fresno, CA 93711	\$290.00 per hour	Click Here Resume on file

Phone: (559) 448-0400 Fax: (559) 448-0123 Email: lmj@jhnmlaw.com		
Daniel O. Jamison 8080 North Palm Avenue Fresno, CA 93711 Phone: (559)432-4500 Fax: (559)432-4590 Email: djamison@daklaw.com	\$320 per hour including travel time	Click Here Resume on file
Honorable Patrick J. O'Hara (Ret.) 300 N. Willis Visalia, CA. 93291 Phone: (559) 429-4570 Fax: (559) 429-4575 Email: judgeohara@judgeohara.com Website: www.judgeohara.com	\$475.00 per hour	Click Here Resume on file
Richard B. Isham 3814 W. Robinwood P.O. Box 8139 Visalia, CA. 93290 Phone: (559) 733-2257 Cell: (559)738-3963 Email: rbisham@att.net	\$300.00 per hour	Click Here Resume on file
Leah Catherine Launey 42490 Kaweah River Drive Three Rivers, CA 93271 Phone: (559) 561-4270 Fax: (559) 561-4273 Email: lclauney@lanneymediation.com	\$175.00 per hour 2 hour minimum	Click Here Resume on file
Kevin G. Little 1099 E. Champlain Drive, Suite A-124 Fresno, CA 93720 Phone: (559)708-4750 Fax: (559)420-0830 Email: kevinglittle@yahoo.com	\$200.00 per hour 2 hour minimum	Click Here Resume on file
Linda Luke 632 W. Oak Avenue Visalia, CA. 93291 Phone: (559) 733-9505 Fax: (559) 733-3910 Email: linda.luke@icloud.com	\$275.00 per hour	Click Here Resume on file
John T. Nagel	\$245.00 per hour	Click Here

1233 W. Shaw Avenue, #100 Fresno, CA 93711 Phone: (559)225-2510 Fax: (559) 225-2389 Email: johntnagel@comcast.net		Resume on file
Douglas E. Noll P.O. Box 2336 Clovis, CA. 93613 Phone: 800-785-4487 Fax: 877-765-1353 Email: doug@nollassociates.com	\$400 per hour 4 hour minimum	Click Here Resume on file
Honorable Robert. H. Oliver (Ret.) 5260 N. Palm Ave, Fourth Floor Fresno, CA 93704 Fax: (559) 432-5620 Email: roliver@bakermanock.com	\$400.00 per hour (2 Hour Minimum)	Click Here Resume on file
James M. Phillips 8080 N. Palm Ave, Suite 101 Fresno, CA 93711 Phone: (559) 261-9340 Fax: (888) 974-4321 Email: phillipsgp@aol.com	\$340.00 per hour	Click Here Resume on file
Michael Renberg 1540 E. Shaw Ave, Suite 123 Fresno, CA 93710 Phone: (559) 431-6300 Fax: (559) 432-1018 Email: mrenberg@prcelaw.com	\$240.00 per hour	Click Here Resume on file
Laurie Quigley Saldana 791 Price Street. #323 Pismo Beach, CA. 93449 Phone: (559) 730-1812 Email: laurie@mediationcentral.net	\$350.00 per hour	Click Here Resume on file
Tom Simonian 1100 W. Center Ave Visalia, CA. 93291 Phone: (559) 732-7111 Fax: (559)732-1540	\$290.00 per hour	Click Here Resume on file
Andrew R. Weiss 7109 North Fresno Street, Suite 250 Fresno, CA 93720	\$300.00 per hour	Click Here Resume on file

Phone: (559) 438-2080		
Cell: (559) 259-4663		
Email: aweiss@weissmartin.com		

CHAPTER 6 – MANAGING CIVIL CASES

Rule 600 – Case Management Conference

- (a) The Judicial Council has implemented state rules for the management of civil cases (Cal. Rules of Court, Chapter 2 Trial Court Management of Civil Cases, rules 10.900, et. Seq.).

In recognition of the state rules requiring the court to implement a case management Plan, the court elects to follow California Rules of Court, rule 3.714.

- (1) At the time the complaint is filed, the clerk will issue a hearing date for the Case Management Conference (CMC) to plaintiff that is no less than 120 days after the filing of the complaint. The clerk will also provide the Plaintiff with the court's Alternative Dispute Resolution (ADR) package including the list of the names of the mediators who have applied and met the court's mediation/arbitration qualifications pursuant to the program adopted by the court under California Rules of Court, rule 10.781. Plaintiff must serve a Notice of CMC and the ADR package on each defendant along with the summons and complaint.
- (2) Any party who files and serves a cross-complaint prior to the CMC must serve on each cross-defendant who is a new party to the action, a copy of the Notice of CMC and the ADR package along with the summons and cross-complaint. If a new cross-defendant is served after the initial CMC, the cross-complainant must serve the new cross-defendant with notice of any pending CMC, any assigned mediation date, trial, or settlement conference dates, and any other dates set by the court or orders made at the CMC.
- (3) If the plaintiff adds a new defendant or identifies a fictitiously named defendant after the initial CMC, along with the summons and complaint, plaintiff must serve the newly named defendant with notice of any pending CMC, any pending mediation date, any assigned trial and settlement conference dates, and any other dates set by the court or orders made at the CMC.
- (4) Proof of service of Notice of the CMC must be filed with the court within 60 days from the date the complaint is filed and may be included in the proof of service of the summons and complaint or cross-complaint.
- (5) This court has found that mediation is highly desirable and orders the parties to meet and confer prior to the CMC date regarding an agreed upon mediator and mediation date and time. A list of mediators and their fees are provided by the court in its ADR package. The mediator must be agreed upon before the CMC and the mediation date and time cleared with the mediator so the court may enter the date in the court's minute order.

- (6) Under California Rules of Court, rule 3.725, no later than 15 calendar days before the date set for the CMC, each party must file a CMC statement and serve it on all other parties in the case. Parties must use the mandatory CMC Statement (Judicial Council form CM-110). All applicable items on the form must be completed.
- (7) In lieu of each party's filing a separate case management statement, any two or more parties may file a joint statement.
- (b) Presence Required – Counsel and unrepresented parties are required to be present, either in person or by telephonic appearance pursuant to The Superior Court of Tulare County, Local Rules, rule 108, and must have: (1) sufficient information and understanding of the case to evaluate it accurately, and (2) sufficient authority to enter into binding agreements such as the diversion of the case to arbitration, including binding arbitration, the setting of a trial date and mandatory settlement conference date, the dismissal of doe defendants or other parties, and the setting of a further case management conference.
- (c) Compliance – Failure to attend the case management conference will result in the court making whatever orders and imposing whatever sanctions as may be necessary and appropriate to obtain compliance with these rules, including but not limited to, a waiver of the right to a jury trial and a waiver of the right to object to a referral to arbitration or other alternate dispute resolution procedure.
- (d) Waiver of Notice – When all parties are present at the case management conference and a trial date and settlement conference dates are agreed to by the parties or ordered by the court, such presence is an effective waiver of a separate or formal notice of settlement conference and trial date. (01/01/03) (Revised 01/01/07, 01/01/09) (07/01/11)

Alternative Dispute Resolution

There are different processes available to settle lawsuits without having to go to trial. The most common forms of ADR are Mediation, Arbitration, and Case Evaluation. In ADR, a trained, impartial person decides disputes or helps the parties reach resolutions of their disputes for themselves. The persons are neutrals who are normally chosen by the disputing parties or by the court. Neutrals can help parties resolve disputes without having to go to court.

Advantages of ADR

- Often quicker than going to trial, a dispute may be resolved in a matter of days or weeks instead of months or years.

- Often less expensive, saving the litigants court costs, attorney's fees and expert fees.
- Can permit more participation, allowing the parties the opportunity to tell their side of the story with more control over the outcome.
- Allows for flexibility in choice of ADR processes and resolution of the dispute.
- Fosters cooperation by allowing the parties to work together with the neutral to resolve the dispute and mutually agree to a remedy.
- Often less stressful than litigation. Most people have reported a high degree of satisfaction with ADR.

Because of these advantages, many parties choose ADR to resolve disputes instead of filing a lawsuit. Even after a lawsuit has been filed, the court can refer the dispute to a neutral before the lawsuit becomes costly. ADR has been used to resolve disputes even after trial, when the result is appealed.

Disadvantages of ADR

ADR may not be suitable for every dispute.

If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute. The neutral may charge a fee for his or her services. If the dispute is not resolved through ADR, the parties may then have to face the usual and traditional costs, such as attorney's fees and expert fees.

Lawsuits must be brought within specified periods of time, known as Statutes of Limitations. Parties must be careful not to let a Statute of Limitation run while a dispute is in an ADR process.

The Most Common Types of ADR

Mediation

In mediation, the mediator (a neutral) assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike lawsuits or some other types of ADR, the mediator does not decide how the dispute is to be resolved. The parties do. It is a cooperative process in which the parties work together toward a resolution that tries to meet everyone's interests, instead of working against each other. Mediation normally leads to better relations between the parties and to lasting resolutions. It is particularly effective when parties have a continuing relationship, such as neighbors or businesses. It also is very effective where personal feelings are getting in the way of a resolution. Mediation normally gives the parties a chance to freely express their

positions. Mediation can be successful for victims seeking restitution from offenders. When there has been violence between the parties, a mediator can meet separately with the parties.

Arbitration

In arbitration, the arbitrator (a neutral) reviews evidence, hears arguments, and makes a decision (award) to resolve the dispute. This is very different from mediation whereby the mediator helps the parties reach their own resolution. Arbitration normally is more informal, quicker, and less expensive than a lawsuit. In a matter of hours, an arbitrator often can hear a case that otherwise may take a week in court to try. This is because the evidence can be submitted by documents rather than by testimony.

There are Two Types of Arbitration in California

1. **Private arbitration** by agreement of the parties involved in the dispute. This type takes place outside of the court and normally is binding. In most cases, "binding" means that the arbitrator's decision (award) is final and there will not be a trial or an opportunity to appeal the decision.
2. **Judicial arbitration** ordered by the court. The arbitrator's decision is not binding unless the parties agree to be bound. A party who does not like the award may file a request for trial with the court within a specified time. However, if that party does not receive a more favorable result at trial, the party may have to pay a penalty.

EXHIBIT D

7/14/20
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JOAN B. TUCKER FIFE (SBN: 144572)
jfife@winston.com
WINSTON & STRAWN LLP
101 California Street, 34th Floor
San Francisco, CA 94111-5840
Telephone: (415) 591-1000
Facsimile: (415) 591-1400

CAITLIN W. TRAN (SBN: 305626)
cwtran@winston.com
WINSTON & STRAWN LLP
333 S. Grand Ave., 38th Fl.
Los Angeles, CA 90071-1543
Telephone: (213) 615-1700
Facsimile: (213) 615-1750

Attorneys for Defendant
LAND O'LAKES, INC.

FILED
TULARE COUNTY SUPERIOR COURT
VISA/IA DIVISION

APR 15 2020

STEPHANIE CAMERON, CLERK
BY: *Nicole R...*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF TULARE**

JOHN COOK, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

LAND O'LAKES, INC.; and DOES 1
through 20, inclusive,

Defendants.

Case No. 282373

**DEFENDANT LAND O'LAKES, INC.'S
ANSWER TO COMPLAINT**

Complaint Filed: March 6, 2020

BY FAX

5299805

1 Defendant Land O'Lakes, Inc. ("Defendant"), for itself and no other individual or entity,
2 hereby responds to the unverified Complaint of Plaintiff John Cook ("Plaintiff"), as follows:

3 **GENERAL DENIAL**

4 Pursuant to California Code of Civil Procedure section 431.30(d), Defendant generally and
5 specifically denies each and every allegation contained in the Complaint. Defendant further denies
6 that Plaintiff is entitled to any relief, and denies that Plaintiff was damaged in the nature alleged, or
7 in any other manner, or at all. Further, Defendant denies that Plaintiff has sustained any injury,
8 damage, or loss by reason of any conduct, action, error, or omission on the part of Defendant, or any
9 agent, employee, or any other person acting under Defendant's authority or control.

10 **AFFIRMATIVE DEFENSES**

11 As separate and additional defenses to each of Plaintiff's purported causes of action, and
12 without conceding that it bears the burden of proof or persuasion as to any of the issues raised in
13 these defenses, Defendant alleges as follows:

14 **FIRST AFFIRMATIVE DEFENSE**

15 **(Failure to Pursue Grievance and Arbitration)**

16 1. Plaintiff's claims and those of some putative class members are barred, in whole or in
17 part, because he and other putative class members entered into an enforceable Collective Bargaining
18 Agreement that provides that all disputes arising out of the agreement should follow the Grievance
19 and Arbitration provision set forth therein.

20 **SECOND AFFIRMATIVE DEFENSE**

21 **(Failure to State Facts Sufficient to State a Cause of Action)**

22 2. Each and every claim alleged by Plaintiff fails to state facts sufficient to constitute
23 any cause of action against Defendant, and/or fails to state a claim upon which relief may be granted.

24 **THIRD AFFIRMATIVE DEFENSE**

25 **(Statute of Limitations)**

26 3. Plaintiff's claims are barred, in whole or in part, by the applicable statutes of
27 limitation including, but not limited to, California Code of Civil Procedure Section 338, 340, 343,
28 California Business and Professions Code Section 17208, and all other applicable limitations,

1 statutes, and requirements.

2 **FOURTH AFFIRMATIVE DEFENSE**

3 **(No Unfair Business Practices)**

4 4. Defendant is not liable for violation of unlawful business practices pursuant to
5 California Business and Professions Code section 17200 *et seq.* because its business practices were
6 not unfair, deceptive, or likely to mislead anyone.

7 **FIFTH AFFIRMATIVE DEFENSE**

8 **(Adequate Remedy at Law)**

9 5. The relief requested by Plaintiff pursuant to California Business and Professions
10 Code Section 17200 *et seq.* should be denied because Plaintiff has an adequate remedy at law.

11 **SIXTH AFFIRMATIVE DEFENSE**

12 **(No Underlying Liability)**

13 6. Defendant is not liable for violation of unlawful business practices pursuant to
14 California Business and Professions Code Sections 17200 *et seq.* because it is not liable to Plaintiff
15 or members of the proposed putative class for any alleged violation of any underlying state laws.

16 **SEVENTH AFFIRMATIVE DEFENSE**

17 **(Good Faith Reliance on Law)**

18 7. Plaintiff's claims are barred, in whole or in part, because all of Defendant's acts or
19 omissions complained of by Plaintiff were in good faith and in conformity with, and in reliance on,
20 an administrative regulation, order, ruling, approval, and interpretation of applicable law.

21 **EIGHTH AFFIRMATIVE DEFENSE**

22 **(Equitable Doctrines)**

23 8. Each of Plaintiff's claims are barred, in whole or in part, by the equitable doctrines of
24 waiver, estoppel, laches, consent, and/or unclean hands.

25 **NINTH AFFIRMATIVE DEFENSE**

26 **(Performance of Duties and Obligations)**

27 9. Defendant is informed and believes and thereon alleges that it has performed and
28 fully discharged any and all obligations and legal duties to Plaintiff and the putative class pertinent

1 to the matters alleged in Plaintiff's Complaint.

2 **TENTH AFFIRMATIVE DEFENSE**

3 **(Exempt Employees)**

4 10. Defendant alleges that members of the putative class may be exempt from certain
5 meal period, rest period, and overtime requirements because, *inter alia*, they are parties to a
6 collective bargaining agreement.

7 **ELEVENTH AFFIRMATIVE DEFENSE**

8 **(Preemption)**

9 11. Plaintiff's Complaint, and each purported cause of action therein, is preempted, in
10 whole or in part, under the Labor Management Relations Act.

11 **TWELFTH AFFIRMATIVE DEFENSE**

12 **(Res Judicata and Collateral Estoppel)**

13 12. Plaintiff's claims may be barred, in whole or in part, by the doctrines of res judicata
14 and/or collateral estoppel, including, but not limited to, the doctrines of issue preclusion and claim
15 preclusion.

16 **THIRTEENTH AFFIRMATIVE DEFENSE**

17 **(Failure to State Facts Warranting Class Certification)**

18 13. This action should not be certified as a class action because Plaintiff failed to allege
19 facts sufficient to warrant class certification.

20 **FOURTEENTH AFFIRMATIVE DEFENSE**

21 **(Standing/No Entitlement to Class Relief)**

22 14. Plaintiff cannot maintain class action claims because Plaintiff lacks standing to assert
23 claims for relief on behalf of any purported class, Plaintiff is not an adequate class representative and
24 Plaintiff cannot assert claim on behalf of the purported class due to his conflicts with the class he
25 purports to represent.

26 **FIFTEENTH AFFIRMATIVE DEFENSE**

27 **(Predominance of Individual Issues)**

28 15. A class cannot be certified because individual claims and defenses predominate over

1 common questions of law and fact.

2 **SIXTEENTH AFFIRMATIVE DEFENSE**

3 **(Insufficiently Ascertainable or Numerous Putative Class)**

4 16. The putative class members are insufficiently certain or numerous for this action to be
5 appropriately certified as a class action.

6 **SEVENTEENTH AFFIRMATIVE DEFENSE**

7 **(Avoidable Consequences)**

8 17. Plaintiff's claims or damages, or both, are barred, in whole or in part, because
9 Plaintiff and members of the purported class and/or representative group unreasonably failed to take
10 advantage of available preventive or corrective opportunities or to avoid harm. *State Dept. of Health*
11 *Servs. v. Superior Court Sacramento County*, 31 Cal. 4th 1026 (2000).

12 **EIGHTEENTH AFFIRMATIVE DEFENSE**

13 **(Not Knowing, Willful, or Intentional)**

14 18. Each of Plaintiff's claims are barred, in whole or in part, because Defendant's
15 conduct as alleged was not knowing, willful, or intentional.

16 **NINETEENTH AFFIRMATIVE DEFENSE**

17 **(Section 203 Claims Barred After Filing of Complaint)**

18 19. Claims under California Labor Code Section 203 are barred to the extent that they
19 seek damages or penalties for any time period following the filing of Plaintiff's Complaint.

20 **TWENTIETH AFFIRMATIVE DEFENSE**

21 **(No Entitlement to Statutory Penalties)**

22 20. To the extent Plaintiff seeks statutory penalties for alleged acts or omissions,
23 Defendant's acts or omissions, if any, were made in good faith and Defendant had reasonable
24 grounds for believing that the act or omission, if any, was not a violation of applicable law.

25 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

26 **(No Entitlement to Pre-Judgment Interest)**

27 21. Plaintiff's Complaint, and each and every purported cause of action alleged therein,
28 fails to state facts sufficient to entitle Plaintiff to an award of pre-judgment interest.

1 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

2 **(No Entitlement to Attorneys' Fees)**

3 22. Plaintiff's Complaint, and each and every purported cause of action alleged therein,
4 fails to allege facts sufficient to establish a claim for attorneys' fees.

5 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

6 **(Meal and Rest Breaks Provided)**

7 23. Defendant provided meal and rest breaks consistent with the California Labor Code
8 and the applicable Industrial Welfare Commission Wage Orders.

9 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

10 **(Waiver of Meal Periods)**

11 24. Plaintiff's claims for meal period premiums are barred, in whole or in part, to the
12 extent that Plaintiff and/or members of the putative and/or representative class voluntarily waived
13 any purported entitlement to meal periods without coercion or encouragement

14 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

15 **(De Minimis)**

16 25. Plaintiff's Complaint, and each purported cause of action therein, is barred because
17 the time for which he seeks compensation on behalf of himself and/or the purported representative
18 group members, or upon which the legal theories alleged are factually premised, is *de minimis*.

19 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

20 **(Other Affirmative Defenses)**

21 26. Defendant currently has insufficient knowledge or information on which to form a
22 belief as to whether it may have additional, as yet unstated, defenses available. Defendant expressly
23 reserves its right to assert additional affirmative defenses in the event discovery indicates they would
24 be appropriate.

25
26 **PRAYER**

27 WHEREFORE, Defendant prays for judgment as follows:


28 1. That Plaintiff take nothing by his Complaint;

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2. That the Complaint be dismissed in its entirety, with prejudice, and judgment be entered in favor of Defendant on all claims;
3. That Defendant be awarded its attorneys' fees and costs of suit; and
4. For such other and further relief as this Court may deem proper.

Dated: April 15, 2020

WINSTON & STRAWN LLP

By: 
JOAN B. TUCKER FIFE
CAITLIN W. TRAN
Attorneys for Defendant
LAND O'LAKES, INC.

PROOF OF SERVICE

Superior Court of California, County of Tulare

Case No. 282373

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Winston & Strawn LLP, 333 S. Grand Avenue, Los Angeles, CA 90071-1543. On April 15, 2020, I served the following document:

DEFENDANT LAND O'LAKES, INC.'S ANSWER TO COMPLAINT

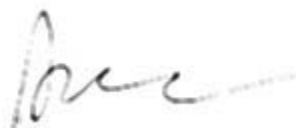


by placing a copy of the document listed above in a sealed envelope with postage thereon fully prepaid in the United States mail at Los Angeles, CA addressed as set forth below.

I am readily familiar with the firm's business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.

<p>Jonathan M. Lebe Zachary Geshman LEBE LAW, APLC 777 S. Alameda Street, 2nd Floor Los Angeles, CA 90021 Tel: 213-358-7046 Fax: 310-820-1258</p> <p>Attorneys for Plaintiff John Cook, individually and on behalf of all others similarly situated</p>	<p>Samuel A. Wong Kashif Haque Jessica L. Campbell AEGIS LAW FIRM, PC 9811 Irvine Center Drive, Suite 100 Irvine, CA 92618 Tel: 949-379-6250 Fax: 949-379-6251</p> <p>Attorneys for Plaintiff John Cook, individually and on behalf of all others similarly situated</p>
--	--

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

Signed: 
Ann Newman

Dated: April 15, 2020

1 JOAN B. TUCKER FIFE (SBN: 144572)
jfife@winston.com
2 WINSTON & STRAWN LLP
101 California Street, 35th Floor
3 San Francisco, CA 94111
Telephone: (415) 591-1000
4 Facsimile: (415) 591-1400

5 CAITLIN W. TRAN (SBN: 305626)
cwtran@winston.com
6 WINSTON & STRAWN LLP
333 South Grand Avenue, Suite 3800
7 Los Angeles, CA 90071
Telephone: (213) 615-1700
8 Facsimile: (213) 615-1750

9 Attorneys for Defendant
LAND O' LAKES, INC.

10
11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**
13
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15 JOHN COOK, individually and on
16 behalf of all others similarly situated

17 Plaintiff,

18 vs.

19 LAND O'LAKES, INC.; an DOES 1
through 20, inclusive,

20 Defendants.
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Case No.

[Tulare County Superior Court Case No.:
282373)

**DECLARATION OF SARINA
BOURDAUX IN SUPPORT OF
DEFENDANT LAND O'LAKES, INC.'S
NOTICE OF REMOVAL OF CIVIL
ACTION TO FEDERAL COURT**

Complaint filed: March 6, 2020

1 I, Sarina Bourdaux, hereby declare:

2 1. I am currently employed as a corporate paralegal for Land O'Lakes, Inc.
3 ("Defendant" or "Land O'Lakes, Inc."). I make this declaration in support of
4 Defendant's Notice of Removal in this matter. I know the facts set forth in this
5 declaration to be true of my own personal knowledge. If called as a witness I could
6 and would testify competently to the matters set forth in this declaration.

7 2. I work at Land O'Lakes, Inc.'s corporate headquarters in Arden Hills,
8 Minnesota. I am familiar with the corporate structure of Land O'Lakes, Inc., as well as
9 Land O'Lakes, Inc.'s officers and where they perform various executive functions to
10 direct, control, and coordinate the operations of Land O'Lakes, Inc.

11 3. Land O'Lakes, Inc. is incorporated in the State of Minnesota. Land
12 O'Lakes, Inc.'s headquarters are located in Arden Hills, Minnesota, and many key
13 members of Land O'Lakes, Inc.'s executive and management teams including, but not
14 limited to, the President and Chief Executive Officer, Chief Technology Officer, Chief
15 Operating Officer, Chief Financial Officer, Chief Supply Chain Officer, Chief
16 Marketing Officer, Chief Human Resources Officer, Senior Vice Presidents,
17 Presidents, Executive Vice Presidents, and General Counsel each work out of Land
18 O'Lakes, Inc.'s principal executive office in Arden Hills, Minnesota. In addition to
19 conducting the executive meetings in Minnesota, these officers primarily perform
20 their day-to-day job duties in Minnesota, including controlling, directing, and
21 coordinating the activities of Land O'Lakes, Inc. Land O'Lakes, Inc.'s payroll and
22 benefits are also processed in its principal executive office in Arden Hills, Minnesota.

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I declare under penalty of perjury under the laws of these United States that the foregoing is true and correct. Executed this 17th day of April 2020, in Hudson, Wisconsin.


Sarina Bourdaux

1 JOAN B. TUCKER FIFE (SBN: 144572)
jfife@winston.com
2 WINSTON & STRAWN LLP
101 California Street, 35th Floor
3 San Francisco, CA 94111
Telephone: (415) 591-1000
4 Facsimile: (415) 591-1400

5 CAITLIN W. TRAN (SBN: 305626)
cwtran@winston.com
6 WINSTON & STRAWN LLP
333 South Grand Avenue, Suite 3800
7 Los Angeles, CA 90071
Telephone: (213) 615-1700
8 Facsimile: (213) 615-1750

9 Attorneys for Defendant
LAND O' LAKES, INC.

10
11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT

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14
15 JOHN COOK, individually and on
behalf of all others similarly situated

16 Plaintiff,

17 vs.

18 LAND O'LAKES, INC.; an DOES 1
19 through 20, inclusive,

20 Defendants.

Case No.

[Tulare County Superior Court Case No.:
282373)

**DECLARATION OF ROBERT SCOTT
IN SUPPORT OF DEFENDANT LAND
O'LAKES, INC.'S NOTICE OF
REMOVAL OF CIVIL ACTION TO
FEDERAL COURT**

Complaint filed: March 6, 2020

1 I, Robert Scott, hereby declare:

2 1. I am currently employed as an Area Human Resources Manager for
3 Defendant Land O'Lakes, Inc. I make this declaration in support of Defendant's
4 Notice of Removal in this matter. As an Area Human Resources Manager, I have
5 access to Defendant's collective bargaining agreements ("CBA"), employee
6 grievances, payroll records, and personnel information maintained by Land O'Lakes,
7 Inc. for its current and former employees. If called as a witness, I could and would
8 testify competently to the matters set forth in this declaration.

9 2. Based on Land O'Lakes, Inc.'s records, Plaintiff was employed by Land
10 O'Lakes, Inc. from approximately August 2007 to September 2019 as a non-exempt
11 production employee at the Tulare, California location.

12 3. As a production employee at the Tulare location, Plaintiff was a union
13 member of the Teamsters Local 517, Creamery Employees and Drivers, Public,
14 Professional and Medical Employees Union (the "Union" or "Teamsters"). Attached
15 hereto as **Exhibit 1** is a true and correct copy of the agreement between the Land
16 O'Lakes, Inc. Tulare location and Teamsters Local 517, Creamery Employees and
17 Drivers, Public, Professional and Medical Employees Union, August 1, 2015 through
18 July 31, 2020.

19 4. At all times relevant to this case, Plaintiff's employment was subject to a
20 CBA between Land O'Lakes, Inc. and Teamsters, which includes terms and
21 conditions governing wages, work schedules, hours of work, meal periods, rest
22 periods, working conditions, grievances, and arbitrations.

23 5. Section I of the CBA specifically states that the Union is the sole agent
24 for the purpose of collective bargaining for all bargaining employees covered by the
25 provisions of the CBA, which establish rates of pay, hours of work, and other
26 conditions of employment, as set forth above.

27 6. Based on Land O'Lakes, Inc.'s records, there are approximately 1,094
28 putative individuals in California who fall within the scope of Plaintiff's proposed

1 putative class

2 7. Plaintiff was employed by and performed his work for Land O'Lakes,
3 Inc. in the State of California.

4 8. Based on information from Plaintiff's personnel file, which includes
5 information he submitted to Defendant throughout the course of his employment,
6 Plaintiff consistently listed a California address as his current address.

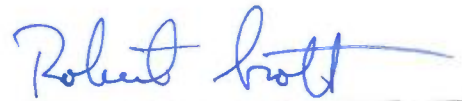
7 9. Based on Land O'Lakes, Inc. records, during the proposed class period
8 (*i.e.*, March 6, 2016 to the present), putative class members' wages ranged from
9 approximately \$10.48 per hour to \$40.83 per hour. The weighted average hourly rate
10 of pay for all members of the putative class was \$20.93.

11 10. In the aggregate, putative class members worked approximately 149,025
12 total workweeks during the class period.

13 11. During the class period, putative class members typically worked full-
14 time schedules of approximately 40 hours per week.

15 12. Putative class members were paid biweekly, and there were, and are, 26
16 pay periods per year during the proposed class period.

17
18
19 I declare under penalty of perjury under the laws of these United States that the
20 foregoing is true and correct. Executed this 17th day of April 2020, in
21 Tulare, California.

22
23 

24 ROBERT SCOTT

1 JOAN B. TUCKER FIFE (SBN: 144572)
jfife@winston.com
2 WINSTON & STRAWN LLP
101 California Street, 35th Floor
3 San Francisco, CA 94111
Telephone: (415) 591-1000
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cwtran@winston.com
6 WINSTON & STRAWN LLP
333 South Grand Avenue, Suite 3800
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9 Attorneys for Defendant
LAND O' LAKES, INC.

10
11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**
13
14

15 JOHN COOK, individually and on
16 behalf of all others similarly situated

17 Plaintiff,

18 vs.

19 LAND O'LAKES, INC.; an DOES 1
through 20, inclusive,

20 Defendants.
21
22

Case No.

[Tulare County Superior Court Case No.:
282373)

**DEFENDANT LAND O'LAKES, INC.'S
NOTICE OF INTERESTED PARTIES
PURSUANT TO FRCP 7.1**

Complaint filed: March 6, 2020
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1 Pursuant to Federal Rule of Civil Procedure 7.1, the undersigned counsel of
2 record for Defendant Land O'Lakes, Inc. certifies that the following listed party (or
3 parties) may have a pecuniary interest in the outcome of this case. These
4 representations are made to enable the Court to evaluate possible disqualification or
5 recusal.

- 6 1. Plaintiff John Cook
- 7 2. Defendant Land O'Lakes, Inc.

8
9 Dated: April 17, 2020

WINSTON & STRAWN LLP

10
11 By: /s/ Caitlin W. Tran
12 Joan B. Tucker Fife
13 Caitlin W. Tran
14 Attorneys for Defendant
15 LAND O'LAKES, INC.
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1 JOAN B. TUCKER FIFE (SBN: 144572)
jfife@winston.com
2 WINSTON & STRAWN LLP
101 California Street, 35th Floor
3 San Francisco, CA 94111
Telephone: (415) 591-1000
4 Facsimile: (415) 591-1400

5 CAITLIN W. TRAN (SBN: 305626)
cwtran@winston.com
6 WINSTON & STRAWN LLP
333 South Grand Avenue, Suite 3800
7 Los Angeles, CA 90071
Telephone: (213) 615-1700
8 Facsimile: (213) 615-1750

9 Attorneys for Defendant
LAND O' LAKES, INC.

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

15 JOHN COOK, individually and on
behalf of all others similarly situated

16 Plaintiff,

17 vs.

18 LAND O'LAKES, INC.; an DOES 1
19 through 20, inclusive,

20 Defendants.

Case No.

[Tulare County Superior Court Case No.:
282373)

**DEFENDANT LAND O'LAKES, INC.'S
CORPORATE DISCLOSURE
STATEMENT PURSUANT TO FRCP
7.1**

Complaint filed: March 6, 2020

1 Pursuant to Federal Rule of Civil Procedure 7.1, the undersigned counsel of
2 record for Defendant Land O'Lakes, Inc. certifies that Land O'Lakes, Inc. has no
3 parent corporation, and no publicly held corporation owns 10 percent or more of Land
4 O'Lakes, Inc.'s stock.

5
6 Dated: April 17, 2020

WINSTON & STRAWN LLP

7
8 By: /s/ Caitlin W. Tran
9 Joan B. Tucker Fife
10 Caitlin W. Tran
11 Attorneys for Defendant
12 LAND O'LAKES, INC.
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JOHN COOK

(b) County of Residence of First Listed Plaintiff Tulare (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jonathan M. Lebe; Zachary Gershman
LEBE LAW, APLC
777 S. Alameda Street, Second Floor, Los Angeles, CA 90021
Tel: (213) 358-7046
Samuel A. Wong; Kashif Haque; Jessica L. Campbell
AEGIS LAW FIRM, PC
9811 Irvine Center Drive, Suite 100, Irvine, CA 92618
Tel: (949) 379-6250

DEFENDANTS

LAND O'LAKES, INC.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Joan B. Fife Tucker
Winston & Strawn LLP
101 California St., 35th Floor, San Francisco, CA 9411
Tel: 415-591-1000
Caitlin W. Tran
Winston & Strawn LLP
333 S. Grand Ave., 38th Fl., Los Angeles, CA 90071
Tel: 213-615-1700

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation-Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. Sections 1332, 1441 and 1446; 28 U.S.C. Sections 1331 and 1441, 29 U.S.C. Section 185 ("LMRA")

Brief description of cause:
Federal Question based on Section 301 of the Labor Management Relations Act in caption Diversity action exceeds \$5,000,000

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE 04/17/20

SIGNATURE OF ATTORNEY OF RECORD /s/ Caitlin W. Tran

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Land O'Lakes Manufacturing Center Workers Owed Unpaid Wages in California, Lawsuit Claims](#)
