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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

19 MARISOL GOMEZ and IGNACIO OSORIO,
20 on behalf of themselves and others similarly
21 situated,

22 Plaintiffs,

23 vs.

24 J. JACOBO FARM LABOR CONTRACTOR,
25 INC., and Does 1 through 20, inclusive,

26 Defendants.

CASE NO. 1:15-cv-01489-AWI-BAM

CLASS ACTION

**STIPULATION AND PROPOSED ORDER
TO CONTINUE DEADLINE TO FILE
CLASS NOTICE AND DISTRIBUTION
PLAN**

Complaint Filed: September 30, 2015

Before the Honorable Anthony W. Ishii

1 The Parties have been meeting and conferring about the class notice process. The parties
2 have agreed that the jointly submitted class notice that was originally approved by this Court,
3 contained errors as to the class periods for the AWPB subclass and Final Paycheck Subclass (Doc.
4 140-1). In particular, the class notice stated that the AWPB subclass and Final Paycheck subclass
5 periods were from September 30, 2011 to November 5, 2019. Instead, the Parties agree that the
6 AWPB subclass and Final Paycheck subclass periods are from September 30, 2012 to November 5,
7 2019, as both of these subclasses are subject to a 3-year statute of limitations. Accordingly, the
8 Parties stipulate to modifying the class notice in order to correct the AWPB and Final Paycheck
9 subclass periods.

10
11 DATED: January 21, 2020

MALLISON & MARTINEZ

12
13 By: /s/ Natalia Ramirez Lee
14 Stan S. Mallison
15 Hector R. Martinez
16 Natalia Ramirez
17 Attorneys for Plaintiffs

18 DATED: January 21, 2020

MICHAEL JF SMITH APC

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20 By: /s/ John L. Migliazzo
21 John L. Migliazzo
22 Michael Smith
23 Attorneys for Defendant
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ORDER

The parties' stipulation (Doc. No. 148) is APPROVED. The Court's second modification order (Doc. No. 138) is MODIFIED to the extent that the correct class period for Plaintiffs' derivative wages upon termination and AWPAs claims is "from September 30, 2012, to November 5, 2019." The parties shall modify the originally approved class notice to reflect the correct class period for the Final Paycheck and AWPAs Subclasses.

In addition, the parties are ordered to SHOW CAUSE in writing as to why the class period for Plaintiffs' rest period claim should not also be modified in light of *Murphy v. Kenneth Cole Productions, Inc.*, 40 Cal. 4th 1094, 1099 (2007). In *Murphy*, the California Supreme Court determined that the remedy for rest period violations under California Labor Code § 226.7 is subject to the three-year statute of limitations under California Code of Civil Procedure § 338(a). In other words, *Murphy* appears to require modification of the class definition for Plaintiffs' rest period claim and the Piece Rate Rest Period Subclass on the same basis that the parties are stipulating to modifications of class definitions for other class claims and subclasses.

If the parties are unable to file a joint statement on the matter within seven days of service of this order, then they shall simultaneously file independent briefing on the matter by that same date. In the latter situation, the parties shall also simultaneously file responses within seven days after initial briefs are filed and replies within five days after responses are filed.

IT IS SO ORDERED.

Dated: January 26, 2021



SENIOR DISTRICT JUDGE