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15 Attorneys for Intervener-Plaintiff
16 SILVERIO GONZALEZ ARREOLA
17 And the Certified Class

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **COUNTY OF MONTEREY**

20 VERONICA GONZALEZ and ANTONIO
21 MARTINEZ DIAZ, on behalf of themselves
22 and for the benefit of all others similarly
23 situated,

24 Plaintiffs,

25 and

26 SILVERIO GONZALEZ ARREOLA,

27 Intervener-Plaintiff,

28 vs.

RC PACKING, LLC, a California Limited
Liability Company; RC FARMS, LLC, a
California Limited Liability Company; and
DOES 2-50, inclusive,

Defendants.

Case No. M108764

**JOINT STIPULATION OF
SETTLEMENT AND RELEASE**

Intervener-plaintiff Silverio Gonzalez Arreola ("Plaintiff") and defendants RC
Packing, LLC and RC Farms, LLC ("Defendants") hereby agree to resolve the above-

FILED

JUN 23 2014

TERESA A. RISI
CLERK OF THE SUPERIOR COURT
Carmen B. Orozco DEPUTY

CARMEN B. OROZCO

1 captioned case on the terms set forth in this Joint Stipulation of Settlement and Release,
2 subject to approval of the Court as set forth herein.

3 **A. DEFINITIONS**

4 1. "Action" means the civil action in the Superior Court for the State of
5 California for the County of Monterey titled *Veronica Gonzalez et al v. RC Packing, LLC et*
6 *al*, Case No. M108764.

7 2. "Class Counsel" means Santos Gomez and Cesar Nava of Nava & Gomez,
8 Attorneys at Law, and Gregory Karasik of Karasik Law Firm.

9 3. "Class" or "Class Members" means all persons who, at any time between
10 October 15, 2006 and June 9, 2014, worked for RC Packing in the State of California as
11 piece-rate agricultural workers.

12 4. "Class Representative" and "Intervener-Plaintiff" means Silverio Gonzalez
13 Arreola.

14 5. "Court" means the Superior Court for the State of California for the County
15 of Monterey.

16 6. "Defendants" means RC Packing, LLC, RC Farms, LLC, and all of their
17 officers, directors, agents, attorneys, parents, predecessors, successors, subsidiaries, and
18 related and affiliated entities.

19 7. "Effective Date" means the latest of the following: A) if no Class Member
20 makes an objection to the Settlement, the date the Court grants final approval to the
21 Settlement; b) if a Class Member objects to the Settlement, the later of: (i) dismissal or
22 withdrawal of the objection by the Class Member; (ii) the date for seeking appellate review
23 of the Court's final approval of the Settlement has passed without a timely request for
24 review; (iii) a Class Member's appeal from the Court's final approval of the Settlement has
25 been voluntarily dismissed; or (iv) the California Court of Appeals or the California
26 Supreme Court has rendered a final judgment on a Class Member's appeal affirming the
27 Court's final approval of the Settlement without material modification..
28

1 8. "Gross Settlement Amount" means the amount of \$3,600,000 payable by
2 Defendants pursuant to this Settlement.

3 9. "Net Settlement Amount" means the portion of the Gross Settlement Amount
4 available for distribution to Class Members, after deducting the amounts approved by the
5 Court payable to Class Counsel, the Class Representative, and any settlement
6 administration costs in excess of \$40,000.

7 10. "Parties" means the Class Representative and Defendants.

8 11. "Plaintiffs" mean Veronica Gonzales and Antonio Martinez Diaz.

9 12. "Radio Notice" means the notice to be provided to Class Members over the
10 radio as set forth in section D.4, the text of which shall be substantially in the form attached
11 as Exhibit B.

12 13. "Release Period" means from October 15, 2006 through June 9, 2014.

13 14. "Settlement" means this Joint Stipulation of Settlement and Release.

14 15. "Settlement Administrator" means Dahl Administration, who will perform
15 the duties of (i) conducting address traces to locate Class Members as necessary; (ii)
16 preparing and mailing the Written Notice and arranging for implementation of the Radio
17 Notice; (iii) tracking returned objections and Exclusion Letters; (iv) responding to Class
18 Member inquiries; (v) calculating and distributing the amounts due to Class Members
19 pursuant to the Settlement; (vi) tax reporting in connection with the Settlement; and (viii)
20 any other duties necessary for administration of the Settlement.

21 16. "Total Settlement Amount" means the Gross Settlement Amount, the
22 employer's share of payroll taxes payable on the Net Settlement Amount distributed to
23 Class Members, and the costs of settlement administration up to \$40,000, which shall be
24 the total amount payable by Defendants in exchange for the release of claims by Class
25 Members under this Settlement.

26 17. "Written Notice" means the Notice of Class Action Settlement, substantially
27 in the form attached as Exhibit A, to be mailed out by the Settlement Administrator to
28 Class Member, which shall be sent to Class Members in both English and Spanish.

1 **B. RECITALS**

2 1. Plaintiffs commenced this Action on October 15, 2010. Plaintiffs initially
3 alleged that RC Packing failed to pay Class Members all the minimum wages owed to
4 them, failed to pay Class Members all the overtime wages owed to them, failed to provide
5 Class Members with duty free meal periods of at least 30 minutes, failed to provide Class
6 Members with accurate wage statements, and failed to pay Class Members all the wages
7 owed to them upon termination. Plaintiffs later amended their complaint to add RC Farms
8 as a Defendant.

9 2. Defendants deny any liability or wrongdoing of any kind under the wage and
10 hour laws of the State of California.

11 3. The parties initially mediated this matter on June 23, 2011 before Judge Paul
12 A. Ramirez. After that initial mediation did not result in a settlement, Plaintiffs filed a
13 motion for class certification, which was granted by Judge Villarreal on April 20, 2012.

14 4. After the Court certified the case, the parties agreed to return to mediation.
15 On November 27, 2012, the Parties mediated this matter before Jeffrey A. Ross. The
16 second mediation also ended without a settlement. Plaintiffs thereafter filed a motion for
17 summary adjudication of issues. After that motion was filed, but before the motion was
18 heard, the parties participated in a third mediation, on March 30, 2013, before Judge
19 Howard R. Broadman. That third mediation also ended without a settlement.

20 5. The Court denied Plaintiffs' motion for summary adjudication on June 14,
21 2014. Thereafter, a Mandatory Settlement Conference was held on June 24, 2013. The
22 Mandatory Settlement Conference did not produce a settlement. On August 23, 2013, the
23 parties returned for a fourth mediation with Judge Howard R. Broadman. That fourth
24 mediation also ended without a settlement. On November 15, 2013 the parties participated
25 in a second Mandatory Settlement Conferences. The second Mandatory Settlement
26 Conference also did not produce a settlement. Thereafter, the case was schedule for trial to
27 commence on June 23, 2014.

1 6. Subsequently, Plaintiffs declined to continue as class representatives, and
2 Intervener-Plaintiff filed a motion to intervene as a substitute class representative. On
3 January 20, 2014 the Court granted Plaintiff-Intervener's motion to intervene and Plaintiff-
4 Intervener was appointed as a substitute representative for the Class.

5 7. In the course of preparing for trial, Class Counsel engaged in further
6 settlement discussions with defense counsel, and an agreement on the material terms of a
7 class action settlement was reached on June 9, 2014.

8 8. Class Counsel have conducted a thorough investigation into the facts of this
9 case, and have diligently pursued an investigation of the claims against Defendants.
10 Discovery in this case has been extensive, including the taking of many depositions, the
11 propounding and response to several sets of interrogatories, and the production by
12 Defendant of thousands of pages of documents and substantial electronic time and payroll
13 records. Based on their investigation and evaluation, Class Counsel are of the opinion that
14 the Settlement is fair, reasonable, and adequate, and is in the best interest of the Class
15 Members in light of all known facts and circumstances, including Defendants' defenses.
16 Defendants agree that the Settlement is fair, reasonable and adequate.

17 **C. TERMS OF SETTLEMENT**

18 1. Gross Settlement Amount: Defendants shall pay the amount of \$3,600,000
19 which shall be used to make the following payments: a) the costs and attorney's fees
20 awarded to Class Counsel; b) any enhancement awarded to Class Representative; c) the
21 costs of settlement administration in excess of \$40,000; and d) the Net Settlement Amount
22 available for distribution to Class Members in accordance with paragraph C.6.

23 2. Net Settlement Amount: The Net Settlement Amount available for
24 distribution to Class Members in accordance with paragraph C.6 shall be the amount of the
25 Gross Settlement Amount (\$3,600,000) less: a) the costs and attorney's fees awarded to
26 Class Counsel; b) any enhancement awarded to Class Representative; and c) any costs of
27 settlement administration excess of \$40,000.

28 3. Additional Payments Separate From The Gross Settlement Amount: Separate

1 and apart from the Gross Settlement Amount, Defendants shall pay for the following: a) the
2 costs of settlement administration up to \$40,000; and b) the employer's share of payroll
3 taxes owed for settlement benefits payable to Class Members.

4 4. Attorney's Fees and Costs: Defendants will not oppose Class Counsel's
5 application to the Court for an award of up to one-third of the Gross Settlement Amount in
6 attorneys' fees (\$1,200,000) and up to \$35,000 in costs to compensate Class Counsel for
7 the work already performed in this case and all work remaining to be performed in
8 documenting the Settlement, securing Court approval of the Settlement, and ensuring that
9 the Settlement is fairly administered and implemented. The Settlement Administrator will
10 issue to Class Counsel a Form 1099 with respect to their award of attorneys' fees and costs.

11 5. Enhancement Payment to Class Representative: Defendants will not oppose
12 Plaintiff-Intervener's request to the Court for an award of up to \$25,000 for his service as
13 Class Representative ("Enhancement Payment") in addition to any payment he may
14 otherwise receive as a Class Member. The Settlement Administrator will issue to Plaintiff-
15 Intervener an IRS Form 1099 for his Enhancement Payment.

16 6. Distributions to Class Members: Each member of the Class who does not
17 exclude himself or herself from the Settlement shall receive a share of the Net Settlement
18 Amount in proportion to the number of weeks he/she worked for RC Packing during the
19 Release Period.

20 7. Tax Allocation of Class Member Distributions: The Parties agree that the
21 Settlement payments to Class Members will be treated as follows: \$500,000 shall be
22 allocated to penalties and interest; the remainder of the Net Settlement Amount shall be
23 allocated to wages. The Settlement Administrator shall be responsible for issuing
24 claimants a form W-2 for amounts allocated to wages and a form 1099 for amounts
25 allocated to penalties and interest.

26 8. Equitable Relief: Beginning no later than the Effective Date, Defendants
27 shall implement the following changes to their payroll practices: a) Defendants shall pay
28 agricultural piece-rate workers wages for the time engaged in morning exercises, attending

1 meetings, and travelling from one field to another during a workday separately from their
2 piece-rate wages; b) Defendants shall provide agricultural piece-rate workers meal periods
3 that are duty free for at least 30 minutes, exclusive of the time required for them to travel
4 from the field to the place where they can take their meal, to return to the field after taking
5 their meal, and to wash their hands after their meal prior to returning to the field; c) with
6 respect to agricultural piece-rate workers who receive an end of season bonus and work
7 overtime hours during the season, Defendants shall either make retroactive adjustments to
8 the amount of overtime wages received to account for the end of season bonus or pay
9 overtime wages directly with respect to the end of season bonus; d) Defendants shall issue
10 agricultural piece-rate workers accurate itemized wage statements in accordance with Labor
11 Code Section 226; and e) Defendants shall pay all wages owed to agricultural piece-rate
12 workers upon the termination of their employment (including seasonal layoffs) in
13 accordance with Labor Code Sections 201 and 202.

14 9. Funding of The Settlement

15 Defendants shall fund the Settlement in two installments. Defendants shall make an
16 initial payment comprised of \$2,700,000, the employer's share of payroll taxes with respect
17 to the pro-rated wage amount of settlement benefits to be paid to the Class Members from
18 that portion of the Gross Settlement Amount, and the remaining costs of settlement
19 administration (after payment of the cost of Radio Notice) up to \$40,000 within ten (10)
20 days after the Effective Date. Defendants shall make the second payment, comprised of
21 \$900,000 and the employer's share of payroll taxes with respect to the pro-rated wage
22 amount of settlement benefits to be paid to the Class Members from that portion of the
23 Gross Settlement Amount, on or before December 1, 2015.

24 10. Payment Date: Pro-rated payments to Class-Representative for his
25 Enhancement Payment, pro-rated payments to Class Counsel for their awarded attorney's
26 fees and costs, pro-rated payments to the Settlement Administrator for the costs of
27 settlement administration, and prorated payments to Class Members for their settlement
28 payments shall be made by the Settlement Administrator within ten (10) days after receipt

1 by the Settlement Administrator of each installment payment required by section C.9.
2 Payment of the costs for Radio Notice shall be made within ten (10) days following the
3 Court's entry of an Order Granting Preliminary Approval of the Settlement.

4 11. Undelivered or Uncashed Settlement Checks: If any checks issued to Class
5 Members in connection with the first installment of settlement payments are returned as
6 undeliverable, and the Settlement Administrator cannot locate a deliverable mailing
7 addresses for those checks, the amount of settlement funds for those undeliverable checks
8 shall be added to the amount of settlement funds distributed in connection with the second
9 installment of settlement payments, and checks to Class Members issued in connection with
10 the second installment of settlement payments shall only be issued to those Class Members
11 for whom the Settlement Administrator has a deliverable address. In the event delivered
12 settlement checks issued to Class Members by the Settlement Administrator are not cashed
13 or deposited within 180 days after mailing by the Settlement Administrator, those unclaimed
14 funds shall be donated to the Salinas Valley Fair Heritage Association.

15 **D. NOTICE, EXCLUSION AND OBJECTION PROCEDURES**

16 1. Within ten (10) days following the Court's entry of an Order Granting
17 Preliminary Approval of the Settlement, Defendants shall provide to the Settlement
18 Administrator a database or spreadsheet listing the name, last known home address, and
19 social security number of Class Members (the "Class List"), and the number of workweeks
20 during the Release Period worked by each member of the Class.

21 2. Within seven (7) days after receiving the Class List from Defendant, the
22 Settlement Administrator shall send the Written Notice in English and Spanish to each
23 Class Member by first class mail.

24 3. The Settlement Administrator shall use reasonable standard skip tracing
25 devices as necessary to verify the accuracy of all addresses before the initial mailing date to
26 ensure that the Written Notice is sent to all Class Members at the addresses most likely to
27 result in immediate receipt of those documents. It shall be conclusively presumed that any
28 Written Notice so mailed and not returned as undeliverable within thirty (30) days of the

1 mailing shall have been received by the Class Member. With respect to returned Written
2 Notices, the Settlement Administrator shall use reasonable diligence to obtain a current
3 address and re-mail to such address.

4 4. Class Counsel shall arrange for Radio Notice to begin airing over the radio
5 on the tenth day after the date the Settlement Administrator sends the Written Notice to
6 Class Members by mail and shall run for 30 days. The Radio Notice shall be broadcast on
7 La Campesina, 107.9 FM 10 times a day between the hours of 5 am and 8 pm. The cost of
8 Radio Notice shall be considered as settlement administration costs.

9 5. Class Members shall have forty-five (45) days from the initial mailing of the
10 Written Notice by the Settlement Administrator to submit an Exclusion Letter. Exclusion
11 Letters must be sent to the Settlement Administrator and copies of Exclusion Letters must
12 be sent to counsel by the Parties. Exclusion Letters may be sent by regular mail, fax or e-
13 mail. If disputes about the validity or timeliness of any submitted Exclusion Letter arise,
14 the Parties shall meet and confer. If the Parties cannot resolve the dispute, the Settlement
15 Administrator shall make a final and binding determination as to whether the disputed
16 Exclusion Letter shall be deemed valid. Class Members who submit a timely and valid
17 Exclusion Letter will not be bound by the release provisions of the Settlement and will not
18 be entitled to receive any settlement benefits under the Settlement.

19 6. If 15% or more of Class Members opt out, Defendants at their sole option
20 may abrogate the Settlement, in which case the Settlement shall be null and void.
21 Defendants shall exercise this right within ten (10) days after expiration of the opt out
22 period.

23 7. Class Members shall have forty-five (45) days from the initial mailing of the
24 Written Notice by the Settlement Administrator to submit any objections to the Settlement.
25 Objections must be sent to the Settlement Administrator and copies of objections must be
26 sent to counsel for the parties. Objections may be sent by regular mail, fax or e-mail. Any
27 disputes about the timeliness or validity of objections shall be resolved by the Court.
28

1 **E. RELEASE OF CLAIMS**

2 1. Class Members' Released Claims: Each Class Member who does not submit
3 a timely and valid Exclusion Letter shall, upon the Effective Date, be deemed to have
4 released any and all claims against Defendants and any former and present parent,
5 subsidiary, and affiliated corporations, and their officers, directors, employees, partners,
6 shareholders and agents, and any other successors, assigns, or legal representatives from
7 any and all claims, rights, demands, liabilities and causes of action under California law
8 giving rise to potential liability for acts or omissions during the Release Period which,
9 whether known or unknown, were or could have been raised as part of the Plaintiffs' claims
10 in the Action based on the facts alleged in the original or first amended complaint.

11 2. Additional Attorney's Fees Released by Class Counsel: In consideration of
12 an award of attorneys' fees and costs in accordance with this Settlement, Class Counsel
13 waives any and all claims to any further attorneys' fees and costs in connection with the
14 Action.

15 **F. COURT APPROVAL**

16 1. Plaintiff-Intervener shall promptly move the Court for the entry of an Order
17 Granting Preliminary Approval of the Settlement.

18 2. In accordance with the Court's Order Granting Preliminary Approval of the
19 Settlement, Plaintiff-Intervener, after the time for Class Members to submit an objection or
20 Exclusion Letter has expired, shall move the Court for the entry of an Order Granting Final
21 Approval of the Settlement.

22 3. This Settlement shall not take effect until the Court has entered an order
23 granting final approval of the Settlement and that order has become final after any
24 objections to the Settlement or any appeals from the order granting final approval of the
25 Settlement have been resolved. If for any reason this Settlement is materially modified on
26 appeal, then this Settlement will become null and void, no payment under this Settlement
27 will be made, and the Settlement shall not be used nor be admissible in any subsequent
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1 proceeding either in this Court or in any other Court or forum.

2 **G. MISCELLANEOUS**

3 1. The respective signatories to the Settlement represent that they are fully
4 authorized to enter into this Settlement and bind the respective Parties to its terms and
5 conditions.

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

12 3. The Parties represent, covenant, and warrant that they have not directly or
13 indirectly, assigned, transferred, encumbered, or purported to assign, transfer or encumber to
14 any person or entity any portion of any liability, claim, demand, action, cause of action or right
15 released and discharged in this Settlement.

16 4. Nothing contained in this Settlement shall be construed or deemed an admission
17 of liability, culpability, negligence, or wrongdoing on the part of Defendants, and Defendants
18 deny any such liability. Each of the Parties has entered into this Settlement with the intention to
19 avoid further disputes and litigation with the attendant inconvenience and expenses. This
20 Settlement is a settlement document and shall be inadmissible in evidence in any proceeding,
21 except an action or proceeding to approve, interpret, or enforce its terms.

22 5. Intervener-Plaintiff and Class Counsel agree not to file or issue a press release
23 regarding the Settlement, respond to press or media inquiries regarding the Settlement, or
24 otherwise publicize the terms of this Settlement, except to Class Members and in Court filings.

25 6. This Settlement may be executed in counterparts, and when each party has signed
26 at least one such counterpart, each counterpart shall be deemed an original, and, when taken
27 together with other signed counterparts, shall constitute execution of the Settlement, which shall
28 be binding upon and effective as to all Parties.

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SO STIPULATED AND AGREED

Dated: June __, 2014

Silvrio Gonzalez Arreola

Dated: June 20, 2014

Dennis Capena

For RC Packing, LLC

Dated: June 20, 2014

Dennis Capena

For RC Farms, LLC

APPROVED AS TO FORM

Dated: June , 2014

**KARASIK LAW FIRM
NAVA & GOMEZ, Attorneys at Law**

By: _____ Santos Gomez
Attorneys for Plaintiff and the Class

Dated: June 20, 2014

**BARSAMIAN & MOODY
A Professional Corporation**

By: Ronald H. Barsamian

Attorneys for Defendants

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SO STIPULATED AND AGREED

Dated: June 19, 2014


Silverio Gonzalez Arreola

Dated: June __, 2014

For RC Packing, LLC

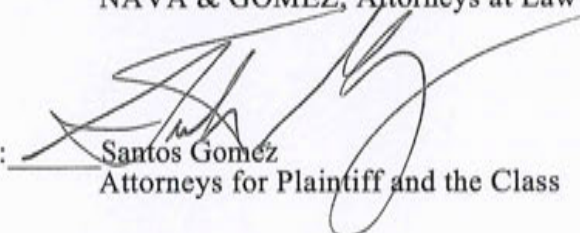
Dated: June __, 2014

For RC Farms, LLC

APPROVED AS TO FORM

Dated: June 19, 2014

**KARASIK LAW FIRM
NAVA & GOMEZ, Attorneys at Law**

By: 
Santos Gomez
Attorneys for Plaintiff and the Class

Dated: June __, 2014

**BARSAMIAN & MOODY
A Professional Corporation**

By: _____ Ronald H. Barsamian
Attorneys for Defendants