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9 **UNITED STATES DISTRICT COURT**

10 **EASTERN DISTRICT OF CALIFORNIA—DISTRICT OF SACRAMENTO**

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13 Plaintiffs LUIS BARAJAS, MARIA VARGAS,
 and ELBA VIZCAINO on behalf of a class of
 14 similarly situated individuals,

15 Plaintiffs,

16 vs.

17 BLUE DIAMOND GROWERS INC, DENISE
 HORN, PATRICIA AGUILAR and RESHAM
 18 KLAIR individually; and DOES 1 through 40,
 inclusive,

19 Defendants.

Case No. _____

CLASS ACTION COMPLAINT:

1. Violation of the Fair Labor Standards Act: Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Failure to Pay Overtime Wages
4. Failure to Provide Rest Periods or Pay Additional Wages in Lieu Thereof
5. Failure to Provide Meal Periods or Pay Additional Wages in Lieu Thereof
6. Failure to Pay All Wages Earned at Termination or Resignation
7. Violation of Unfair Competition Law

20 DEMAND FOR JURY TRIAL

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1 1. Plaintiffs LUIS BARAJAS, MARIA VARGAS and ELBA VIZCAINO (“Plaintiffs”)
2 brings this action against BLUE DIAMOND GROWERS INC., DENISE HORN, PATRICIA
3 AGUILAR, and RESHAM KLAIR individually, and DOES 1 through 40, inclusive (collectively
4 hereafter “Defendants”), individually and on behalf of all Class Members employed under common
5 circumstances and facts. The allegations made in this Complaint are based on the knowledge of
6 Plaintiffs LUIS BARAJAS, MARIA VARGAS and ELBA VIZCAINO except those allegations
7 made on information and belief, which are based on the investigation of their counsel.

8 **I. NATURE OF THE ACTION**

9 2. This is a wage and hour class action to vindicate the rights afforded employees by
10 federal and California labor law. This action is brought by Plaintiffs LUIS BARAJAS, MARIA
11 VARGAS and ELBA VIZCAINO for themselves and on behalf of a Class of similarly situated
12 individuals against Defendants for systemic violations of federal and California labor law.

13 3. This action revolves around the systemic failure by Defendants to pay California
14 non-exempt employees, including Plaintiffs and the Class, in conformance with federal and
15 California law. Defendant BLUE DIAMOND GROWERS INC. and DOES 1 through 40 employed
16 Plaintiffs and the Class directly and/or are liable under California Labor Code § 558.1 and are
17 referred collectively herein as “EMPLOYER DEFENDANTS.” Plaintiffs allege that Defendants
18 BLUE DIAMOND GROWERS INC., DENISE HORN, PATRICIA AGUILAR and RESHAM
19 KLAIR and Does 1 through 40 are “persons” who violated or caused to be violated California Labor
20 Code §§ 558, and 1197.1 and the Industrial Welfare Commission (IWC) Wage Orders.

21 4. The core violations Plaintiffs LUIS BARAJAS, MARIA VARGAS and ELBA
22 VIZCAINO allege against the EMPLOYER DEFENDANTS BLUE DIMAOND GROWERS INC.
23 are: (1) violation of the Fair Labor Standards Act (FLSA): failure to pay all overtime wages owed;
24 (2) failure to pay all minimum wages owed; (3) failure to pay all overtime wages owed; (4) failure
25 to provide rest periods or pay additional wages; (5) failure to provide meal periods or pay additional
26 wages; (6) failure to pay all wages earned at termination or resignation; and (7) violation of Unfair
27 Competition Law.

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1 VIZCAINO alleges against Defendants DENISE HORN, PATRICIA AGUILAR and RESHAM
2 KLAIR are, including but not limited to, causing the: (2) failure to pay all minimum wages owed;
3 (3) failure to pay all overtime wages owed; (3) failure to provide rest periods or pay additional
4 wages; (4) failure to provide rest periods or pay additional wages; (5) failure to pay all wages earned
5 at termination or resignation; and (6) failure to pay all wages earned at termination or resignation.

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7 6. EMPLOYER DEFENDANT BLUE DIAMOND GROWERS INC. and
8 DEFENDANTS DENISE HORN, PATRICIA AGUILAR and RESHAM KLAIR have refused to
9 pay the wages due and owed to Plaintiffs LUIS BARAJAS, MARIA VARGAS and ELBA
10 VIZCAINO and similarly situated employees under the express provisions of the California Labor
11 Code, which in turn has resulted in additional Labor Code violations entitling Plaintiffs and other
12 similarly situated employees to prompt payment of wages and penalties.

13 7. Plaintiffs, for themselves and the Class, also seek injunctive relief requiring each
14 Defendant to comply with all applicable California labor laws and regulations in the future and
15 preventing the EMPLOYER DEFENDANTS from engaging in and continuing to engage in
16 unlawful and unfair business practices. Plaintiffs also seek declaratory relief enumerating each
17 EMPLOYER DEFENDANTS' violations so that the EMPLOYER DEFENDANTS and the general
18 public will have clarity and guidance with regards to EMPLOYER DEFENDANTS' future
19 employment practices.

20 **II. JURISDICTION AND VENUE**

21 8. This Court has subject matter jurisdiction based on federal question jurisdiction
22 pursuant to 28 U.S.C. § 1331 covering claims arising under the Fair Labor Standards Act ("FLSA"),
23 29 U.S.C. §§ 201, et seq.

24 9. This Court has supplemental jurisdiction over the California state law claims under
25 28 U.S.C. § 1367, because these claims are so related to the federal claims that they form part of
26 the same case and controversy under Article III of the U.S. Constitution.

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28 10. This Court is empowered to grant declaratory relief pursuant to 28 U.S.C. § 2201.

1 11. Venue is proper in the Eastern District of California pursuant to 28 U.S.C. § 1391
2 because this District is the district in which at least one of the EMPLOYER DEFENDANTS and
3 Plaintiffs reside and a district in which a substantial part of the events or omissions giving rise to
4 the claims occurred.

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6 **INTRADISTRICT ASSIGNMENT**

7 12. This case is properly assigned to the Sacramento Division of this Court because the
8 action arose in Stanislaus, California. Local Rule 120(d).

9 **III. PARTIES**

10 *Plaintiffs*

11 13. Plaintiff LUIS BARAJAS is a resident of Stanislaus County, California. At relevant
12 times herein, he has been employed by Defendant BLUE DIAMOND GROWERS INC. as an
13 employee at facilities owned, leased, and/or operated by Defendant BLUE DIAMOND GROWERS
14 INC. in and around Stanislaus, California, and has been employed by Defendants BLUE
15 DIAMOND GROWERS INC. as a non-exempt employee. During the relevant time period, Plaintiff
16 LUIS BARAJAS worked for Defendants BLUE DIAMOND GROWERS INC. within the County
17 of Stanislaus as a non-exempt employee. He performed work for BLUE DIAMOND GROWERS
18 at various times during the relevant time period through the present and, among other things, was
19 not paid appropriately over the period of his employment. Plaintiff LUIS BARAJAS is an aggrieved
20 employee who has been subjected to the violations and unlawful employment practices described
21 herein, and who, as a result, has suffered injury in fact and loss of money and property.

22 14. Plaintiff MARIA VARGAS is a resident of Stanislaus County, California. At
23 relevant times herein, she has been employed by Defendant BLUE DIAMOND GROWERS INC.
24 as an employee at facilities owned, leased, and/or operated by Defendant BLUE DIAMOND
25 GROWERS INC. in and around Stanislaus, California, and has been employed by Defendants
26 BLUE DIAMOND GROWERS INC. as a non-exempt employee. During the relevant time period,
27 Plaintiff MARIA VARGAS worked for Defendants BLUE DIAMOND GROWERS within the
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1 GROWERS at various times during the relevant time period through the present and, among other
2 things, was not paid appropriately over the period of her employment. Plaintiff MARIA VARGAS
3 is an aggrieved employee who has been subjected to the violations and unlawful employment
4 practices described herein, and who, as a result, has suffered injury in fact and loss of money and
5 property.

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7 15. Plaintiff ELBA VIZCAINO is a resident of Stanislaus County, California. At
8 relevant times herein, she has been employed by Defendant BLUE DIAMOND GROWERS INC.
9 as an employee at facilities owned, leased, and/or operated by Defendant BLUE DIAMOND
10 GROWERS INC. in and around Stanislaus, California, and has been employed by Defendants
11 BLUE DIAMOND GROWERS as a non-exempt employee. During the relevant time period,
12 Plaintiff ELBA VIZCAINO worked for Defendants BLUE DIAMOND GROWERS within the
13 County of Stanislaus as a non-exempt employee. She performed work for BLUE DIAMOND
14 GROWERS at various times during the relevant time period through the present and, among other
15 things, was not paid appropriately over the period of her employment. Plaintiff ELBA VIZCAINO
16 is an aggrieved employee who has been subjected to the violations and unlawful employment
17 practices described herein, and who, as a result, has suffered injury in fact and loss of money and
18 property.

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Defendants

16. The following allegations as to the Defendants are made on information and belief,
and are likely to have evidentiary support after a reasonable opportunity for further investigation or
discovery.

17. At all relevant times, BLUE DIAMOND GROWERS is a California corporation,
which conducted and conducts business by operating an almond processing plant in California.
BLUE DIAMOND GROWERS operates almond processing plants in Salida, Sacramento and
Turlock and maintains a business address of 1802 C Street, Sacramento CA, 95811. At all relevant
times, BLUE DIAMOND GROWERS owned, controlled, or operated a business or establishment
that employed persons within the meaning of IWC Wage Order 8. 8 Cal. Code of Regs. § 11050

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