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5 Attorneys for Defendants LASSEN DAIRY INC. (doing business as “Meritage Dairy”); TULE  
RIVER FARMS INC; TULE RIVER RANCH, INC; BONANZA FARMS; and WILLIAM  
6 VANDER POEL, SR.

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9 UNITED STATES DISTRICT COURT  
10 EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

11 JOSE A. LOPEZ, JUAN CARLOS ) Case No.: 1:08-cv-00121-LJO-GSA  
APOLINAR, JUAN JOSE ESTRADA SOTA, )  
12 JUAN JOSE CERVANTES, ISMAEL )  
CUEVAS, REYNAR MENDOZA, and JESUS) **AGREED DISCOVERY ORDER**  
13 RODRIGUEZ, on behalf of themselves and all ) **REGARDING MOTIONS TO COMPEL**  
other similarly situated individuals, )  
14 )  
Plaintiffs, )  
15 ) (Documents 58, 59 & 62)  
vs. )  
16 )  
LASSEN DAIRY INC. (doing business as )  
17 “Meritage Dairy”); TULE RIVER FARMS )  
INC.; TULE RIVER RANCH, INC.; )  
18 BONANZA FARMS; and WILLIAM )  
VANDER POEL, SR., )  
19 )  
Defendants. )  
20 )

21 Plaintiffs JOSE A. LOPEZ, JUAN CARLOS APOLINAR, JUAN JOSE  
22 ESTRADA SOTA, JUAN JOSE CERVANTES, ISMAEL CUEVAS, REYNAR MENDOZA,  
23 AND JESUS RODRIQUEZ (“Plaintiffs”), by and through their counsel of record, Stan Mallison,  
24 Esq., of Mallison & Martinez; and Defendants, LASSEN DAIRY INC. doing business as  
25 “Meritage Dairy”; TULE RIVER FARMS INC; TULE RIVER RANCH, INC; BONANZA  
26 FARMS; and WILLIAM VANDER POEL, SR., (sometimes collectively referred to herein as  
27 “Defendants”), by and through their counsel of record, Gary N. Lento, Esq. and/or Olga A.  
28 Balderama, Esq., of Baker Manock & Jensen, PC., do hereby stipulate as follows:

1                   WHEREAS, on June 18, 2010, counsel for Plaintiffs and Defendants appeared  
2 before Magistrate Judge Gary S. Austin for Plaintiffs' (1) Motion to Compel Further Responses  
3 to Plaintiffs' Second Set of Requests for Production of Documents, and (2) Motion to Compel  
4 Further Responses to Plaintiffs' Third Set of Requests for Production of Documents;

5                   WHEREAS, Judge Austin required the parties to spend the entire day meeting  
6 and conferring, in person, in an attempt to resolve the discovery disputes referenced above, and  
7 return to Court at 3:00 p.m. to inform him of the status of the discussions;

8                   WHEREAS, based on the representations of parties' counsel, Judge Austin  
9 continued the hearing on both Motions to Compel to Friday, June 25, 2010, at 9:30 a.m.;

10                   WHEREAS, Defendants have filed a Motion for Summary Judgment;

11                   WHEREAS, pursuant to the Second Scheduling Order dated February 4, 2010,  
12 Doc. No. 56, the Motion for Summary Judgment is scheduled to be heard by the Honorable  
13 Lawrence O'Neill, on August 12, 2010 at 8:30 a.m.;

14                   WHEREAS, the parties have agreed to resolve plaintiffs' current motions to  
15 compel, through the production of certain documents, information, and representations, as  
16 described below,

17                   **NOW, THEREFORE**, the parties, by and through their counsel, do hereby  
18 **STIPULATE AND AGREE** as follows:

19                   1.       The parties agree that the discovery dispute at issue here is limited to hourly  
20 employees who performed services at Meritage Dairy, from October 1, 2005 until the closure of  
21 Meritage Dairy, excluding office employees and Managers of Meritage Dairy.

22                   2.       Defendant Lassen Dairy, Inc. will produce 2007 timekeeping data, for all hourly  
23 employees who performed work at Meritage Dairy, from October 1, 2005 until the closure of  
24 Meritage Dairy. The 2007 data will be produced, by Tuesday, June 29, 2010, in the same (or  
25 similar) electronic data form as the 2008 data previously produced, unless defendants determine  
26 it is not available. Defendants agree that the 2007 data will be representative for purposes of the  
27 pending summary judgment and/or class certification motions for the period of 2007 and prior to  
28 2007. If defendants determine that the data is unavailable, then defendants will state this.

1 Defendants will state whether or not the 2007 data would have contained lunch punches.

2 3. The parties agree for purposes of the summary judgment and/or class certification  
3 motions that the named plaintiffs' payroll documents are representative for the class and  
4 therefore will not produce any further payroll document and will not rely upon other payroll  
5 documents for the summary judgment or class certification motions.

6 4. Defendant Lassen Dairy, Inc. will produce all employee contact information for  
7 all employees of Lassen/Meritage except managers and office workers. This includes workers at  
8 Bonanza who also worked at Meritage. Defendant may exclude any workers who properly "opt-  
9 out" of the contact list –pursuant to the opt-out letter sent.

10 5. Defendant Lassen Dairy, Inc. attests that there are no schedules for rest and meal  
11 periods, and will not rely upon any such documents for either class certification or summary  
12 judgment and will provide a letter to that effect.

13 6. Defendant Lassen Dairy, Inc. attests that there are no documents which describe  
14 the shifting between job duties by employees, and will not rely upon any such documents for  
15 either class certification or summary judgment and will provide a letter to that effect.

16 7. Defendant will produce the spreadsheets previously supplied to plaintiffs in native  
17 format (i.e. .xls).Defendant will not rely upon any other documents or data regarding the  
18 information set forth in the spreadsheets for either class certification or summary judgment and  
19 will provide a letter to that effect.

20 8. The parties will, by separate stipulation to be provided to Judge O'Neill for  
21 approval, stipulate to move the date for plaintiffs to file their opposition to **July 9, 2010** to file  
22 their Opposition to Defendants' Motion for Summary Judgment; and to allow Defendants up to  
23 and including **August 7, 2010** to file their Reply.

24 ////

25 ////

26 ////

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1 **IT IS SO STIPULATED.**

2 Dated: June 25, 2010.

**MALLISON & MARTINEZ**

3  
4 By /s/ Stan S. Mallison

**Stan S. Mallison**

5 Attorneys for Plaintiffs JOSE A. LOPEZ,  
6 JUAN CARLOS APOLINAR, JUAN JOSE  
7 ESTRADA SOTA, JUAN JOSE  
8 CERVANTES, ISMAEL CUEVAS,  
9 REYNAR, MENDOZA, and JESUS  
10 RODRIGUEZ

11 DATED: June 25, 2010.

**BAKER MANOCK & JENSEN, PC**

12 By /s/ Olga A. Balderama

**Gary N. Lento**

**Olga A. Balderama**

13 Attorneys for Defendants LASSEN DAIRY  
14 INC. (doing business as "Meritage  
15 Dairy"), TULE RIVER FARMS INC.,  
16 TULE RIVER RANCH, INC., BONANZA  
17 FARMS, and WILLIAM VANDER POEL,  
18 SR.

19 **ORDER**

20 1. The discovery dispute at issue here is limited to hourly employees who performed  
21 services at Meritage Dairy, from October 1, 2005 until the closure of Meritage Dairy, excluding  
22 office employees and Managers of Meritage Dairy.

23 2. Defendant Lassen Dairy, Inc. will produce 2007 timekeeping data, for all hourly  
24 employees who performed work at Meritage Dairy, from October 1, 2005 until the closure of  
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