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14 **IN THE UNITED STATES DISTRICT COURT**
 15 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

16 ANTONIO MARTÍNEZ, and FELIPE
 17 NUÑEZ TORRES,

18 Plaintiffs,

19 v.

20 JOSE GILBERTO SILVEIRA, an
 individual; and DOES ONE through
 21 TWENTY inclusive

22 Defendants.

Case No. 1:10-cv-00234-GSA

**STIPULATION AND ORDER FOR
 CONDITIONAL CERTIFICATION OF
 ACTION AS FLSA COLLECTIVE
 ACTION**

23 The undersigned represent all the named parties to this action and, by signing this document,
 24 each and every party to this action does stipulate and jointly move this court for an Order that this
 25 action may be conditionally certified as a Fair Labor Standards Act (FLSA) collective action,
 26 pursuant to 29 U.S.C. § 201 *et seq.*

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1 As grounds for the Order sought, the parties stipulate that:

2 1. The FLSA class will be defined as all Defendants' agricultural dairy employees who
3 worked for Defendant Jose Gilberto Silveira in Merced County during the period from October 26,
4 2006 through the present, who were allegedly not paid minimum wages as required by the FLSA and
5 allegedly have not been compensated as of this date.

6 2. The claims of the named Plaintiffs are typical of the claims of the FLSA class as
7 defined above.

8 3. The representative parties of the FLSA class and their counsel will fairly and
9 adequately represent the interests of the named Plaintiffs and the FLSA class.

10 4. That the questions of law and fact common to the members of the FLSA class
11 predominate over questions relevant only to individual members of the collective class. The
12 questions of law and fact common to the collective class and in addition to the FLSA claims include:
13 (1) whether the members of the FLSA class were paid minimum wages in accordance with the
14 FLSA; (2) whether the members of the FLSA class are entitled to liquidated damages; (3) whether
15 the members of the FLSA class were paid overtime wages in accordance with all applicable laws;
16 (4) whether the members of the FLSA class are entitled to Labor Code § 203 waiting time penalties;
17 (5) whether the members of the FLSA class were provided meal and rest periods as required by
18 California law; (6) whether the members of the FLSA class were provided tools and equipment as
19 required by California law; and (7) whether the members of the FLSA class were provided legally
20 adequate pay stubs.

21 5. FLSA class adjudication is superior to any other method of adjudication for the fair
22 and efficient adjudication of this matter.

23
24 Dated: August 27, 2010

**CALIFORNIA RURAL LEGAL ASSISTANCE,
INC.**

25
26 /s/ Esmeralda Zendejas
27 Esmeralda Zendejas
Attorney for Plaintiff Felipe Nuñez Torres

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1 Dated: August 27, 2010

**CALIFORNIA RURAL LEGAL ASSISTANCE
FOUNDATION**

2
3 /s/ Erin L. Hernandez (As authorized on 8/27/10)
4 Erin L. Hernandez
Attorney for All Plaintiffs

5 Dated: August 27, 2010

THE SAQUI LAW GROUP

6 /s/ Andrew H. Lee (As authorized on 8/27/10)
7 Andrew H. Lee
8 Attorney for Defendant

9 **ORDER**

10 Upon a review of the pleading, the Court adopts the conditional certification as an FLSA
11 collective action. The parties shall file a stipulation outlining the procedure that will be used to
12 notify class potential class members, as well as a proposed opt-in letter no later than three (3) days
13 prior to the next status conference which is set for October 1, 2010 at 10:00 am in Courtroom 10
14 before the undersigned.

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18 IT IS SO ORDERED.

19 **Dated: September 13, 2010**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE