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13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA**

15 JOSE RODRIGUEZ, on behalf of himself and
16 all others similarly situated,

17 Plaintiff,

18 v.

19 KRAFT FOOD GROUP, INC., a Virginia
20 corporation; and DOES 1 through 100,
21 inclusive,

22 Defendants.

Case No. 1:14 CV-01137-LJO-GSA

CLASS ACTION

STIPULATION AND ORDER ALLOWING
PLAINTIFF TO FILE FIRST AMENDED
COMPLAINT FOR PENALTIES UNDER THE
PRIVATE ATTORNEY GENERAL ACT,
LABOR CODE §2699 ET SEQ.

[Fed. R. Civ. Proc. 15(a)(2)]

Complaint filed: June 5, 2014

1 Plaintiff Jose Rodriguez (“Plaintiff”) and Defendant Kraft Foods Group, Inc. (“Defendant”)
2 (referred to collectively as “the parties”), by and through their respective counsel of record, enter
3 into the following stipulation with reference to the following facts:

4 **RECITALS**

5 1. In connection with the claims asserted in his original complaint, Plaintiff seeks to
6 file a First Amended Complaint to recover civil penalties and underpaid wages in a representative
7 action on behalf of himself and other aggrieved hourly paid production employees, pursuant to
8 *California Labor Code* §§ 210, 226.3, 558, 1174.5, 2699 *et seq.* (“PAGA”). Plaintiff has complied
9 with the procedural requirements specified in *Labor Code* § 2699.3 as to each of the alleged
10 violations.

11 2. On July 16, 2014, the California’s Labor and Workforce Development Agency sent
12 Plaintiff a letter indicating that it did not intend to investigate the alleged violations asserted by
13 Plaintiff, thus entitling Plaintiff to pursue causes of action pursuant to *Labor Code* § 2699, *et seq.*

14 3. On July 18, 2014, Defendant filed an answer to Plaintiff’s complaint generally
15 denying the allegations, and asserting that Plaintiff and the proposed class are not entitled to any
16 relief. On that same day, Defendant filed a Notice of Removal of Civil Action to Federal Court
17 which effectively removed the matter from the Superior Court of California for the County of
18 Fresno to the United States District Court for the Eastern District of California. Defendant’s
19 removal was based on the Class Action Fairness Act.

20 4. During the early meeting of counsel, the Parties agreed to the filing of Plaintiff’s
21 First Amended Complaint without the necessity of a formal notice of motion and motion to amend.

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STIPULATION

1. Based on the foregoing, the Parties stipulate that Plaintiff may file a First Amended Complaint, a copy of which is attached hereto as Exhibit A.

2. Defendant’s responsive pleading shall be due thirty (30) days after the First Amended Complaint is filed.

DATED: September 15, 2014

WESTRUP & ASSOCIATES

By: /s/ Cat N. Bulaon
PHILLIP R. POLINER
CAT N. BULAON

Attorneys for Plaintiff
JOSE RODRIGUEZ

DATED: September 15, 2014

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

By: /s/ Christopher M. Ahearn
CHRISTOPHER M. AHEARN

Attorneys for Defendants
KRAFT FOOD GROUP, INC.

I attest that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing’s content and have authorized the filing.

DATED: September 15, 2014

WESTRUP & ASSOCIATES

By: /s/ Cat N. Bulaon
PHILLIP R. POLINER

Attorneys for Plaintiff
JOSE RODRIGUEZ

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ORDER

Based on the parties stipulation set forth above, **IT IS HEREBY ORDERED** that:

- (1) Plaintiff is granted leave to file his First Amended Complaint, a copy of which is attached as Exhibit A to the parties' stipulation (Doc 10, # 1);
- (2) Defendant's responsive pleading shall be due thirty (30) days after the date of filing of the First Amended Complaint;
- (3) The First Amended Complaint shall be deemed filed as of the date of issuance of this order; and
- (4) The Clerk of Court is directed to file the First Amended Complaint as a separate entry on the case docket for purposes of clarification of the record.

IT IS SO ORDERED.

Dated: September 19, 2014

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE