

1 KENNETH S. GAINES, ESQ. SBN 049045
 ken@gaineslawfirm.com
 2 DANIEL F. GAINES, ESQ. SBN 251488
 daniel@gaineslawfirm.com
 3 ALEX P. KATOFSKY, ESQ. SBN 202754
 alex@gaineslawfirm.com
 4 **GAINES & GAINES, APLC**
 21550 Oxnard Street, Suite 980
 5 Woodland Hills, CA 91367
 Telephone: (818) 703-8985
 6 Facsimile: (818) 703-8984

7 Attorneys for Plaintiff DANNY McCRARY

8 RONALD W. BROWN, ESQ. SBN 107340
 rbrown@cookbrown.com
 9 CARRIE E. BUSHMAN, ESQ. SBN 18613
 cbushman@cookbrown.com
 10 MEG E. WILSON, ESQ. SBN 278386
 mwilson@cookbrown.com
 11 COOK BROWN, LLP
 Telephone: (916) 442-3100
 12 Facsimile: (916) 442-4277

13 Attorneys for Defendant
 14 CABBELL SOUP SUPPLY COMPANY, L.L.C.

15 UNITED STATES DISTRICT COURT
 16 EASTERN DISTRICT OF CALIFORNIA

18 DANNY McCRARY, on behalf of himself
 19 and all others similarly situated, and on
 behalf of the general public,

20 Plaintiffs,

21 v.

22 CAMPBELL SOUP SUPPLY COMPANY
 L.L.C., a Delaware limited liability
 23 company, and DOES 1 through 10,
 inclusive,

24 Defendants.

Case No.: 2:13-cv-01332-GEB-KJN

**JOINT STIPULATION AND [PROPOSED]
 ORDER REGARDING FILING OF
 SECOND AMENDED COMPLAINT**

RECITALS

A. WHEREAS, DANNY McCRARY ("Plaintiff ") filed his Original Complaint in San Joaquin County Superior Court on June 3, 2013;

B. WHEREAS, Plaintiff filed his First Amended Complaint ("FAC") in San Joaquin County Superior Court on June 27, 2013;

C. WHEREAS, on or about July 3, 2013, Defendant removed the action to this Court;

D. WHEREAS, Defendant answered the First Amended Complaint on July 23, 2013;

E. WHEREAS, Defendants contend that Plaintiff improperly named a non-employing entity as an additional defendant in the action;

F. WHEREAS, following confirmatory discovery, the parties have agreed to permit Plaintiff to file a Second Amended Complaint (SAC) which dismisses defendant Campbell Soup Company from the action and adds a claim for failure to pay wages due at separation pursuant to Labor Code §§ 201-203. The proposed SAC (with redline changes from the FAC) is attached hereto as **Exhibit A**.

THEREFORE, the parties do STIPULATE AND AGREE as follows;

1. Plaintiff's SAC shall be the operative complaint in this matter;
2. Plaintiff's SAC shall be deemed filed upon entry of the Order on this Stipulation; and
3. Defendant shall have thirty (30) days to respond to the SAC, to commence upon entry of this Order.

IT IS SO STIPULATED:

1 Dated: October 2, 2013

2
3 /s/ Alex P. Katofsky
4 ALEX P. KATOFSKY
5 GAINES & GAINES, APLC
6 Attorneys for Plaintiff DANNY McCRARY

7 Dated: October 2, 2013

8 /s/ Carrie E. Bushman
9 CARRIE E. BUSHMAN
10 COOK BROWN, LLP
11 Attorneys for Defendant
12 CAMPBELL SOUP SUPPLY COMPANY

13 **ORDER**

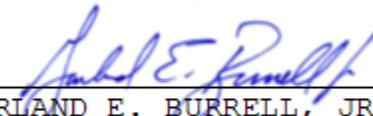
14 Upon reading the forgoing Stipulation, and good cause appearing, therefore,

15 IT IS ORDERED THAT

- 16 1. Plaintiff's SAC shall be the operative complaint in this matter;
- 17 2. Plaintiff's SAC shall be deemed filed upon entry of the Order on this
18 Stipulation; and
- 19 3. Defendant shall have thirty (30) days to respond to the SAC, to commence
20 upon entry of this Order.

21 **SO ORDERED.**

22 Dated: October 2, 2013

23 
24 _____
25 GARLAND E. BURRELL, JR.
26 Senior United States District Judge