

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**

5 21550 Oxnard Street, Suite 980

6 Woodland Hills, CA 91367

7 Telephone: (818) 703-8985

8 Facsimile: (818) 703-8984

9 Attorneys for Plaintiff DANNY McCRARY

10 RONALD W. BROWN, ESQ. SBN 107340

11 rbrown@cookbrown.com

12 BARBARA A. COTTER, ESQ. SBN 142590

13 bcotter@cookbrown.com

14 CARRIE E. BUSHMAN, ESQ. SBN 18613

15 cbushman@cookbrown.com

16 MEG E. WILSON, ESQ. SBN 278386

17 mwilson@cookbrown.com

18 **COOK BROWN, LLP**

19 Telephone: (916) 442-3100

20 Facsimile: (916) 442-4277

21 Attorneys for Defendant

22 **CAMBELL SOUP SUPPLY COMPANY, L.L.C.**

23 **UNITED STATES DISTRICT COURT**

24 **EASTERN DISTRICT OF CALIFORNIA**

25 DANNY McCRARY, on behalf of himself
26 and all others similarly situated, and on
27 behalf of the general public,

28 Plaintiffs,

v.

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

Defendants.

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

**STIPULATION AND [PROPOSED]
ORDER TO REMAND CASE TO STATE
COURT**

RECITALS

1
2 1. Plaintiff Danny McCrary (“Plaintiff”) commenced this action by filing a class
3 action complaint in the Superior Court of the State of California in and for the County of San
4 Joaquin (the “State Court”) on or about June 3, 2013 against Campbell Soup Supply
5 Company, LLC (“Defendant”). Plaintiff’s complaint alleged causes of action for (1) Failure
6 to provide meal periods or compensation in lieu thereof (Cal. Labor Code §§ 226.7, 512), (2)
7 Failure to Pay All Wages (Cal. Labor Code §§ 510, 1194), (3) Knowing and Intentional
8 Failure to Comply With Itemized Employee Wage Statement Provisions (Cal. Labor Code §
9 226(a), (e), and Violations of Business and Professions Code § 17200.

10 2. On June 27, 2013, Plaintiff filed his First Amended Complaint, which added a
11 second cause of action for Penalties Pursuant to Labor Code § 2699(f) for Violations of
12 Labor Code §§ 226(a), 226.7, 510 and 1194.

13 3. On July 3, 2013, Defendant removed this matter to this Court based on the
14 Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d) (“CAFA”) and diversity of
15 citizenship.

16 4. On October 3, 2013, Plaintiff filed his Second Amended Complaint, which
17 added a cause of action for Failure to Pay Wages Due at Separation of Employment (Cal.
18 Labor Code §§ 201-203).

19 5. Defendant answered the Second Amended Complaint on November 1, 2013.

20 6. The parties have met and conferred and agree that at this time the amount
21 placed in controversy by Plaintiff’s complaint does not meet the jurisdictional minimum (e.g.
22 \$75,000 for Plaintiff’s individual claims, or \$5,000,000 for Plaintiff’s putative class claims
23 pursuant to CAFA). Plaintiff has agreed he will not seek more than \$75,000 for plaintiff’s
24 individual claims or \$5 million for Plaintiff’s putative class claims pursuant to CAFA once
25 the case is remanded to state court.

26 7. The parties agree that the proposed remand herein shall not affect Defendant’s
27 right to remove the action again if Plaintiff tries to avoid this amount in controversy
28 stipulation.

1 **STIPULATION**

2 NOW, THEREFORE, Plaintiff and Defendant, by and through their attorneys of
3 record, hereby stipulate and agree that at this time there is less than \$75,000 in controversy
4 between Plaintiff individually and Defendant, and less than \$5,000,000 in controversy
5 between the proposed class and Defendant and, as a result, traditional diversity jurisdiction
6 and CAFA jurisdiction by this Court at this time are not appropriate. Based thereon, the
7 parties further stipulate that the action shall immediately be remanded to the Superior Court
8 for the State of California, County of San Joaquin.

9 **SO STIPULATED.**

10 Dated: June 18, 2014

11
12 /s/ Alex P. Katofsky
13 ALEX P. KATOFSKY
14 GAINES & GAINES, APLC
Attorneys for Plaintiff DANNY McCRARY

15 Dated: June 18, 2014

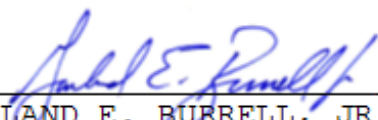
16
17 /s/ Barbara A. Cotter (as authorized on 6/4/14)
18 BARBARA A. COTTER
19 COOK BROWN, LLP
Attorneys for Defendant
20 CAMPBELL SOUP SUPPLY COMPANY
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

This case is remanded to the Superior Court for the State of California, in the County of San Joaquin.

Dated: June 18, 2014



GARLAND E. BURRELL, JR.
Senior United States District Judge