

1 MORGAN, LEWIS & BOCKIUS LLP
 2 JOHN S. BATTENFELD (SBN 119513)
 300 South Grand Avenue, 22nd Fl.
 Los Angeles, CA 90071-3132
 3 Tel: 213.612.1018
 Fax: 213.612.2501
 4 email: jbattenfeld@morganlewis.com

5 MICHAEL J. PUMA (Admitted *pro hac vice*)
 JUSTIN S. BROOKS (Admitted *pro hac vice*)
 6 1701 Market Street
 Philadelphia, PA 19103
 7 Tel: 215-963-5000
 Fax: 215-963-5001
 8 E-mail: mpuma@morganlewis.com
 E-mail: justin.brooks@morganlewis.com

9
 10 Counsel for Defendants Sara Lee Corporation,
 Sara Lee Bakery Group and Earthgrains
 Baking Companies, Inc.

11 Attorneys for Defendant

12 SPIRO MOORE LLP
 13 IRA SPIRO (SBN 67641)
 JENNIFER CONNOR (SBN 241480)
 14 11377 W. Olympic Boulevard, Fifth Fl.
 Los Angeles, CA 90064
 15 Tel: 310.235.2468
 Fax: 310.235.2456
 16 E-mail: ira@spiro.moore.com
 E-mail: jennifer@spiro.moore.com

17 Attorneys for Plaintiffs

18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**
 20 **SAN FRANCISCO DIVISION**

21 DAVID M. CATHCART, JAMES H.
 WHITEHEAD, ROBERT W. DECKER,
 22 DALE BALDISSERI, individually, and on
 behalf of all others similarly situated,

23 Plaintiff,

24 v.

25 SARA LEE CORPORATION, SARA LEE
 BAKERY GROUP, EARTHGRAINS
 26 BAKING COMPANIES, INC. (formerly sued
 as DOE 1) and DOES 2 through 20,

27 Defendants.
 28

Case No. C 09-5748 MMC

**STIPULATION AS TO DEFENDANTS'
 ENTITLEMENT TO SUMMARY
 JUDGMENT ON PLAINTIFFS' MEAL
 BREAK CLAIMS BEGINNING
 JANUARY 1, 2011**

~~PROPOSED~~ ORDER

The Honorable Maxine M. Chesney

1
2 Plaintiffs David Cathcart, Dale Baldisseri, James Whitehead, and Robert Decker (below
3 “Plaintiffs”) and Defendants Sara Lee Corporation, Sara Lee Bakery Group and Earthgrains
4 Baking Companies, Inc. (below “Defendants”) hereby stipulate as follows:

5 1. The State of California enacted a meal period exemption, Cal. Lab. Code § 512(e),
6 pertaining to collective bargaining agreements, effective January 1, 2011.

7 2. This exemption bars Plaintiffs from recovery of penalties or other relief arising
8 from their meal period cause of action (Count 2) for meal period violations that allegedly
9 occurred on and since January 1, 2011 to the present, and hereafter unless hereafter California law
10 or Plaintiffs’ collective bargaining agreement is changed with respect to said exemption.
11

12 3. Plaintiffs expressly reserve all rights and claims with respect to Plaintiffs’ meal
13 period cause of action (Count 2), and all relief requested in whole or in part on Plaintiffs’ meal
14 period cause of action, for meal period violations that allegedly occurred prior to January 1, 2011.

15 4. Defendants expressly reserve all rights and defenses with respect to Plaintiffs’
16 meal period cause of action (Count 2), and all relief premised in whole or in part on Plaintiffs’
17 meal period cause of action, for meal period violations that allegedly occurred prior to January 1,
18 2011.
19

20 WHEREFORE, THE PARTIES STIPULATE and request that the Court enter partial
21 summary judgment in favor of Defendants, against Plaintiffs Cathcart, Baldisseri, Whitehead, and
22 Decker only, but not against any unnamed or absent class members or putative class members, for
23 meal period violations that allegedly occurred beginning on and including January 1, 2011 until
24 the date the Court enters this Order, with respect to (1) Plaintiffs’ meal period of cause of action
25 (Count 2); and (2) Plaintiffs’ causes of action for penalties and other relief sought by Counts 1, 3
26 and 5 to the extent that such penalties/relief are premised on the meal period cause of action for
27 meal period violations that allegedly occurred beginning on and including January 1, 2011 until
28

1 the date the Court enters this Order, except to the extent, if any, that after May 10, 2012 and
2 before the date the Court enters this Order, Lab. Code § 512 is amended so as to eliminate or
3 modify said exemption. Each party to bear its own attorneys' fees and costs as it pertains to entry
4 of this stipulated partial summary judgment.

5
6 In compliance with General Order No. 45 (X), as filing party, Defendants attest that all
7 signatories below concur in the filing of this document.

8 DATED: May 10, 2012

MORGAN, LEWIS & BOCKIUS LLP

9
10 BY: /s/ Justin S. Brooks
Justin S. Brooks

11 Attorneys for Defendants

12 DATED: May 10, 2012

SPIRO MOORE LLP

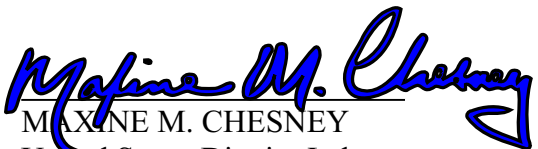
13
14 BY: /s/ Ira Spiro
Ira Spiro

15 Attorneys for Plaintiffs

16
17 ~~PROPOSED~~ ORDER

18 SO ORDERED.

19 Dated: May 11, 2012

20
21 
MAXINE M. CHESNEY
United States District Judge