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 DIAMOND FOODS, INC.

11 **UNITED STATES DISTRICT COURT**  
 12 **NORTHERN DISTRICT OF CALIFORNIA**  
 13 **SAN FRANCISCO DIVISION**

Winston & Strawn LLP  
 101 California Street  
 San Francisco, CA 94111-5802

14 ELLIOT ZEISEL, on behalf of himself and all )  
 others similarly situated, )  
 15 )  
 Plaintiffs, )  
 16 )  
 v. )  
 17 )  
 DIAMOND FOODS, INC., a Delaware )  
 18 corporation, )  
 19 Defendant. )

**Case No. 3:10-cv-01192 JSW (EDL)**  
**ORDER RE**  
**DEFENDANT DIAMOND FOODS, INC.’S**  
**NOTICE OF WITHDRAWAL OF THE**  
**DECLARATION OF SARAH ROLLER IN**  
**SUPPORT OF DEFENDANT’S MOTION**  
**FOR SUMMARY JUDGMENT, OR IN THE**  
**ALTERNATIVE, FOR PARTIAL**  
**SUMMARY JUDGMENT, AND THE**  
**EXHIBITS THERETO, EXCERPTS OF**  
**AND EXHIBIT I TO THE DECLARATION**  
**OF JEFFREY S. BOSLEY IN SUPPORT OF**  
**DEFENDANT’S MOTION FOR**  
**SUMMARY JUDGMENT, OR IN THE**  
**ALTERNATIVE, FOR PARTIAL**  
**SUMMARY JUDGMENT, AND PORTIONS**  
**OF DEFENDANT’S MOTION FOR**  
**SUMMARY JUDGMENT, OR IN THE**  
**ALTERNATIVE, FOR PARTIAL**  
**SUMMARY JUDGMENT**

) Date: March 2, 2012  
 ) Time: 9:00 a.m.  
 ) Place: Courtroom 11, Nineteenth Floor  
 ) Judge: Honorable Jeffrey S. White  
 ) Date Complaint Filed: March 22, 2010

DIAMOND’S NOTICE OF WITHDRAWAL OF THE DECLARATION OF SARAH ROLLER ISO MSJ, AND THE EXHIBITS THERETO,  
 EXCERPTS OF AND EXHIBIT I TO THE DECLARATION OF JEFFREY S. BOSLEY ISO MSJ, AND PORTIONS OF THE MSJ  
 CASE No. 3:10-cv-01192 JSW (EDL)

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101 California Street  
San Francisco, CA 94111-5802

1 TO THE COURT, PLAINTIFF, AND HIS ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that in accordance with this Court’s October 11, 2011 Order  
3 Denying Administrative Motion to Seal (Docket Entry (“DE”) 192), Diamond Foods, Inc.  
4 withdraws, without prejudice, the following: (1) the Declaration of Sarah Roller in Support of  
5 Defendant’s Motion for Summary Judgment, or in the Alternative, for Partial Summary Judgment  
6 (“Roller Declaration”) (DE 188), and all exhibits thereto; (2) paragraphs 10 through 12 and Exhibit I  
7 of the Declaration of Jeffrey S. Bosley in Support of Defendant’s Motion for Summary Judgment, or  
8 in the Alternative, for Partial Summary Judgment (“Bosley Declaration”) (DE 187); and (3) the  
9 following portions of Defendant Diamond Foods, Inc.’s Motion for Summary Judgment, or in the  
10 Alternative, for Partial Summary Judgment (“Motion for Summary Judgment”) (DE 186): (a) Page  
11 1, line 28, all of the words after “In 2001,” through the end of the line; (b) Page 2, all of lines 1-2;  
12 and (c) Page 2, line 3, all of the words before “(Declaration . . .” Because Diamond is withdrawing  
13 the information listed above, it requests that this information not be publicly filed with the Court.  
14

15 Dated: October 18, 2011

WINSTON & STRAWN LLP

17 By: /s/ Jeffrey J. Lederman  
18 Jeffrey S. Bosley  
19 Jeffrey J. Lederman  
20 Amanda L. Groves  
21 Attorneys for Defendant  
22 DIAMOND FOODS, INC

23 **PURSUANT TO DIAMOND'S NOTICE, THE REDACTED VERSION OF**  
24 **THE MOTION FOR SUMMARY JUDGMENT AND THE BOSLEY**  
25 **DECLARATION SHALL BE DEEMED TO BE THE ORIGINALS OF**  
26 **DIAMOND'S MOTION FOR SUMMARY JUDGMENT. DIAMOND SHALL**  
27 **MAKE ARRANGEMENTS WITH THE COURT'S DOCKETING CLERK,**  
28 **HILARY JACKSON, TO RETRIEVE THE DOCUMENTS THAT HAVE**  
**BEEN WITHDRAWN.**

October 19, 2011

