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8 Attorneys for Plaintiff,

9 Andrew M. Scheiber, individually and on behalf
of all others similarly situated

10 **UNITED STATES DISTRICT COURT**

11 **NORTHERN DISTRICT OF CALIFORNIA**

13

14 ANDREW M. SCHEIBER, individually and on
behalf of all others similarly situated,

Case No.: 4:10-CV-05838 PJH

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16 Plaintiff,

**STIPULATION, DECLARATION OF
MICHELLE M. LUNDE AND
[PROPOSED] ORDER DISMISSING REST
PERIOD COUNTS FROM THE SECOND
CAUSE OF ACTION OF PLAINTIFF'S
AMENDED COMPLAINT**

17

v.

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GOODYEAR TIRE AND RUBBER
COMPANY and DOES 1-10,

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Defendants.

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STIPULATION

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WHEREAS, the Plaintiff filed this action on October 26, 2010, and amended on
23 December 8, 2010, alleging a claim for unlawful rest periods in Counts 3 and 4 of the Second
24 Cause of Action under the IWC Wage Orders and Labor Code 226.7;

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WHEREAS, the parties, through their respective counsel, have met and conferred on the
26 propriety of eliminating the counts related to rest periods, and concluded the rest period counts of
27 Second Cause of Action should be dismissed;

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THEREFORE, the parties stipulate to the dismissal of the third and fourth counts of the Second Cause of Action.

Dated: May 17, 2011

LABOR LAW OFFICE, A.P.C.

/s/ Michelle M. Lunde
Michelle M. Lunde
Attorneys for Plaintiff,
ANDREW M. SCHEIBER, individually and on
behalf of all others similarly situated

Dated: May 23, 2011

/s/ Tomomi Glover
MICHELLE B. HEVERLY
TOMOMI GLOVER
LITTLER MENDELSON
A Professional Corporation
Attorneys for Defendant
GOODYEAR TIRE AND RUBBER
COMPANY

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DECLARATION OF MICHELLE M. LUNDE

I, MICHELLE M. LUNDE, declare as follows:

1. I am an attorney at law duly licensed to practice before all courts of the State of California, and an attorney for Plaintiff in this matter. I have personal knowledge of the matters set forth herein and if called to testify, I would testify as follows:

2. Plaintiff filed this action on October 26, 2010, and amended on December 8, 2010, alleging in both complaints in the Second Cause of Action a claim for compensation for unlawful rest periods. Subsequently, the parties, through their respective counsel, met and conferred on the propriety of a rest period cause of action, given that Plaintiff and putative Class Members were paid for their rest period time and did not keep records of them.

3. Plaintiff requests dismissal of the Third and Fourth Counts of the Second Cause of Action. This case has not been certified as a class action. No consideration, direct or indirect is being given for this dismissal.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on May 17, 2011 at Chico, California.

/s/ Michelle M. Lunde
Michelle M. Lunde

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[PROPOSED] ORDER

Pursuant to Stipulation of the parties, and good cause appearing, Plaintiff's request for dismissal of the Third and Fourth Counts of the Second Cause of Action for rest periods is granted.

Dated 5/25/11

JUDGE OF THE SUPERIOR COURT

