

1 HUNTER PYLE (SBN 191125)  
 2 CHAD SAUNDERS (SBN 257810)  
 3 HUNTER PYLE LAW  
 4 428 Thirteenth Street, Eleventh Floor  
 5 Oakland, California 94612  
 6 Telephone: (510) 444-4400  
 7 Facsimile: (510) 444-4410  
 8 Emails: hunter@hunterpylelaw.com; csaunders@hunterpylelaw.com

9 Attorneys for Plaintiffs RONDA AUSTIN,  
 10 CHRISTOPHER CORDUCK, ERNEST DIAL,  
 11 BILLY WAYNE GIBSON and BOBBY G. SMITH

12 MOLLIE M. BURKS (SBN 222112)  
 13 NICHOLAS A. DEMING (SBN 287917)  
 14 GORDON & REES SCULLY MANSUKHANI LLP  
 15 275 Battery Street, Suite 2000  
 16 San Francisco, CA 94111  
 17 Telephone: (415) 986-5900  
 18 Facsimile: (415) 986-8054  
 19 Emails: mburks@gordonrees.com; jbriscoe@gordonrees.com

20 Attorneys for Defendant  
 21 FOODLINER, INC.

22 **UNITED STATES DISTRICT COURT**  
 23 **NORTHERN DISTRICT OF CALIFORNIA**  
 24 **SAN FRANCISCO DIVISION**

25 RONDA AUSTIN, CHRISTOPHER  
 26 CORDUCK, ERNEST DIAL, BILLY  
 27 WAYNE GIBSON, and BOBBY G. SMITH,  
 28 on behalf of themselves and others similarly  
 situated;

Case No. 4:16-cv-07185-HSG

**STIPULATION REGARDING FILING  
 OF FIRST AMENDED COMPLAINT**

Plaintiffs,

vs.

FOODLINER, INC.,

Defendant.

1 Plaintiffs RONDA AUSTIN, CHRISTOPHER CORDUCK, ERNEST DIAL, BILLY  
2 WAYNE GIBSON, and BOBBY G. SMITH (“Plaintiffs”) and Defendant FOODLINER, INC.  
3 (“Defendant” or “FOODLINER”) (together with Plaintiffs, “the Parties”) hereby submit the  
4 following stipulation and proposed order for Plaintiffs to file a first amended complaint.

5 WHEREAS, Plaintiffs filed their initial complaint in Alameda County Superior Court  
6 on November 3, 2016;

7 WHEREAS, Defendant answered the complaint on December 13, 2016;

8 WHEREAS, Defendant removed the case to the U.S. District Court for the Northern  
9 District of California on December 16, 2016;

10 WHEREAS, Plaintiffs filed a complaint in Alameda County Superior Court alleging  
11 violations of the California Labor Code pursuant to the Private Attorneys General Act of 2004  
12 (“PAGA”) on January 18, 2017 (“PAGA action”);

13 WHEREAS, the Parties met and conferred through counsel and agreed to attempt to  
14 settle both actions through private mediation before Mark Rudy, Esq., which took place on  
15 August 16, 2017;

16 WHEREAS, after the unsuccessful mediation, counsel for the Parties met and conferred  
17 regarding the PAGA action and Plaintiffs’ intention to file an amended complaint in this action.  
18 As a result of those discussions, Plaintiffs now seek to file a First Amended Complaint in order  
19 to conform to the Federal Rules of Civil Procedure and to add the claims in the PAGA action to  
20 this action;

21 WHEREAS, Defendant agrees to the filing of the proposed First Amended Complaint,  
22 which is attached hereto as Exhibit A;

23 WHEREAS, Defendant agrees that the PAGA claims in the First Amended Complaint  
24 will relate back to the filing of the PAGA action on January 18, 2017; and

25 WHEREAS, the Parties agree that Defendant’s stipulation to allow the filing of the  
26 proposed First Amended Complaint will not serve to waive any defenses or objections, except as  
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1 regards the statute of limitations for the PAGA claims, to any of the causes of action, or to the  
2 First Amended Complaint, and without admitting anything contained therein to be true.

3         Based on the foregoing, the Parties, by and through their counsel of record and subject to  
4 this Court's approval, hereby stipulate and agree as follows:

- 5         1. Plaintiffs shall have leave to file the First Amended Complaint attached hereto as  
6             Exhibit A;
- 7         2. Defendant's counsel will accept service of the First Amended Complaint;
- 8         3. Defendant reserves all rights, defenses, and objections to the claims set forth in  
9             Plaintiffs' First Amended Complaint, except as regards the statute of limitations for  
10            the PAGA claims; and
- 11        4. Defendant will have thirty (30) days after their counsel is served with the First  
12            Amended Complaint to file a responsive pleading.

13 IT IS SO STIPULATED.

14 DATED: October 16, 2017

HUNTER PYLE LAW

16 By: /s/ Chad Saunders  
17 Hunter Pyle  
18 Chad Saunders

19 Attorneys for Plaintiffs RONDA AUSTIN,  
20 CHRISTOPHER CORDUCK, ERNEST  
DIAL, BILLY WAYNE GIBSON and  
BOBBY G. SMITH

21 DATED: October 16, 2017

GORDON & REES SCULLY  
MANSUKHANI LLP

23 By: /s/ Nicholas A. Deming  
24 Mollie M. Burks  
25 Nicholas A. Deming

26 Attorneys for Defendant  
27 FOODLINER, INC.

1 IT IS SO ORDERED.

2 Dated: October 17, 2017

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4 Hon. Haywood S. Gilliam, Jr.

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