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LEPRINO FOODS COMPANY AND LEPRINO
8 FOODS DAIRY PRODUCTS COMPANY

9 **UNITED STATES DISTRICT COURT**

10 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

11
12 ISAIAS VAZQUEZ and LINDA HEFKE on
behalf of all other similarly situated
13 individuals,

14 Plaintiffs,

15 v.

16 LEPRINO FOODS COMPANY, a Colorado
Corporation; LEPRINO FOODS DAIRY
17 PRODUCTS COMPANY, a Colorado
Corporation; and DOES 1-50, inclusive,

18 Defendants.
19

Case No. 1:17-cv-00796-AWI-BAM

**DEFENDANTS LEPRINO FOODS
COMPANY AND LEPRINO FOODS
DAIRY PRODUCTS COMPANY'S
ANSWER TO THIRD AMENDED CLASS
ACTION COMPLAINT**

20
21 Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, Defendants LEPRINO
22 FOODS COMPANY and LEPRINO FOODS DAIRY PRODUCTS COMPANY ("Defendants")
23 answer the Third Amended Class Action Complaint ("TAC") filed by Plaintiffs ISAIAS
24 VAZQUEZ ("Vazquez") and LINDA HEFKE ("Hefke") (collectively "Plaintiffs"), on behalf of
25 themselves and the putative class members as follows:

26 **JURISDICTION**

27 1. Defendants admit that jurisdiction is proper in this Court pursuant to the Class
28 Action Fairness Act of 2005 (CAFA), 28 U.S.C. § 1332(d)(2)(A). Defendants admit that both of

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1 the Defendants are incorporated in the state of Colorado. Upon information and belief,
2 Defendants admit that Plaintiffs are citizens of California. Defendants admit that Plaintiffs have
3 alleged claims on behalf of a putative class with aggregate alleged damages in excess of
4 \$5,000,000.

5 2. Defendants are without sufficient information regarding to what matters "all
6 matters complained of" refers, to form a belief as to the truth of this allegation, and on that basis,
7 denies this factual allegation contained in Paragraph 2. Except as expressly denied, the allegations
8 contained in Paragraph 2 of the TAC are conclusions of law to which Defendants have no
9 obligation to respond.

10 INTRODUCTION

11 3. Defendants admit that Plaintiffs were non-union, non-exempt, hourly employees of
12 Defendant Leprino Foods Company. Defendants deny that Plaintiffs have ever been employees
13 Defendant Leprino Foods Dairy Products Company. Defendants admit that Plaintiffs purport to
14 represent a class of "nonexempt, hourly employees ... at Defendants' Lemoore West Facilities in
15 Lemoore, California." Except as so admitted and denied, Defendants lack sufficient information
16 or knowledge to form a belief as to the truth of the remaining material allegations in Paragraph 3,
17 and on that basis deny the remaining material allegations contained in Paragraph 3.

18 4. Defendants admit that Plaintiffs have filed a putative class action against
19 Defendants purportedly on behalf of nonexempt hourly employees at Defendants' Lemoore West
20 Facilities in Lemoore, California. Defendants admit that in the TAC, Plaintiffs purport to
21 challenge Defendants' alleged "illegal policies and practices." Defendants deny that Defendants
22 have or have had any such alleged "illegal policies and practices." Defendants deny that
23 Defendant Leprino Foods Dairy Products Company has employees or plants in California. Any
24 remaining material allegations in Paragraph 4 of the TAC not specially admitted herein are denied.

25 5. In answer to Paragraph 5 of the TAC, Defendants deny each and every material
26 allegation contained therein.

27 6. In answer to Paragraph 6 of the TAC, Defendants deny each and every material
28 allegation contained therein.

1 7. Defendants admit that Plaintiffs filed the TAC as a putative class action allegedly
2 to recover premium payments for all meal and rest periods during the alleged statutory period of
3 this action. Any remaining material allegations in Paragraph 7 of the not specially admitted herein
4 are denied.

5 8. In answer to Paragraph 8 of the TAC, Defendants deny each and every material
6 allegation contained therein.

7 9. In answer to Paragraph 9 of the TAC, Defendants deny each and every material
8 allegation contained therein.

9 10. Defendants admit that in their TAC, Plaintiffs purport to seek compensation and
10 putative damages on behalf of themselves and a putative class who allegedly has been affected by
11 Defendants alleged illegal conduct. Defendants deny that Defendants engaged in any such alleged
12 illegal conduct. Defendants admit that in their TAC, Plaintiffs purport to seek, on behalf of
13 themselves and their proposed class, penalties for alleged violations of the Labor Code and
14 California Industrial Welfare Commission (IWC) wage orders. Defendants admit that in their
15 TAC, Plaintiffs purport to seek declaratory and injunctive relief, including restitution. Defendants
16 admit that in their TAC, Plaintiffs purport to seek reasonable attorneys' fees and costs. Any
17 remaining material allegations in Paragraph 10 of the TAC not specially admitted herein are
18 denied.

19 11. In answer to Paragraph 11 of the TAC, Defendants deny each and every material
20 allegation contained therein.

21 **PARTIES**

22 12. In answer to Paragraph 12, Defendants admit that Plaintiffs have been employed
23 by Defendant Leprino Foods Company at its Lemoore West Facility in Lemoore, California.
24 Defendants deny that Plaintiffs have ever been employees of Defendant Leprino Foods Dairy
25 Products Company. On information and belief, Defendants admit that Plaintiffs are residents of
26 King's County. Except as so admitted and denied, Defendants lack sufficient information or
27 knowledge to form a belief as to the truth of the remaining material allegations in Paragraph 12,
28 and on that basis deny the remaining material allegations contained in Paragraph 12.

1 13. Defendants admit that Defendant Leprino Foods Company is a corporation
2 organized under the laws of Colorado. Defendants admit that Defendant Leprino Foods Company
3 has operated two food processing Facilities in Lemoore, California. Any remaining material
4 allegations in Paragraph 13 of the TAC not specially admitted herein are denied.

5 14. Defendants admit that Defendant Leprino Foods Dairy Products Company is a
6 corporation organized under the laws of Colorado. Defendants deny that Defendant Leprino
7 Foods Dairy Products Company is "a food processor in West Lemoore, California." Any
8 remaining material allegations in Paragraph 14 of the TAC not specially admitted herein are
9 denied.

10 15. In answer to Paragraph 15 of the TAC, Defendants lack sufficient knowledge or
11 information to respond to the allegations, and, on that basis, deny each and every material
12 allegation therein.

13 16. Defendants admit that Defendant Leprino Foods Company has done business under
14 the laws of California and has had places of business in California, including in this judicial
15 district. On information and belief, Defendants admit that Defendant Leprino Foods Company has
16 employed members of the putative class in this judicial district. Defendants deny that Defendant
17 Leprino Foods Dairy Products Company has had places of business in California or has employed
18 members of the putative class in this judicial district. Defendants admit that they are "persons" as
19 defined in California Labor Code section 18 and California Business and Professions Code section
20 17201. Defendants admit that Defendant Leprino Foods Company is an "employer" as defined in
21 the California Labor Code and IWC's Orders regulating wages, hours and working conditions.
22 Except as so admitted and denied, Defendants lack sufficient information or knowledge to form a
23 belief as to the truth of the remaining material allegations in Paragraph 16, and on that basis deny
24 the remaining material allegations contained in Paragraph 16.

25 **FACTUAL ALLEGATIONS**

26 17. In answer to Paragraph 17 of the TAC, Defendants deny each and every material
27 allegation contained therein.

28 18. Defendants admit that Defendant Leprino Foods Company had a paid vacation

1 policy that applied to some employees at its Lemoore West plant. Defendants deny that Defendant
2 Leprino Foods Dairy Products Company employed Plaintiffs or any members of the alleged
3 putative class, and therefore Defendants deny that Defendant Leprino Foods Dairy Products
4 Company had any vacation policies applicable to Plaintiffs or members of the alleged putative
5 class. Any remaining material allegations in Paragraph 18 of the TAC not specially admitted
6 herein are denied.

7 19. In answer to Paragraph 19 of the TAC, Defendants deny each and every material
8 allegation contained therein.

9 **CLASS ACTION ALLEGATIONS**

10 20. Defendants admit that Plaintiffs purport to bring his TAC on behalf of themselves
11 and the putative class members pursuant to California Code of Civil Procedure section 382.
12 Defendants admit that Plaintiffs define the purported class that they seek to represent in their TAC
13 as "[a]ll nonexempt, hourly workers who are currently employed, or formerly have been
14 employed, as nonexempt, hourly employees at Defendants' Lemoore West Facilities in Lemoore,
15 California, at any time within four years prior to the filing of the original complaint until
16 resolution of this action." Any remaining material allegations in Paragraph 20 of the TAC not
17 specially admitted herein are denied.

18 21. Defendants are without sufficient knowledge and information to form a belief as to
19 the truth of the allegations that the purported class members are so numerous that joinder is
20 impracticable and that the exact number of putative class members is unknown to Plaintiffs, and
21 on that basis, Defendants deny these allegations. Defendants admit that the number of nonexempt
22 hourly employees who have been employed by Defendant Leprino Foods Company at its Lemoore
23 West plant, at any time within four years prior to the filing of the TAC, is less than two thousand.
24 Any remaining material allegations in Paragraph 21 of the TAC not specially admitted herein are
25 denied.

26 22. Defendants neither admit nor deny the allegations contained in Paragraph 22 of the
27 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
28 the extent an answer is required, Defendants deny each and every material allegation contained in

1 Paragraph 22 of the TAC.

2 23. In answer to Paragraph 23 of the TAC, Defendants deny each and every material
3 allegation contained therein.

4 24. In answer to Paragraph 24 of the TAC, Defendants deny each and every material
5 allegation contained therein.

6 25. Defendants admit that Plaintiffs have been employed by Defendant Leprino Foods
7 Company as nonexempt, hourly employees at Defendant Leprino Foods Company's Lemoore
8 West Facility in Lemoore, California, within four years prior to the filing of the original
9 complaint. Defendants deny that Plaintiffs have ever been employees of Defendant Leprino Foods
10 Dairy Products Company. Except as so admitted and denied, Defendants lack sufficient
11 information or knowledge to form a belief as to the truth of the remaining material allegations in
12 Paragraph 25, and on that basis deny the remaining material allegations contained in Paragraph 25.

13 26. In answer to Paragraph 26 of the TAC, Defendants deny each and every material
14 allegation contained therein.

15 **FIRST CAUSE OF ACTION**

16 [Failure to Pay Reporting Time Pay in violation of IWC Order 8-2001, Section 5 and other
17 applicable wage orders)] (Against All Defendants)

18 27. In answer to Paragraph 27 of the TAC, Defendants repeat and incorporate herein by
19 this reference each and all of the denials, admissions, and allegations set forth above in Paragraphs
20 1 through 26, as though fully set forth herein.

21 28. Defendants neither admit nor deny the allegations contained in Paragraph 28 of the
22 TAC on the basis that such allegations are legal conclusions to which no answer is required.

23 29. Defendants neither admit nor deny the allegations contained in Paragraph 29 of the
24 TAC on the basis that such allegations are legal conclusions to which no answer is required.

25 30. Defendants neither admit nor deny the allegations contained in Paragraph 30 of the
26 TAC on the basis that such allegations are legal conclusions to which no answer is required.

27 31. Defendants neither admit nor deny the allegations contained in Paragraph 31 of the
28 TAC on the basis that such allegations are legal conclusions to which no answer is required.

1 32. In answer to Paragraph 32 of the TAC, Defendants deny each and every material
2 allegation contained therein.

3 33. In answer to Paragraph 33 of the TAC, Defendants deny each and every material
4 allegation contained therein.

5 34. Defendants admit that in the TAC, Plaintiffs request relief on behalf of themselves
6 and the putative class members as provided in the TAC. Any remaining material allegations in
7 Paragraph 34 of the TAC not specially admitted herein are denied.

8 **SECOND CAUSE OF ACTION**

9 [Illegal Policy Requiring Hourly Workers to Remain On Call During Meal & Rest Periods]
10 (Against All Defendants)

11 35. In answer to Paragraph 35 of the TAC, Defendants repeat and incorporate herein by
12 this reference each and all of the denials, admissions, and allegations set forth above in Paragraphs
13 1 through 34, as though fully set forth herein.

14 36. Defendants deny that Defendant Leprino Foods Dairy Products Company employs
15 nonexempt, hourly employees in California. Defendants neither admit nor deny the remaining
16 allegations contained in Paragraph 36 of the TAC on the basis that such allegations are legal
17 conclusions to which no answer is required. To the extent an answer is required, Defendants deny
18 each and every remaining material allegation in Paragraph 36 of the TAC.

19 37. Defendants neither admit nor deny the allegations contained in Paragraph 37 of the
20 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
21 the extent an answer is required, Defendants deny each and every material allegation in Paragraph
22 37 of the TAC.

23 38. In answer to Paragraph 38 of the TAC, Defendants deny each and every material
24 allegation contained therein.

25 39. Defendants admit that in the TAC, Plaintiffs request relief on behalf of themselves
26 and the putative class members as provided in the TAC. Any remaining material allegations in
27 Paragraph 39 of the TAC not specially admitted herein are denied.

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THIRD CAUSE OF ACTION

[Failure to Properly Itemize Pay Stubs in Violation of California Labor Code §§226(a) and 226(e)]
(Against All Defendants)

40. In answer to Paragraph 40 of the TAC, Defendants repeat and incorporate herein by this reference each and all of the denials, admissions, and allegations set forth above in Paragraphs 1 through 39, as though fully set forth herein.

41. Defendants neither admit nor deny the allegations contained in Paragraph 41 of the TAC on the basis that such allegations are legal conclusions to which no answer is required.

42. In answer to Paragraph 42 of the TAC, Defendants deny each and every material allegation contained therein.

43. In answer to Paragraph 43 of the TAC, Defendants deny each and every material allegation contained therein.

44. Defendants neither admit nor deny the allegations contained in Paragraph 44 of the TAC on the basis that such allegations are legal conclusions to which no answer is required. To the extent an answer is required, Defendants deny each and every material allegation contained in Paragraph 44 of the TAC.

FOURTH CAUSE OF ACTION

[Failure to Pay Minimum Wages] (Against All Defendants)

45. In answer to Paragraph 45 of the TAC, Defendants repeat and incorporate herein by this reference each and all of the denials, admissions, and allegations set forth above in Paragraphs 1 through 44, as though fully set forth herein.

46. Defendants admit and allege that Plaintiffs were employed by Defendant Leprino Foods Company as nonexempt, hourly employees at Defendant Leprino Foods Company's Lemoore West Facility in Lemoore, California, within four years prior to the filing of the original complaint. Defendants deny that Defendant Leprino Foods Dairy Products Company employed Plaintiffs or putative class members in California. On information and belief, Defendants admit that Defendant Leprino Foods Company has employed members of the putative class at Defendant Leprino Foods Company's Lemoore West Facility in Lemoore, California, within four years prior

1 to the filing of the original complaint.

2 47. In answer to Paragraph 47 of the TAC, Defendants deny each and every material
3 allegation contained therein.

4 48. Defendants admit that Defendant Leprino Foods Company was and is obligated to
5 pay its employees in California, including Plaintiffs and the putative class members, at least the
6 minimum wage required by state law for all hours worked. Defendants admit and allege that the
7 minimum wage required by state law in California was \$8.00 per hour from January 1, 2008 until
8 July 1, 2014, that on July 1, 2014, the minimum wage required by state law increased to \$9.00 per
9 hour, that on January 1, 2016, the minimum wage required by state law increased to \$10.00 per
10 hour, that on January 1, 2017, the minimum wage required by state law increased to \$10.50 per
11 hour, and that on January 1, 2018, the minimum wage required by state law increased to \$11.00
12 per hour. Defendants deny each and every material allegation remaining in Paragraph 48 of the
13 TAC.

14 49. Defendants neither admit nor deny the allegations contained in Paragraph 49 of the
15 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
16 the extent an answer is required, Defendants lack sufficient knowledge or information to respond
17 to the allegations in Paragraph 49 of the TAC, and on that basis, deny each and every material
18 allegation contained therein.

19 50. Defendants neither admit nor deny the allegations contained in Paragraph 50 of the
20 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
21 the extent an answer is required, Defendants lack sufficient knowledge or information to respond
22 to the allegations in Paragraph 50 of the TAC, and on that basis, deny the material allegations
23 contained therein.

24 51. Defendants neither admit nor deny the allegations contained in Paragraph 51 of the
25 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
26 the extent an answer is required, Defendants lack sufficient knowledge or information to respond
27 to the allegations in Paragraph 51 of the TAC, and on that basis, deny the material allegations
28 contained therein.

1 52. Defendants admit that in the TAC, Plaintiffs request relief on behalf of themselves
2 and the putative class members as provided in the TAC. Defendants deny each and every material
3 allegation remaining in Paragraph 52 of the TAC.

4 **FIFTH CAUSE OF ACTION**

5 [Failure to Compensate for All Hours Worked] (Against All Defendants)

6 53. In answer to Paragraph 53 of the TAC, Defendants repeat and incorporate herein by
7 this reference each and all of the denials, admissions, and allegations set forth above in Paragraphs
8 1 through 52, as though fully set forth herein.

9 54. Defendants neither admit nor deny the allegations contained in Paragraph 54 of the
10 TAC on the basis that such allegations are legal conclusions to which no answer is required.

11 55. In answer to Paragraph 55 of the TAC, Defendants deny each and every material
12 allegation contained therein.

13 56. In answer to Paragraph 56 of the TAC, Defendants deny each and every material
14 allegation contained therein.

15 57. In answer to Paragraph 57 of the TAC, Defendants deny each and every material
16 allegation contained therein.

17 58. Defendants neither admit nor deny the allegations contained in Paragraph 58 of the
18 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
19 the extent an answer is required, Defendants lack sufficient knowledge or information to respond
20 to the material allegations in Paragraph 58 of the TAC, and on that basis, deny the material
21 allegations contained therein.

22 59. Defendants admit that in the TAC, Plaintiffs request relief on behalf of themselves
23 and the putative class members as provided in the TAC. Defendants deny each and every material
24 allegation remaining in Paragraph 59 of the TAC.

25 **SIXTH CAUSE OF ACTION**

26 [Failure to Pay Overtime Wages] (Against All Defendants)

27 60. In answer to Paragraph 60 of the TAC, Defendants repeat and incorporate herein by
28 this reference each and all of the denials, admissions, and allegations set forth above in Paragraphs

1 1 through 59, as though fully set forth herein.

2 61. Defendants neither admit nor deny the allegations contained in Paragraph 61 of the
3 TAC on the basis that such allegations are legal conclusions to which no answer is required.

4 62. Defendants neither admit nor deny the allegations contained in Paragraph 62 of the
5 TAC on the basis that such allegations are legal conclusions to which no answer is required.

6 63. Defendants neither admit nor deny the allegations contained in Paragraph 63 of the
7 TAC on the basis that such allegations are legal conclusions to which no answer is required.

8 64. Defendants neither admit nor deny the allegations contained in Paragraph 64 of the
9 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
10 the extent an answer is required, Defendants lack sufficient knowledge or information to respond
11 to the remaining allegations in Paragraph 64 of the TAC, and on that basis, deny the material
12 allegations contained therein.

13 65. In answer to Paragraph 65 of the TAC, Defendants deny each and every material
14 allegation contained therein.

15 66. In answer to Paragraph 66 of the TAC, Defendants deny each and every material
16 allegation contained therein.

17 67. In answer to Paragraph 67 of the TAC, Defendants deny each and every material
18 allegation contained therein.

19 68. Defendants admit that in the TAC, Plaintiffs request relief on behalf of themselves
20 and the putative class members as provided in the TAC. Defendants deny each and every material
21 allegation remaining in Paragraph 68 of the TAC.

22 **SEVENTH CAUSE OF ACTION**

23 [Unpaid Wages and Waiting Time Penalties Pursuant to Labor Code §§201-203]
24 (Against All Defendants)

25 69. In answer to Paragraph 69 of the TAC, Defendants repeat and incorporate herein by
26 this reference each and all of the denials, admissions, and allegations set forth above in Paragraphs
27 1 through 68, as though fully set forth herein.

28 70. Defendants neither admit nor deny the allegations contained in Paragraph 70 of the

1 TAC on the basis that such allegations are legal conclusions to which no answer is required.

2 71. Defendants neither admit nor deny the allegations contained in Paragraph 71 of the
3 TAC on the basis that such allegations are legal conclusions to which no answer is required.

4 72. Defendants neither admit nor deny the allegations contained in Paragraph 72 of the
5 TAC on the basis that such allegations are legal conclusions to which no answer is required.

6 73. Defendants deny that Defendant Leprino Foods Dairy Products Company
7 employed Plaintiff or putative class members. Defendants deny that Defendants have willfully
8 refused, and continue to refuse, to pay putative class members all the wages that were due and
9 owing them upon the end of their employment with Defendant Leprino Foods Company. As for
10 the remaining allegations in Paragraph 73 of the TAC, Defendants lack sufficient information or
11 knowledge to respond to the allegations, and on that basis, deny each and every remaining
12 material allegation.

13 74. Defendants neither admit nor deny the allegations contained in Paragraph 74 of the
14 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
15 the extent an answer is required, Defendants deny each and every material allegation contained in
16 Paragraph 74 of the TAC.

17 75. Defendants neither admit nor deny the allegations contained in Paragraph 75 of the
18 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
19 the extent an answer is required, Defendants deny each and every material allegation contained in
20 Paragraph 75 of the TAC.

21 76. In answer to Paragraph 76 of the TAC, Defendants deny each and every material
22 allegation contained therein.

23 77. Defendants admit that in the TAC, Plaintiff requests relief on behalf of himself and
24 the putative class members as provided in the TAC. Defendants deny each and every material
25 allegation remaining in Paragraph 77 of the TAC.

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EIGHTH CAUSE OF ACTION

[Violation of California Business and Professions Code §§17200, et seq.]
(Against All Defendants)

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4 78. In answer to Paragraph 78 of the TAC, Defendants repeat and incorporate herein by
5 this reference each and all of the denials, admissions, and allegations set forth above in Paragraphs
6 1 through 77, as though fully set forth herein.

7 79. Defendants neither admit nor deny the allegations contained in Paragraph 79 of the
8 TAC on the basis that such allegations are legal conclusions to which no answer is required.

9 80. Defendants neither admit nor deny the allegations contained in Paragraph 80 of the
10 TAC on the basis that such allegations are legal conclusions to which no answer is required.

11 81. Defendants neither admit nor deny the allegations contained in Paragraph 81 of the
12 TAC on the basis that such allegations are legal conclusions to which no answer is required.

13 82. In answer to Paragraph 82 of the TAC, Defendants deny each and every material
14 allegation contained therein.

15 83. Defendants neither admit nor deny the allegations contained in Paragraph 83 of the
16 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
17 the extent an answer is required, Defendants deny each and every material allegation contained in
18 Paragraph 83 of the TAC.

19 84. Defendants neither admit nor deny the allegations contained in Paragraph 84 of the
20 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
21 the extent an answer is required, Defendants deny each and every material allegation contained in
22 Paragraph 84 of the TAC.

23 85. Defendants neither admit nor deny the allegations contained in Paragraph 85 of the
24 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
25 the extent an answer is required, Defendants deny each and every material allegation contained in
26 Paragraph 85 of the TAC.

27 86. In answer to Paragraph 86 of the TAC, Defendants deny each and every material
28 allegation contained therein.

1 87. Defendants neither admit nor deny the allegations contained in Paragraph 87 of the
2 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
3 the extent an answer is required, Defendants deny each and every material allegation contained in
4 Paragraph 87 of the TAC.

5 88. Defendants neither admit nor deny the allegations contained in Paragraph 88 of the
6 TAC on the basis that such allegations are legal conclusions to which no answer is required. To
7 the extent an answer is required, Defendants deny each and every material allegation contained in
8 Paragraph 88 of the TAC.

9 89. Defendants admit that in the TAC, Plaintiffs purport to seek, on behalf of
10 themselves and the putative class members, alleged unpaid wages, declaratory and injunctive
11 relief, and all other equitable remedies allegedly owing to them as provided in the TAC. Any
12 remaining material allegations in Paragraph 89 of the TAC not specially admitted herein are
13 denied.

14 90. Defendants admit that Plaintiffs purport to bring the TAC on behalf of themselves
15 and the putative class members as provided in the TAC. Defendants lack sufficient knowledge or
16 information to respond to the allegation that there is a financial burden involved in pursuing this
17 action, and on that basis, deny this allegation. Any remaining material allegations in Paragraph 90
18 of the TAC not specially admitted herein are denied.

19 91. Defendants admit that in the TAC, Plaintiffs request relief on behalf of themselves
20 and the putative class members as provided in the TAC. Any remaining material allegations in
21 Paragraph 91 of the TAC not specially admitted herein are denied.

22 **SEPARATE AND AFFIRMATIVE DEFENSES**

23 Defendants assert the following separate and affirmative defenses to Plaintiffs' Complaint:

24 **FIRST DEFENSE**

25 Plaintiffs' TAC does not allege facts sufficient to state a claim upon which relief may be
26 granted.

27 **SECOND DEFENSE**

28 Plaintiffs' and the alleged putative class's claims are barred, in whole or in part, to the

1 extent they allege actions barred by the applicable statutes of limitations, including but not limited
2 to those set forth in California Code of Civil Procedure Sections 337, 338, 339 and 340, California
3 Labor Code sections 203, and 226, and California Business and Professions Code Section 17208.

4 **THIRD DEFENSE**

5 Plaintiffs' and the alleged putative class's claims are barred to the extent that Defendants
6 acted in accordance with the applicable law, state regulations, and applicable order of the
7 California Industrial Welfare Commission in effect during the relevant time periods.

8 **FOURTH DEFENSE**

9 Plaintiffs' and the alleged putative class's claims are barred, in whole or in part, and/or
10 recovery is precluded because Defendants' alleged acts or omissions, if any, were made in good
11 faith, not willful, not knowing and intentional, and Defendants had reasonable grounds for
12 believing that the alleged acts or omissions did not violate any California Labor Code provision or
13 any orders of the California Industrial Welfare Commission.

14 **FIFTH DEFENSE**

15 Plaintiffs' and the alleged putative class's claims are barred by the principles of fairness and
16 public policy relating to changes in the law upon which Defendants relied during the relevant time
17 periods.

18 **SIXTH DEFENSE**

19 Plaintiffs' and the alleged putative class's claims are barred to the extent that the nature of
20 the work prevented Plaintiffs or any putative class members from taking any off-duty meal periods
21 during the relevant time periods.

22 **SEVENTH DEFENSE**

23 Plaintiffs' and the alleged putative class's claims are barred to the extent that Plaintiffs lack
24 standing.

25 **EIGHTH DEFENSE**

26 Plaintiffs' and the alleged putative class's claims are barred, in whole or in part, to the
27 extent that Plaintiffs or any alleged putative class members pursued any claim before the
28 California Labor Commissioner, Division of Labor Standards Enforcement, or the United States

1 Department of Labor.

2 **NINTH DEFENSE**

3 Plaintiffs' and the alleged putative class's claims are barred, in whole or in part, by the
4 doctrines of res judicata, collateral estoppel, or the doctrine barring duplicative litigation, to the
5 extent that Plaintiffs or any alleged putative class member has asserted or could have asserted the
6 same or similar claims in this judicial forum, or in any other judicial, administrative, or arbitral
7 forum.

8 **TENTH DEFENSE**

9 Plaintiffs' and the alleged putative class's claims are barred in whole or in part by the
10 doctrine of consent.

11 **ELEVENTH DEFENSE**

12 Plaintiffs' and the alleged putative class's claims are barred, in whole or in part, by the
13 doctrines of waiver and/or estoppel.

14 **TWELFTH DEFENSE**

15 Plaintiffs' and the alleged putative class's claims are barred, in whole or in part, by the
16 doctrine of laches and/or unclean hands.

17 **THIRTEENTH DEFENSE**

18 Plaintiffs' and the alleged putative class's claims are barred, in whole or in part, to the
19 extent that they failed to make reasonable efforts to mitigate their damages, if any.

20 **FOURTEENTH DEFENSE**

21 Any request for equitable relief is moot in that conduct and activities of Defendants
22 conform to applicable law, state regulations, and applicable order of the California Welfare
23 Commission.

24 **FIFTEENTH DEFENSE**

25 The claims for monetary relief or restitution by Plaintiffs or any alleged putative class
26 members are barred and subject to offset, in whole or in part, to the extent that the same or similar
27 claims are governed by orders, awards, or judgments issued in any other judicial, administrative,
28 or arbitral forum.

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SIXTEENTH DEFENSE

Plaintiffs' and the alleged putative class's claims are barred in whole or in part to the extent that they were parties to any settlement agreements, releases, or waivers of claims.

SEVENTEENTH DEFENSE

Plaintiffs' and the alleged putative class's claims for monetary relief or restitution are barred and subject to offset, in whole or in part, to the extent that Plaintiffs or any alleged putative class member has received premium pay for any on-duty meal periods or any payments under Labor Code Section 226.7.

EIGHTEENTH DEFENSE

Plaintiffs' and the alleged putative class's claims for monetary relief or restitution are barred and subject to offset, in whole or in part, to the extent that Plaintiffs or any alleged putative class member has received premium pay for any on-duty rest periods or any payments under Labor Code Section 226.7.

NINETEENTH DEFENSE

Plaintiffs' and the alleged putative class's claims for penalties under Labor Code Section 203 are barred based on a good faith dispute as to whether any claimed premium pay was owed, and Defendants' acts or omissions, if any, were not willful.

TWENTIETH DEFENSE

Plaintiffs' and the alleged putative class's claims are barred, in whole or in part, to the extent that Plaintiffs and putative class members worked pursuant to on-duty meal period agreements that they executed individually.

TWENTY-FIRST DEFENSE

Plaintiffs' and the alleged putative class's claims are barred, in whole or in part, to the extent that Plaintiffs and putative class members voluntarily waived their off-duty meal periods, including for workdays in which they worked six hours or less, and for workdays in which they worked more than ten and no more than twelve hours.

TWENTY-SECOND DEFENSE

Plaintiffs' and the alleged putative class's claims are barred, in whole or in part, because

1 Defendants have at all times acted reasonably and in good faith with respect to their obligations
2 under Labor Code Section 226 to make, keep, and preserve adequate and accurate records of
3 covered employees and the wages, hours, and other conditions and practices of employment,
4 Plaintiffs and the alleged putative class members did not suffer any injury within the meaning of
5 Labor Code Section 226, and Defendants' alleged acts or omissions, if any, were not knowing and
6 not intentional.

7 **TWENTY-THIRD DEFENSE**

8 Plaintiffs' claims are barred in whole or in part to the extent that certain of the interests of
9 the members of the putative class Plaintiffs seek to represent may be in conflict with the interests
10 of other putative class members.

11 **TWENTY-FOURTH DEFENSE**

12 Plaintiffs' claims are barred, in whole or in part, because the claims alleged by Plaintiffs
13 are neither common nor typical of those, if any, of the putative class they seek to represent.

14 **TWENTY-FIFTH DEFENSE**

15 Plaintiffs' claims are barred, in whole or in part, because Plaintiffs fail to satisfy the
16 prerequisites for class certification and lack standing under Business and Professions Code §
17 17204, the California Labor Code, and Article III of the United States Constitution, to bring these
18 claims and cannot represent the interest of the putative class members as to each of the purported
19 causes of action.

20 **TWENTY-SIXTH DEFENSE**

21 Defendant Leprino Foods Dairy Products Company alleges that Plaintiffs' claims are
22 barred, in whole or in part, because at all material times Defendant Leprino Foods Dairy Products
23 Company did not employ Plaintiffs, was not a single employer or joint employer of Plaintiffs, and
24 was not an alter ego of Defendant Leprino Foods Company.

25 **RESERVATION OF RIGHTS**

26 Defendants reserve their right to assert additional separate or affirmative defenses if
27 Defendants become aware of the existence of such defenses arising during the course of discovery.


28 WHEREFORE, Defendants pray as follows:

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1. That Plaintiffs take nothing by this action;
2. That judgment be entered in Defendants' favor;
3. That Defendants recover costs in this proceeding, including reasonable attorneys' fees; and
4. That the Court grant such other and further relief as it deems appropriate.

DATED: February 12, 2019

HANSON BRIDGETT LLP

By: 
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LISA M. POOLEY
MOLLY L. KABAN
Attorneys for Defendants
LEPRINO FOODS COMPANY AND LEPRINO
FOODS DAIRY PRODUCTS COMPANY