

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

ADAN LOPEZ, FRANCISCO MENDEZ, EZEQUIEL)
ABURTO-HERNANDEZ, ELENA RAFAEL-PERALTA,)
JOSÉ PABLO SANDOVAL-MONTALVO, JOSÉ)
JIMENEZ-OLIVAREZ, ALEJANDRO MARTINEZ-)
MENDEZ, FRANCISCO PALACIOS-HERNANDEZ,)
HUMBERTO DE LA LUZ ARMENTA, and ISAIAS)
ESPINOSA-VAZQUEZ, on behalf of them-)
selves and other similarly situated)
persons,)

Plaintiffs,)

v.)

HAM FARMS, LLC f/k/a HAM FARMS, INC.,)
HAM PRODUCE, LLC f/k/a HAM PRODUCE)
COMPANY, INC., ISMAEL PACHECO, PACHECO)
CONTRACTORS, INC., HUGO MARTINEZ,)
GUTIERREZ HARVESTING, LLC, ROBERTO)
TORRES-LOPEZ, 5 G HARVESTING, LLC,)
RODRIGO GUTIERREZ-TAPIA, SR., CIRILA)
GARCIA-PINEDA, BLADIMIR MORENO, and)
LOS VILLATOROS HARVESTING, LLC,)

Defendants.)

AMENDED
COMPLAINT

CLASS ACTION

Civil Action No.:
5:17-CV-00329-D

I. PRELIMINARY STATEMENT

1. This is a collective and class action pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 206, 207 and 216(b); the Migrant and Seasonal Agricultural Worker Protection Act ("AWPA"), 29 U.S.C. §§ 1801 *et seq.*; the common law of contracts; and the North Carolina Wage and Hour Act ("NCWHA"), N.C.Gen.Stat. §§95-25.1 *et seq.* The Plaintiffs are ten (10) former employees of a closely held farming enterprise consisting of two limited liability companies that were originally formed

as corporate entities: defendants Ham Farms, LLC (hereinafter referred to as Ham Farms) and Ham Produce Company, LLC (hereinafter referred to as Ham Produce). The Plaintiffs are also former employees of farm labor contractor corporate or business entities and individuals that over the course of the 2015, 2016, and 2017 agricultural seasons in eastern North Carolina furnished Ham Farms and Ham Produce with migrant, seasonal, and/or H-2A agricultural workers and other workers that Ham Farms and Ham Produce jointly employed with one or more of those farm labor contractors in those same seasons. The ten (10) farm labor contractor defendants are: Rodrigo Gutierrez-Tapia, Sr. (hereinafter referred to as RGT), Gutierrez Harvesting, LLC (hereinafter referred to as G, LLC), 5 G Harvesting, LLC (hereinafter referred to as 5 G, LLC), Roberto Torres-Lopez (hereinafter referred to as Torres), Ismael Pacheco (hereinafter referred to as Ismael), Pacheco Contractors, Inc. (hereinafter referred to as Pacheco, Inc.), Hugo Martinez (hereinafter referred to as Martinez), Cirila Garcia-Pineda (hereinafter referred to as Garcia), Bladimir Moreno (hereinafter referred to as Moreno) and Los Villatoros Harvesting, LLC (hereinafter referred to as Villatoros).

2. Plaintiffs and the members of the classes and collective actions of workers they seek to represent pursue claims for promised but unpaid wages at the overtime and/or the minimum rate required by the FLSA, promised wages disclosed pursuant to the NCWHA, liquidated damages under the FLSA and NCWHA, and the failure to pay all wages when due and other related violations of the Migrant and Seasonal Agricultural Worker

Protection Act (AWPA and the NCWHA).

2A. Based upon their claims under 29 U.S.C. §§ 206 and 207 of the FLSA, §§ 95-25.13(1)-(2) and 95-25.6 of the NCWHA, 29 U.S.C. §§ 1821-1822 of the AWPA, and the common law of contracts, the named Plaintiffs and the group of workers they seek to represent seek payment of back wages and an equal amount of liquidated damages, statutory damages, and attorney fees, interest, and costs under 29 U.S.C. §§ 216(b) and 1854(c)(1), and N.C.Gen.Stat. §§95-25.22(a), (a1), and (d).

II. JURISDICTION

3. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§1331 and 1337, 29 U.S.C. § 216(b) and 1854(a), and 28 U.S.C. §1367(a).

4. This Court has the power to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

III. VENUE

5. Venue over this action lies in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1391(c), and 29 U.S.C. §§ 216(b) and 1854(a). At all times relevant to this action continuing through the present date, the principal place of all of the corporate or business entity defendants other than G, LLC, 5 G, LLC, and Villatoros is and has been located in one or more counties named in 28 U.S.C. § 113(a), and all of the events or omissions giving rise to this action occurred in one or more of the counties listed in 28 U.S.C. § 113(a).

IV. NAMED PLAINTIFFS

6. In 2015, named Plaintiffs Adan Lopez, Francisco Mendez, and

Alejandro Martinez-Mendez were migrant agricultural workers who were furnished by farm labor contractors Pacheco and Pacheco's dissolved corporate entity, Pacheco, Inc., to Ham Farms to harvest sweet potatoes by hand. These Plaintiffs performed "corresponding employment" (as that term is defined in the version of the H-2A regulations, 20 C.F.R. § 655.103(b), that existed as of the date this action was filed) in and around Greene County, North Carolina for at least four (4) workweeks in July and August 2015. Also in 2015, Plaintiff Ezequiel Aburto-Hernandez worked as a migrant agricultural worker who was furnished by farm labor contractor Garcia to Ham Farms to harvest sweet potatoes by hand in "corresponding employment" (as that term is defined in the version of the H-2A regulations, 20 C.F.R. § 655.103(b), that existed as of the date this action was filed) in and around Greene County, North Carolina for at least twelve (12) workweeks in August, September, October, and November 2015. During all of those same workweeks in 2015, those same four (4) named Plaintiffs were jointly employed in 2015 to harvest sweet potatoes by hand in "corresponding employment" (as that term is defined in the version of the H-2A regulations, 20 C.F.R. § 655.103(b), that existed as of the date this action was filed) by Garcia and Ham Farms in the enterprise that Ham Farms has operated and continues to operate in and around Greene County, North Carolina from at least January 1, 2014 through the present date within the meaning of 29 U.S.C. §§ 203(d), 203(g), and 203(s)(1)(A)(i)-(ii), and N.C.Gen.Stat. §§ 95-25.2(3) and 95-25.2(18), to grow, harvest and produce sweet potatoes.

7. In 2016, Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez and Ezequiel Aburto-Hernandez worked again as migrant agricultural workers, though in this year all four (4) were furnished by farm labor contractor Garcia. Again, these Plaintiffs were furnished to and worked for Ham Farms to harvest sweet potatoes by hand in "corresponding employment" (as that term is defined in the version of the H-2A regulations, 20 C.F.R. § 655.103(b), that existed as of the date this action was filed) in and around Greene County, North Carolina for at least eight (8) workweeks in August, September, October, and/or November, 2016. During all of those same workweeks in 2016, all of these same Plaintiffs were jointly employed in 2016 by Garcia and Ham Farms to harvest sweet potatoes by hand in "corresponding employment" (as that term is defined in the version of the H-2A regulations, 20 C.F.R. § 655.103(b), that existed as of the date this action was filed) by Garcia and Ham Farms in the enterprise that Ham Farms operated and continues to operate in and around Greene County, North Carolina from at least January 1, 2014 through the present date within the meaning of 29 U.S.C. §§ 203(d), 203(g), and 203(s)(1)(A)(i)-(ii) and N.C.Gen.Stat. §§ 95-25.2(3) and 95-25.2(18) to grow, harvest and produce sweet potatoes.

8. In 2015, Plaintiff Elena Rafael-Peralta was an H-2A worker with an H-2A visa issued pursuant to 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(c), and 1188(a)(1) who was jointly furnished by farm labor contractors Torres, and the father-in-law of Torres, farm labor contractor Ismael, and the dissolved corporate entity, Pacheco, Inc., operated by Ismael, to Ham

Farms to harvest sweet potatoes by hand in and around Greene County, North Carolina for at least twelve (12) workweeks from the workweek ending on or about July 3, 2015 through one or more workweeks ending in or about November 2015. During all of those same workweeks, that same Plaintiff was jointly employed by Torres, Pacheco, Ismael, and Ham Farms with an H-2A visa issued pursuant to 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(c), and 1188(a)(1). Those same defendants arranged for this Plaintiff and other H-2A workers to harvest sweet potatoes by hand for the enterprise that Ham Farms has operated and continues to operate in and around Greene County, North Carolina from at least January 1, 2014 through the present date within the meaning of 29 U.S.C. §§ 203(d), 203(g), and 203(s)(1)(A)(i)-(ii), N.C.Gen.Stat. §§ 95-25.2(3) and 95-25.2(18), and 20 C.F.R. §§ 655.103(b) and 655.1300(c) to grow, harvest and produce sweet potatoes.

9. In 2015, Plaintiffs José Jimenez-Olivares and Francisco Palacios-Hernandez were H-2A workers with H-2A visas issued pursuant to 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(c), and 1188(a)(1) who were furnished by farm labor contractors RGT and G, LLC to Ham Farms to harvest sweet potatoes by hand in and around Greene County, North Carolina for varying time periods ranging from approximately a week to approximately 12 weeks in or about June or July 2015 through one or more workweeks ending on or about November 25, 2015. During all of those same workweeks, one or more of those same Plaintiffs was jointly employed by RGT and/or G LLC and Ham Farms to harvest sweet potatoes by hand for all of those same

persons and entities in the enterprise of defendant Ham Farms that Ham Farms has operated and continues to operate in and around Greene County, North Carolina from at least January 1, 2014 through the present date within the meaning of 29 U.S.C. §§ 203(d), 203(g), and 203(s)(1)(A)(i)-(ii), N.C.Gen.Stat. §§ 95-25.2(3) and 95-25.2(18), and 20 C.F.R. §§ 655.103(b) and 655.1300(c) to grow, harvest and/or produce sweet potatoes.

10. In 2016, Plaintiff José Pablo Sandoval-Montalvo was an H-2A worker with an H-2A visa issued pursuant to 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(c), and 1188(a)(1) who was furnished by farm labor contractors RGT and 5 G, LLC to Ham Farms to harvest sweet potatoes by hand in and around Greene County, North Carolina for varying time periods ranging from approximately 4 weeks from October 2016 through the middle of November 2016. Before that H-2A work in North Carolina, RGT and 5 G, LLC furnished this Plaintiff in 2016 to a series of agricultural employers outside of North Carolina, such as Georgia and Mississippi, to perform H-2A work in which the Adverse Effect Wage Rate ("AEWR") required by the H-2A regulations found at 20 C.F.R. §§ 655.120(a) and 655.122(1) to be paid to an H-2A worker in those states was a lower hourly rate than that required to be paid in North Carolina. During all of those same workweeks, this same Plaintiff was jointly employed by RGT and/or 5 G, LLC and Ham Farms to harvest sweet potatoes by hand for the enterprise that Ham Farms has operated and continues to operate in and around Greene County, North Carolina from at least January 1, 2014 through the present date within the meaning of 29 U.S.C. §§ 203(d), 203(g), and

203(s)(1)(A)(i)-(ii), N.C.Gen.Stat. §§ 95-25.2(3) and 95-25.2(18), and 20 C.F.R. §§ 655.103(b) and 655.1300(c) to grow, harvest and/or produce sweet potatoes.

10A. In 2016 and 2017, Plaintiff Isaias Espinosa-Vazquez was an H-2A worker with an H-2A visa issued pursuant to 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(c), and 1188(a)(1) furnished by farm labor contractor Moreno doing business as Villatoros to Ham Farms to harvest sweet potatoes by hand in and around Greene County, North Carolina. Defendants Moreno and Villatoros furnished this named Plaintiff and the other H-2A workers that Moreno and Villatoros furnished to Ham Farms for, upon information and belief, seven (7) days per week for approximately 10-12 workweeks in the time period from in or about September or October 2016 through at least the end of January 2017. During all of those same workweeks, this same Plaintiff and those other H-2A workers were jointly employed by defendants Moreno and/or Villatoros and Ham Farms to harvest sweet potatoes by hand for the enterprise that Ham Farms has operated and continues to operate in and around Greene County, North Carolina from at least January 1, 2014 through the present date within the meaning of 29 U.S.C. §§ 203(d), 203(g), and 203(s)(1)(A)(i)-(ii), N.C.Gen.Stat. §§ 95-25.2(3) and 95-25.2(18), and 20 C.F.R. §§ 655.103(b) and 655.1300(c) to grow, harvest and/or produce sweet potatoes.

11. In December 2016 and January 2017, Plaintiff Ezequiel Aburto-Hernandez was furnished by farm labor contractor Martinez to defendant Ham Produce. Martinez and Ham Produce jointly employed this Plaintiff to

process and pack sweet potatoes in the sweet potato packing and processing house operated by Ham Produce.

11A. In 2017, Plaintiff Humberto De La Luz Armenta was an H-2A worker with an H-2A visa issued pursuant to 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(c), and 1188(a)(1) who was furnished by farm labor contractor Rivera doing business as JRH, LLC to Ham Farms to harvest sweet potatoes by hand in and around Greene County, North Carolina. Rivera and JRH, LLC furnished this named Plaintiff and other H-2A workers to Ham Farms for, upon information and belief, seven (7) days per week for approximately nine (9) workweeks in the time period from in or about September 20, 2017 through on or about November 15, 2017. During all of those same workweeks, this same Plaintiff and those other H-2A workers were jointly employed by Rivera, JRH, LLC, and Ham Farms to harvest sweet potatoes by hand for the enterprise that Ham Farms has operated and continues to operate in and around Greene County, North Carolina from at least January 1, 2014 through the present date within the meaning of 29 U.S.C. §§ 203(d), 203(g), and 203(s)(1)(A)(i)-(ii), N.C.Gen.Stat. §§ 95-25.2(3) and 95-25.2(18), and 20 C.F.R. §§ 655.103(b) and 655.1300(c) to grow, harvest and/or produce sweet potatoes.

11B. In 2017, Plaintiff Francisco Palacios-Hernandez again obtained an H-2A visa issued pursuant to 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(c), and 1188(a)(1), and was furnished again as an H-2A worker by farm labor contractors RGT and 5 G, LLC to Ham Farms to pull weeds in the fields of Ham Farms and to hand harvest the sweet potatoes of Ham Farms in and

around Greene County, North Carolina for varying time periods ranging from approximately one week in or about June 2017 (in the time period immediately after his arrival in North Carolina directly from Mexico) to approximately five weeks again from early to mid-October 2017, through the workweek ending on or about the middle or end of November 2017. During all of those same workweeks, that same Plaintiff was jointly employed by RGT and/or 5 G, LLC and Ham Farms to harvest sweet potatoes by hand for the enterprise that Ham Farms has operated and continues to operate in and around Greene County, North Carolina from at least January 1, 2014 through the present date within the meaning of 29 U.S.C. §§ 203(d), 203(g), and 203(s)(1)(A)(i)-(ii), N.C.Gen.Stat. §§ 95-25.2(3) and 95-25.2(18), and 20 C.F.R. §§ 655.103(b) and 655.1300(c) to grow, harvest and produce sweet potatoes.

V. DEFENDANTS

12. Defendant Ham Farms is a limited liability company organized under the laws of the State of North Carolina and formerly organized as a corporation under the laws of the State of North Carolina in 1985. Bobby Glenn Ham, 963 U.S. Highway 258 South, Snow Hill, North Carolina 28580, is its registered agent for service of process.

13. In each of the calendar years 2014, 2015, 2016, 2017, and 2018 to date, defendant Ham Farms was and is a business entity, limited liability company, or corporation "engaged in commerce or in the production of goods for commerce" within the meaning of the FLSA, 29 U.S.C. §203(s)(1)(A), as in each of those same calendar years defendant Ham Farms

had:

(a) employees who handled, sold or otherwise worked on goods or materials that had been moved in or produced for interstate commerce by another person, corporation, or partnership; and

(b) annual gross volume of sales made or business done of not less than \$500,000 (exclusive of excise taxes at the retail level that were separately stated).

14. In each of the calendar years 2014, 2015, 2016, 2017, and 2018 to date, defendant Ham Farms was and is an "agricultural employer" as that term is defined in the presently-effective version of the AWPA, 29 U.S.C. § 1802(2).

15. In each of the calendar years 2014, 2015, 2016, 2017, and 2018 to date, defendant Ham Farms was and is an employer as defined by the H-2A regulations, 20 C.F.R. § 655.103(b), of the H-2A workers and workers in "corresponding employment" that performed agricultural work in fields owned or controlled by defendant Ham Farms. Defendant Ham Farms had a place of business in the United States, a means to be contacted for employment, the ability to control the work of the H-2A workers and workers in "corresponding employment," and had a valid Federal Employer Identification Number.

16. Defendant Ham Produce is a limited liability company organized under the laws of the State of North Carolina and formerly organized as a corporation under the laws of the State of North Carolina in 1991. Bobby Glenn Ham, 963 U.S. Highway 258 South, Snow Hill, North Carolina 28580,

is its registered agent for service of process.

17. In each of the calendar years 2014, 2015, 2016, 2017, and 2018 to date, defendant Ham Produce was and is a business entity, limited liability company, or corporation "engaged in commerce or in the production of goods for commerce" within the meaning of the FLSA, 29 U.S.C. §203(s)(1)(A), as in each of those same calendar years defendant Ham Produce had:

(a) employees who handled, sold or otherwise worked on goods or materials that had been moved in or produced for interstate commerce by another person, corporation, or partnership; and

(b) annual gross volume of sales made or business done of not less than \$500,000 (exclusive of excise taxes at the retail level that were separately stated).

18. As part of the business entity described in ¶17 above, in both calendar years 2016 and 2017, defendant Ham Produce operated a sweet potato packing house in or near Greene County, North Carolina in which Ham Produce employed or jointly employed workers to process and/or pack sweet potatoes that had been grown by some person or business entity other than Ham Produce and Ham Farms.

19. Defendant G, LLC is a limited liability company organized under the laws of the State of Florida in November 2014. Defendant Rodrigo Manuel Gutierrez-Tapia, Sr., 3764 East Main Street, Wauchula, FL 33873, is its registered agent for service of process.

20. Defendant 5 G LLC is a limited liability company organized

under the laws of the State of Florida in November 2015. Defendant Rodrigo Manuel Gutierrez-Tapia, Sr., 5105 Minor Avenue, Bowling Green, FL 33834, is its registered agent for service of process.

21. Defendant Pacheco, Inc. is a corporation organized under the laws of the State of North Carolina in September 1999. Defendant Ismael Pacheco, P.O. Box 311, 212 Hill Street, Warsaw, North Carolina 28398, is its registered agent for service of process. Pursuant to N.C.Gen.Stat. § 55-14-21, the North Carolina Secretary of State administratively dissolved Pacheco, Inc. for its failure to file an annual report effective as of that date. In addition, by notice given in September 2006, the North Carolina Department of Revenue suspended Pacheco, Inc. for its failure to comply with the requirements of the North Carolina Department of Revenue pursuant to N.C.Gen.Stat. § 105-230(a).

22. In 2015, defendants Pacheco and Pacheco, Inc. were farm labor contractors who were paid a fee to furnish workers and to perform at least one other farm labor contracting activity as defined in 29 U.S.C. § 1802(6) in connection with migrant agricultural workers who performed "corresponding employment" (as that term is defined in the version of the H-2A regulations, 20 C.F.R. § 655.103(b), that existed as of the date this action was filed) and other work hand harvesting sweet potatoes for and in fields owned or controlled by Ham Farms.

23. In both 2015 and 2016, defendant Garcia was a farm labor contractor who furnished migrant agricultural workers to Ham Farms to perform "corresponding employment" (as that term is defined in the version

of the H-2A regulations, 20 C.F.R. § 655.103(b), that existed as of the date this action was filed) and other work hand harvesting sweet potatoes for and in fields owned or controlled by Ham Farms. At the present time and at all times relevant to this action, Cirila Garcia-Pineda resides, resided, receives, and received her mail at 208 Appletree Creek Road, P.O. Box 158, Stantonsburg, North Carolina 27883-9528.

24. In both 2016 and 2017, defendant Martinez was a farm labor contractor who contracted with, was paid a fee by, and actually furnished to Ham Produce approximately 20 migrant and seasonal agricultural workers to work for and in the packing house of Ham Produce to process and/or pack sweet potatoes. In both 2016 and 2017, Hugo Martinez resides, resided, receives, and received his mail at 344 Dunwoody Road, Farmville, North Carolina 27828.

25. In 2015 and through the present date, defendant Roberto Torres-Lopez resided at 116 W. Pollock Street in Warsaw, North Carolina 28398, and had a mailing address of P.O. Box 311, Warsaw, North Carolina 28398, that he shared with defendant Ismael.

26. For the months of July, August, September, October, and November 2015, defendants Torres, Pacheco, Inc., and Ismael jointly and/or severally contracted with, were all paid a fee by, and actually furnished to Ham Farms as a "fixed-site employer" and "fixed-site agricultural business" pursuant to the H-2A regulations, 20 C.F.R. §§ 655.103(b), 655.1300(c), 655.132(a), and 655.132(b)(1), and pursuant to the AWPA, 29 U.S.C. §§ 1802(5)-(6), Plaintiff Elena Rafael-Peralta, approximately ten

(10) workers with H-2A visas, and approximately fifty (50) or more additional migrant agricultural workers to perform either agricultural employment or "corresponding employment" (as that term is defined in the version of the H-2A regulations, 20 C.F.R. §§ 655.103(b) and 655.1300(c), that existed as of the date this action was filed), to hand harvest sweet potatoes for Ham Farms in and around Greene County, North Carolina. Acting pursuant to a contract with Ham Farms and as agents of defendant Ham Farms, defendants Torres, Pacheco, and Pacheco Inc. recruited, hired, and transported or secured the transportation of, and secured H-2A visas for that same Plaintiff, approximately ten (10) workers with H-2A visas, and, not including visa services, approximately fifty (50) or more additional migrant agricultural workers to work for Ham Farms.

27. For the months of at least August, September, October, and November 2015, defendants RGT doing business as G, LLC contracted with, were paid a fee by, jointly employed with, and actually furnished to Ham Farms as a "fixed-site employer" and "fixed-site agricultural business" pursuant to the H-2A regulations, 20 C.F.R. §§ 655.103(b), 655.1300(c), 655.132(a), and 655.132(b)(1), Plaintiffs Francisco Palacios-Hernandez, José Jimenez-Olivarez, and approximately 250 more workers with H-2A visas to hand harvest sweet potatoes for Ham Farms in and around Greene County, North Carolina. Acting pursuant to a contract with Ham Farms and as an agent of Ham Farms, RGT and G, LLC jointly recruited, hired, transported or secured the transportation of, and secured H-2A visas for, those same Plaintiffs and approximately 250 more workers with H-2A visas to work for

Ham Farms.

28. For the months of at least August, September, October, and November 2015, defendant Garcia contracted with, was paid a fee by, jointly employed with, and actually furnished to Ham Farms, (as the terms or words "payment of a fee", "employ", and "furnish" are defined in the AWPA, 29 U.S.C. §§ 1802(5)-(6)) Plaintiff Ezequiel Aburto-Hernandez and approximately 50 more migrant agricultural workers to perform "corresponding employment" (as defined in the version of the H-2A regulations, 20 C.F.R. §§ 655.103(b) and 655.1300(c), that existed as of the date this action was filed) and other work hand harvesting sweet potatoes for and in fields owned or controlled by Ham Farms in and around Greene County, North Carolina. Acting pursuant to a contract with Ham Farms and as an agent of Ham Farms, defendant Garcia jointly recruited, hired, transported or secured the transportation of that same Plaintiff and approximately fifty (50) more migrant agricultural workers to work for defendant Ham Farms.

29. For the months of at least August, September, October, and November 2016, defendants RGT and 5 G LLC contracted with, were paid a fee by, jointly employed with, and actually furnished to Ham Farms as a "fixed-site employer" and "fixed-site agricultural business" pursuant to the H-2A regulations, 20 C.F.R. §§ 655.103(b), 655.1300(c), 655.132(a), and 655.132(b)(1), Plaintiff José Pablo Sandoval-Montalvo and approximately 250 more workers with H-2A visas to hand harvest sweet potatoes for Ham Farms in and around Greene County, North Carolina. Acting

pursuant to a contract with Ham Farms and as an agent of Ham Farms, defendants RGT and 5 G, LLC jointly recruited, hired, transported or secured the transportation of, and secured H-2A visas for, that same Plaintiff and approximately 250 more workers with H-2A visas to work for Ham Farms.

30. For the months of at least August, September, October, and November, 2016, defendant Garcia again contracted with, was paid a fee by, jointly employed with, and actually furnished to Ham Farms (as the terms or words "payment of a fee", "employ", and "furnish" are defined in the AWPA, 29 U.S.C. §§ 1802(5)-(6)) Plaintiffs Adan Lopez, Francisco Mendez, Ezequiel Aburto-Hernandez, and Alejandro Martinez-Mendez and approximately fifty (50) migrant agricultural workers to perform "corresponding employment" (as that term is defined in the version of the H-2A regulations, 20 C.F.R. §§ 655.103(b) and 655.1300(c), that existed as of the date this action was filed) and other work hand harvesting sweet potatoes for and in fields owned or controlled by Ham Farms in and around Greene County, North Carolina. Acting pursuant to a contract with Ham Farms and as the agent of Ham Farms, defendant Garcia recruited, hired, and transported or secured the transportation of those same four (4) named Plaintiffs and approximately fifty (50) other migrant agricultural workers to work for Ham Farms.

30A. For the months of at least June, August, September, October, and/or November 2017, defendants RGT and 5 G, LLC contracted with, were paid a fee by, jointly employed with, and actually furnished to Ham Farms

as a "fixed-site employer" and "fixed-site agricultural business" pursuant to the H-2A regulations, 20 C.F.R. §§ 655.103(b), 655.1300(c), 655.132(a), and 655.132(b)(1), Plaintiff Palacios-Hernandez and approximately 250 other workers with H-2A visas to pull weeds and/or hand harvest sweet potatoes for Ham Farms in and around Greene County, North Carolina. Acting pursuant to a contract with Ham Farms and as an agent of Ham Farms, defendant RGT and 5 G, LLC jointly recruited, hired, transported or secured the transportation of, and secured H-2A visas for, that same Plaintiff and approximately 250 more workers with H-2A visas to come directly from Mexico to North Carolina to work for defendant Ham Farms.

30B. For the months of at least September, October, and November, 2017, defendant RGT and 5 G, LLC contracted with, were paid a fee by, and actually furnished Plaintiff Palacios-Hernandez and approximately 500 additional H-2A workers to Ham Farms and additional "fixed-site employers" and "fixed-site agricultural businesses" located within North Carolina pursuant to the H-2A regulations, 20 C.F.R. §§ 655.103(b), 655.1300(c), 655.132(a), and 655.132(b)(1), to hand harvest sweet potatoes and other agricultural commodities for those same "fixed-site employers" in North Carolina after defendant RGT and 5 G, LLC had already furnished those same H-2A workers to perform work for fixed-site employers in states other than North Carolina for which the adverse effect wage rate required by the H-2A regulations, 29 C.F.R. §§ 655.122(1) and 655.120(a), was lower than that required for H-2A work in North Carolina or to fixed-situs employer(s) in North Carolina when that fixed situs-employer(s) was not the first

fixed-situs employer in North Carolina to employ or use that H-2A worker. Acting pursuant to a contract with Ham Farms and as the agent of Ham Farms and those other fixed-situs employers, defendants RGT and 5 G, LLC recruited, hired, transported or secured the transportation of, and secured H-2A visas for, Palacios-Hernandez and approximately 500 other H-2A workers to come to North Carolina to work for Ham Farms and those other fixed-situs employers within North Carolina.

30C. From in or about September or October 2016 through at least the end of January 2017, defendants Moreno and Villatoros contracted with, were paid a fee by, jointly employed with, and actually furnished to defendant Ham Farms as a "fixed-site employer" and "fixed-site agricultural business" pursuant to the H-2A regulations, 20 C.F.R. §§ 655.103(b), 655.1300(c), 655.132(a), and 655.132(b)(1), Plaintiff Isaias Espinoza-Vazquez and approximately ninety-nine (99) workers with H-2A visas to hand harvest sweet potatoes and to perform other agricultural work for Ham Farms in and around Greene County, North Carolina. Acting pursuant to a contract with defendant Ham Farms and as the agent of defendant Ham Farms, defendants Moreno and Villatoros recruited, hired, transported or secured the transportation of, and secured H-2A visas for, Plaintiff Isaias Espinosa-Vazquez and approximately ninety-nine (99) other H-2A workers to come directly from Mexico to North Carolina to work for Ham Farms.

30D. From in or about September 2017 through at least the end of October 2017, Rivera and JRH, LLC contracted with, were paid a fee by,

jointly employed with, and actually furnished to defendant Ham Farms as a "fixed-site employer" and "fixed-site agricultural business" pursuant to 20 C.F.R. §§ 655.103(b), 655.132(a), and 655.132(b)(1), Plaintiff Humberto De La Luz Armenta and approximately forty (40) workers with H-2A visas to hand harvest sweet potatoes for defendant Ham Farms in and around Greene County, North Carolina. Acting pursuant to a contract with defendant Ham Farms and as the agent of defendant Ham Farms, Rivera and JRH, LLC recruited, hired, transported or secured the transportation of, and secured H-2A visas for, that same Plaintiff and approximately forty (40) other H-2A workers to come directly from Mexico to North Carolina to work for Ham Farms.

31. At all times during the same time periods alleged in ¶¶8-10, inclusive, 26 and 29 above, defendants Ham Farms and Ham Produce suffered or permitted the Plaintiffs named in ¶¶8-10 and the H-2A workers described in those same paragraphs of the Amended Complaint that one or more of the named Plaintiffs seek to represent to work as described in the corresponding class and collective action allegations set forth in ¶¶54-55, 62-63, and 76-79 below of this Amended Complaint so that those H-2A workers were jointly employed by defendant Ham Farms within the meaning of the term as defined in the presently effective version of 20 C.F.R. § 655.103(b).

32. At all times during the same time periods alleged in ¶¶10 and 55(i) above and below of this Amended Complaint for the work that is described in those same paragraphs, defendants RGT, G, LLC, and 5 G, LLC,

suffered or permitted Plaintiff José Pablo Sandoval-Montalvo and the H-2A workers described in ¶55(i) to perform the H-2A work in North Carolina that is alleged therein. When that H-2A work occurred on property owned or controlled by defendant Ham Farms and/or Ham Produce, one or both of those same two defendants suffered or permitted the named Plaintiff and the H-2A workers to perform the work that is described in those same paragraphs of the Amended Complaint that Plaintiff Sandoval-Montalvo seeks to represent.

33. At all times during the same time periods alleged in ¶¶6-7, 11, 22-24, and 26, 28, and 30 above, defendants Ham Farms and Ham Produce suffered or permitted the named Plaintiffs described in ¶¶6-7 and 11, and the migrant and seasonal agricultural workers described in those paragraphs of the Amended Complaint to perform the work that is described in those same paragraphs that one or more of the named Plaintiffs seek to represent to work as described in the corresponding class and collective action allegations set forth in ¶¶50-51, 54-55, and 70-71 below of this Amended Complaint.

JOINT EMPLOYMENT

34. Prior to and after Rivera, JRH, LLC, Rivera Harvesting, and defendants Moreno and Villatoros, RGT, G, LLC, and/or 5 G, LLC began bringing in H-2A workers to work for defendant Ham Farms, defendant Ham Farms paid all farm labor contractors that Ham Farms utilized an hourly or piece rate based on the number of hours worked or pieces harvested by the members of their crews.

35. Upon information and belief, at all times relevant to this Amended Complaint, Rivera and JRH and defendants Moreno, Villatoros, RGT, G, LLC, 5 G, LLC, Ismael, Martinez, Garcia, Torres and Pacheco, Inc. did not and do not have sufficient monetary resources on deposit in any financial institution to pay the wages owed for any one workweek's wages that were and are payable to the H-2A workers and migrant or seasonal agricultural workers they furnished to defendant Ham Farms and/or Ham Produce, until such time as Ham Farms and/or Ham Produce had paid or will pay the farm labor contractor defendants for that workweek's work.

36. The H-2A and migrant and seasonal agricultural workers furnished to Ham Farms and/or Ham Produce by the farm labor contractor defendants in this case performed planting, harvesting, packing, and equipment operation work that is integral to the agricultural and packing house operations of Ham Farms and Ham Produce. Upon information and belief, all of the work by those named Plaintiffs who were H-2A workers and those H-2A workers who are putative members of the classes and collective action defined in ¶¶54-55, 62-63, and 76-79 of this Amended Complaint, as well as all of the work performed by those non-H-2A named Plaintiffs and those persons who are putative members of the proposed FLSA collective action, the proposed NCWHA class, and/or the proposed AWPA class defined in ¶¶50-51, 54-55, and 70-71 below, was performed on premises owned or controlled by Ham Farms and/or Ham Produce.

37. Upon information and belief, for that work that was performed on real property that was owned or controlled by Ham Farms and/or Ham

Produce, at all times relevant to this action, defendants Ham Farms and Ham Produce and the farm labor contractors named as defendants who furnished any workers to Ham Farms and/or Ham Produce that are alleged in this action had an arrangement between themselves to share the services of their employees, and did interchange employees to perform various tasks.

38. Since at least July 1, 2015 and continuing thereafter, Ham Farms Manager Charles Taylor Caudle, Ham Farms Manager Mickey Holland, Ismael Palacios, and/or other persons directly employed by Ham Farms and/or Ham Produce have assigned the named Plaintiffs described in ¶¶6-10A, 11, and 11A-11B, H-2A workers described in ¶¶54-55, 62-63, and 76-79 of this Amended Complaint, and other migrant and seasonal agricultural workers described or referred to in ¶¶50-51, 54-55, and 70-71 of this Amended Complaint to the sweet potato packing house and/or particular sweet potato fields and overseen all sweet potato field work for any workers that any farm labor contractor named or described in this action furnished to Ham Farms and/or Ham Produce at any time described in the allegations of this Amended Complaint.

39. Since at least July 1, 2015, upon information and belief, Ham Farms dictated the start and stop times for the work performed by the H-2A workers that were furnished to Ham Farms. Ham Farms and Ham Produce also dictated the start and stop times for the Plaintiffs and the members of the proposed AWPAs, NCWHA, and clearance order contract classes, and the FLSA collective actions alleged in ¶¶50-51, 54-55, 62-63, 70-71, and 76-79, inclusive, below, and determined which days those workers worked.

40. During the time relevant to this action, upon information and belief, Ham Farms Managers Charles Taylor Caudle, Mickey Holland, Ismael Palacios, and/or other persons directly employed by Ham Farms and/or Ham Produce regularly gave instructions to the defendant farm labor contractors, to José Rivera, and/or to the H-2A, migrant, and/or seasonal agricultural workers whom Mr. Rivera and those defendant farm labor contractors furnished to Ham Farms and/or Ham Produce regarding the best methods and techniques that individual H-2A workers and individual other workers were to use in planting, harvesting, and/or packing the crops of Ham Farms and/or Ham Produce.

41. During the time relevant to this action, upon information and belief, defendants Ham Farms and/or Ham Produce provided the sweet potato bins, tractors, tractor drivers, and disking equipment that enabled the Plaintiffs, the crews of H-2A workers, the members of the proposed AWWPA, NCWHA, and clearance order contract action classes, and the members of the FLSA collective action defined in ¶¶54-55, 62-63, 70-71, and 76-79 below of this Amended Complaint to perform the hand harvest of sweet potatoes that Rivera and the defendant farm labor contractors furnished them to do for Ham Farms as alleged in this Amended Complaint.

42. From July 1, 2015 to the present, Ham Farms owned or, upon information and belief, provided at least some of the funds to rent, at least some of the labor camps in which the H-2A worker Plaintiffs were housed during the time they harvested sweet potatoes for Ham Farms, fulfilling a legally required element that allowed Rivera and JRH, LLC,

and defendants Moreno, Villatoros, Torres, RGT, G, LLC, and 5 G, LLC to be able to receive H-2A workers, and for defendants Ismael, Pacheco, Inc., and Garcia to furnish migrant agricultural workers to Ham Farms.

43. In 2015, 2016, and 2017, Ham Farms and/or Ham Produce registered a number of different migrant camps with the North Carolina Department of Labor, for occupancy by more than 200 H-2A workers. Upon information and belief, Ham Farms and/or Ham Produce also provided and provide repairs and maintenance for these labor camps, and did and do not request reimbursement from any of the farm labor contractor defendants for that housing, or for the repairs and maintenance of that housing that allowed the housing to meet minimum legal housing standards for H-2A and AWPA housing.

44. Upon information and belief, all of the sweet potato fields, greenhouses, and/or packinghouses where the named Plaintiffs, along with the members of the proposed AWPA, clearance order contract, and NCWHA classes, and the two FLSA collective actions defined in ¶¶50-51, 54-55, 62-63, 70-71, and 76-79 below, worked during the time period relevant to the lawsuit were, for the most part, owned, and in some cases, leased by defendants Ham Farms and/or Ham Produce at the time that the Plaintiffs and the workers they seek to represent performed that work for Ham Farms and/or Ham Produce.

45. Upon information and belief, all of the tractors, transplanter, forklifts, and other farm machinery used by the named Plaintiffs, along with the members of the proposed AWPA, clearance order

contract and NCWHA classes, and the two FLSA collective actions defined in ¶¶50-51, 54-55, 62-63, 70-71, and 76-79 below, while working for Ham Farms and/or Ham Produce, were owned by Ham Farms and/or Ham Produce.

46. At all times relevant to this action, the planting, harvesting, and packing of sweet potatoes performed by the named Plaintiffs and the workers they seek to represent were and continue to be an integral part of the business of growing, marketing, and selling sweet potatoes that Ham Farms and/or Ham Produce have operated and continue to operate.

47. Ham Farms and Ham Produce, by and through their use and employment of full-time, onsite supervisors, actively participated in the day-to-day operation, supervision, direction and control of the work of the workers that are described in ¶¶11 and 24 above in the packing house operated by Ham Produce to process, pack, and ship sweet potatoes in 2016 and 2017. Among other things, that direction, control, and supervision occurred during the workday in the packing house operated by Ham Produce through the actions of management personnel who were directly employed by Ham Produce as the workers described in ¶¶11 and 24 worked in that packing house through repeated oral, text and/or telephonic instructions and/or messages communicated by those management personnel either directly to those workers and/or through the farm labor contractor(s) and/or farm labor contractor employee(s) who furnished them.

48. Through its personal agents, officers, and/or employees, defendant Ham Farms determined the regular hourly rate of pay, rate of pay for hours worked in excess of 40 hours in the same workweek, and the

method of payment of wages paid to the named Plaintiffs described in ¶¶6-10A and 11-11B, inclusive, and the workers that one or more of those same named Plaintiffs seek to represent that are described in ¶¶22-24, 26-27, 28-29, 30, 30A, 30C, and 30D above of this Amended Complaint, as part of their regular involvement in the day-to-day operations of Ham Farms.

49. Through its personal agents, officers, and/or employees, defendant Ham Produce determined the regular hourly rate of pay, rate of pay for hours worked in excess of 40 hours in the same workweek, and the method of payment of wages paid to named Plaintiff Ezequiel Aburto-Hernandez and the workers Aburto-Hernandez seeks to represent that are described in ¶24 above of this Amended Complaint, as part of their regular involvement in the day-to-day operations of Ham Produce.

VI. FLSA COLLECTIVE ACTION #1 (§ 207(a))

50. Named Plaintiff Ezequiel Aburto-Hernandez maintains this action against the Ham Produce and Martinez for and on behalf of himself and all other similarly-situated current and/or former workers who were jointly employed by defendants Martinez and Ham Produce as described in ¶24 above of this Amended Complaint in or around Greene County, North Carolina in Ham Produce's sweet potato packing house to process or pack sweet potatoes that were and are produced by person(s) or business entities other than Ham Farms or Ham Produce in whatever form, enterprise, or combination at any time in the time period starting with the first date in the three (3) year time period immediately preceding the date on which any such person files a Consent to Sue in this action

pursuant to 29 U.S.C. §216(b), and ending with the date final judgment is entered in this action.

51. As alleged in the First Claim for Relief, this FLSA collective action is on behalf of those members of the FLSA collective action for all workweeks that occurred in whole or in part during the time periods described in ¶50 above in which the named Plaintiff Aburto-Hernandez and the members of this FLSA collective action were or will not be paid at the hourly rate required by 29 U.S.C. § 207(a)(1) for the hours they performed or will perform work totaling in excess of 40 hours in the same workweek when all or some part of those hours worked were or will be performed in connection with defendant Ham Produce's sweet potato packing house to process or pack sweet potatoes that were and will be produced by person(s) or business entities other than Ham Farms and/or Ham Produce, or some combination or totally-owned affiliate of one or both of those two named defendants.

52. During the time period described in ¶50 above, Defendants Martinez and Ham Produce jointly employed named Plaintiff Aburto-Hernandez and, upon information and belief, in excess of twenty (20) other employees who did not have H-2A visas to pack and process sweet potatoes for in excess of 40 hours in the same workweek in at least two (2) different workweeks that occurred in each calendar year in the years 2016 and in 2017 when all or some part of those hours worked were and/or will be performed in connection with the Ham Produce's sweet potato packing house to process or pack sweet potatoes that were and will be produced by

person(s) or business entities other than Ham Farms and/or Ham Produce, or some combination or totally-owned affiliate of one or both of those two named defendants.

53. This collective action is based upon the willful failure of Ham Produce and Martinez to pay named Plaintiff Aburto-Hernandez and the members of the collective action defined in ¶50 above wages free and clear on or before their regular payday for each workweek for the work in excess of 40 hours in those same workweeks that are described in ¶¶50-52 above at the overtime rate required by 29 U.S.C. § 207(a)(1) for each hour worked or part of an hour that named Plaintiff Aburto-Hernandez and each member of this collective action worked in excess of 40 hours during each of those same workweeks.

VII. RULE 23(b)(3) CLASS ALLEGATIONS (NCWHA #1 - All Employees)

54. As alleged in the Second Claim for Relief, this first class claim under the NCWHA is brought pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure by named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, Ezequiel Aburto-Hernandez, Elena Rafael-Peralta, José Jimenez-Olivarez, José Pablo Sandoval-Montalvo, Francisco Palacios-Hernandez, Isaias Espinosa-Vazquez, and Humberto De La Luz Armenta on behalf of themselves and all other similarly workers that are described in ¶¶22-23 and 26-30D, inclusive, above of this Amended Complaint.

55. This class claim is based on the NCWHA for any regular payday that occurred in 2015 on or after July 1, 2015, in 2016, or in 2017, or

in more than one of those same three years in the two (2) year time period immediately preceding the date on which this action was originally filed. The ten (10) named Plaintiffs seek to represent a class consisting of migrant and seasonal agricultural workers and/or H-2A workers who were jointly employed by Ham Farms, RGT, G, LLC, 5 G, LLC, Garcia, Torres, Martinez, Ismael, Pacheco, Inc., Moreno, and/or Villatoros who were not paid all wages when due as required by N.C.Gen.Stat. § 95-25.6 at the wage rate disclosed to them pursuant to N.C.Gen.Stat. §§ 95-25.13(1)-(2) for all hours worked by those same employees when they were jointly employed by Ham Farms, Ham Produce, and/or one or more of those same farm labor contractors that are named in ¶¶22-24 and 26-30D, inclusive, above of this Amended Complaint. This class consists of the following subclasses:

(a) For the work performed in 2015 by named Plaintiffs Adan Lopez, Francisco Mendez, and Elena Rafael-Peralta, the work performed in 2015 by the workers who are described in ¶22 and ¶26 who were not paid an hourly wage that averaged at least \$10.32/hour for all hours worked for each workweek that they were employed or jointly employed by Ham Farms and Pacheco, Inc., Ismael, and Torres, who furnished these Plaintiffs to Ham Farms in 2015 to hand harvest sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2015.

(b) For the work performed in 2015 by named Plaintiff Ezequiel Aburto-Hernandez, and the work performed in 2015 by the workers who are described in ¶23 and ¶28 who were not paid an hourly wage that averaged

at least \$10.32/hour for all hours worked for each workweek that they were employed or jointly employed by Ham Farms and farm labor contractor Garcia who furnished them to Ham Farms in 2015 to hand harvest sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2015.

(c) For the work performed in 2015 by named Plaintiffs José Jimenez-Olivarez and Francisco Palacios-Hernandez, and the work performed in 2015 by the workers who are described in ¶27 who were not paid an hourly wage that averaged at least \$10.32/hour for all hours worked for each workweek that they were employed or jointly employed by Ham Farms and defendant farm labor contractors RGT and G, LLC, who furnished these Plaintiffs to Ham Farms in 2015 to hand harvest sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2015.

(d) For the work performed in 2016 by named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez and the work performed in 2016 by the workers who are described in ¶23 and ¶30 above of this Complaint who were not paid an hourly wage that averaged at least \$10.72/hour for all hours worked for each workweek that they were employed or jointly employed by Ham Farms and farm labor contractor Garcia, who furnished these Plaintiffs to Ham Farms in 2016 to hand harvest sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2016.

(e) For the work performed in 2016 by named Plaintiff José Pablo

Sandoval-Montalvo, and the work performed in 2016 by the workers who are described in ¶29 above of this Complaint who were not paid an hourly wage that averaged at least \$10.72/hour for all hours worked for each workweek that they were employed or jointly employed by Ham Farms and farm labor contractors RGT and 5 G, LLC who furnished these Plaintiffs to Ham Farms in 2016 to hand harvest sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2016.

(f) For the work performed in 2015 by named Plaintiffs José Jimenez-Olivarez, Francisco Palacios-Hernandez, and by the workers who are described in ¶27 above who were not paid all promised wages when they were due on their regular weekly payday for the wages earned in the workweek just completed as a result of the week in reserve semana en fondo wage payment system used by farm labor contractors RGT and G, LLC which was not disclosed to those same named Plaintiffs or the workers they seek to represent pursuant to the requirements of 20 C.F.R. §§ 655.122(k) and 655.122(m), N.C.Gen.Stat. § 95-25.13(1)-(2) and 13 NCAC Tit. 12 § .0803 at an hourly wage rate that averaged at least \$10.32/hour for all hours worked for each workweek that they were employed or jointly employed by Ham Farms and farm labor contractors RGT, and G, LLC who furnished them to Ham Farms in 2015 to hand harvest sweet potatoes on a piece rate basis of \$0.45 per 5/8 bushel bucket and to perform other agricultural labor in connection with the growing of sweet potatoes in fields that were owned or controlled by Ham Farms in 2015.

(g) For the work performed in 2016 by named Plaintiff José Pablo

Sandoval-Montalvo, by the workers who are described in ¶29 who were not paid all promised wages when they were due on their regular weekly payday for the wages earned in the workweek just completed as a result of the week in reserve semana en fondo wage payment system used by farm labor contractors RGT and 5 G, LLC which was not disclosed to those same named Plaintiffs or the workers they seek to represent pursuant to the requirements of 20 C.F.R. §§ 655.122(k) and 655.122(m), N.C.Gen.Stat. § 95-25.13(1)-(2) and 13 NCAC Tit. 12 § .0803 at an hourly wage rate that averaged at least \$10.72/hour for all hours worked for each workweek that they were employed or jointly employed by Ham Farms and farm labor contractors RGT and 5 G, LLC who furnished them to Ham Farms in 2016 to hand harvest sweet potatoes on a piece rate basis of \$0.50 per 5/8 bushel bucket and to perform other agricultural labor in connection with the growing of sweet potatoes in fields that were owned or controlled by Ham Farms in 2016.

(h) For the work performed in 2016 by named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and the work performed in 2016 by the workers who are described in ¶23 and ¶30 above of this Complaint who were not paid wages on a piece rate basis of at least \$0.50 per 5/8 bushel bucket for all buckets of sweet potatoes they hand harvested for each workweek that they were employed or jointly employed by Ham Farms and farm labor contractor Garcia, who furnished these Plaintiffs to Ham Farms in 2016 to hand harvest sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2016.

(i) For the work performed in 2015 after July 1, 2015, any work performed in 2016, and/or any work performed in 2017 by named Plaintiffs Francisco Palacios-Hernandez, José Jimenez-Olivarez, and/or José Pablo Sandoval-Montalvo, and by the H-2A workers described in ¶30B above who were not paid all promised wages when they were due on their regular weekly payday for all hours worked in the workweek just completed pursuant to 20 C.F.R. §§ 655.122(k) and 655.122(m) at the adverse effect wage rate ("AEWR") required for any H-2A work in North Carolina at any time in 2015 (\$10.32/hour) for any workweek ending on or after July 1, 2015, at any time in 2016 (\$10.72/hour), and at time in 2017 (\$11.27/hour) for all hours worked for each workweek that Ham Farms and farm labor contractors RGT, 5 G, LLC, and/or G, LLC jointly employed them to hand harvest sweet potatoes with an H-2A visa or to perform other H-2A work in North Carolina after that same H-2A worker(s) had already performed H-2A work as an H-2A worker(s) furnished by RGT, 5 G, LLC, and/or G, LLC to a fixed-situs employer located in any state with an AEWR that was lower than the hourly AEWR applicable to North Carolina for that time period, and that lower compensation rate was continued even though the H-2A work performed occurred in North Carolina.

(j) For the work performed in 2017 by named Plaintiff Francisco Palacios-Hernandez and by the workers who are described in ¶30A above who were not paid all promised wages when they were due on their regular weekly payday for the wages earned in the workweek just completed as a result of the week in reserve semana en fondo wage payment system used

by farm labor contractors RGT and G, LLC which was not disclosed to those same named Plaintiffs or the workers they seek to represent pursuant to the requirements of 20 C.F.R. §§ 655.122(k) and 655.122(m), N.C.Gen.Stat. § 95-25.13(1)-(2) and 13 NCAC Tit. 12 § 0803, at an hourly wage rate that averaged at least \$11.27/hour for all hours worked for each workweek that they were employed or jointly employed by Ham Farms and farm labor contractors RGT, and G, LLC who furnished them to Ham Farms in 2017 to hand harvest sweet potatoes on a piece rate basis of \$0.50 per 5/8 bushel bucket and to perform other agricultural labor in fields that were owned or controlled by Ham Farms in 2017.

(k) For the work performed in 2016 and/or 2017 by named Plaintiffs Francisco Palacios-Hernandez, Humberto De La Luz Armenta, Isaias Espinosa-Vazquez, and by the workers who are described in ¶¶29, 30A, 30C, and 30D above who were not paid all promised wages when they were due on their regular weekly payday for the wages earned in the first workweek in which they were employed and/or jointly employed by Ham Farms and farm labor contractors RGT, 5 G, LLC, Moreno, Villatoros, Rivera, and/or JRH, LLC pursuant to 20 C.F.R. §§ 655.122(k) and 655.122(m) and N.C.Gen.Stat. §§ 95-25.6 and 95-25.13(1)-(2), and 13 NCAC Tit. 12 § .0803 based upon de facto wage deductions described in ¶¶77-79 and 105-108 below from the promised wages owed to those same named Plaintiffs and those same employees under 29 C.F.R. §§ 531.3(d)(1), 531.32(a), and 531.32(c), N.C.Gen.Stat. §§ 95-25.6 and 95-25.13(1)-(2), and 13 NCAC Tit. 12 §§ .0301(a)-(b) and .0301(d) at an hourly wage rate that averaged

at least \$11.27/hour (for work in 2017) and \$10.72/hour (for work in 2016) for all hours worked for in each first workweek that they were employed or jointly employed by Ham Farms and farm labor contractors RGT, 5 G, LLC, Moreno, Villatoros, Rivera, and/or JRH, LLC who furnished them to Ham Farms in 2016 and/or 2017 to hand harvest sweet potatoes or to perform other agricultural labor in connection with the growing of sweet potatoes in fields that were owned or controlled by Ham Farms in 2016 and/or 2017.

(l) For the work performed in 2016 and 2017 by named Plaintiff Isaias Espinosa-Vazquez, by the workers who are described in ¶30C who were not paid all promised wages when they were due on their regular weekly payday for the wages earned in the workweek just completed pursuant to 20 C.F.R. §§ 655.122(k) and 655.122(m) at an hourly wage rate that averaged at least \$10.72/hour for all hours worked for each workweek that they were employed or jointly employed by Ham Farms and farm labor contractors Moreno and Villatoros who furnished them to Ham Farms in 2016-17 to hand harvest sweet potatoes on a piece rate basis of \$0.50 per 5/8 bushel bucket in fields that were owned or controlled by Ham Farms in 2016-17.

(m) For the work performed in 2017 by named Plaintiff Humberto De La Luz Armenta, and by the workers who are described in ¶30D who were not paid all promised wages when they were due on their regular weekly payday for the wages earned in the workweek just completed pursuant to 20 C.F.R. §§ 655.122(k) and 655.122(m) at an hourly wage rate that

averaged at least \$11.27/hour for all hours worked for each workweek that they were employed or jointly employed by Ham Farms and farm labor contractors Rivera and Rivera Harvesting who furnished them to Ham Farms in 2017 to hand harvest sweet potatoes on a piece rate basis of \$0.50 per 5/8 bushel bucket in fields that were owned or controlled by Ham Farms in 2017.

(n) For the work performed in 2017 by named Plaintiff Francisco Palacios-Hernandez, and the work performed in 2017 by the workers who are described in ¶30A above of this Amended Complaint who were not paid an hourly wage that averaged at least \$11.27/hour for all hours worked for each workweek that they were employed or jointly employed by Ham Farms and farm labor contractors RGT and 5 G, LLC, who furnished them to Ham Farms in 2017 to hand harvest sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2017.

56. The class and each subclass alleged in ¶55 above are so numerous and so geographically dispersed as to make joinder impractical. The precise number of individuals in this class and in each subclass in this class are known only to the defendants. However, the class and each subclass in the class are believed to include over fifty (50) individuals. This class and each subclass are comprised of indigent migrant and seasonal agricultural and temporary agricultural workers and other workers, many of whom maintain no permanent residence in the United States. Many of the members in this class are not fluent in the English language and are unfamiliar with the American judicial system. The

relatively small size of the individual claims and the indigence of the members of this class also make the maintenance of separate actions by each member of this class infeasible.

57. There are questions of law and fact common to the class and subclasses alleged in ¶¶55 and 55(a)-55(q) above. These common legal and factual questions are, among others:

(a) Did Ham Farms jointly employ any of the workers that are described in ¶¶55(a)-(n) above pursuant to 29 C.F.R. § 791.2, N.C.Gen.Stat. §§ 95-25.2(3) and 95-25.2(5), and 13 NCAC Tit. 12 § .0103?

(b) Pursuant to N.C.Gen.Stat. §§ 95-25.13(1)-(2) and 13 N.C.A.C. Tit. 12 § .0803, did defendant Ham Farms, and the defendant farm labor contractors identified in ¶¶55 and 55(a)-(n) disclose to the named Plaintiffs identified in ¶¶55, 55(a)-(e), 55(h)-(i), 55(l), and 55(o)-55(q) above, and the members of the class and each subclass defined in ¶¶55(a)-(e), 55(h)-(i), 55(l) above that one or more of those same defendants would pay hourly wages free and clear that averaged at no less than the applicable AEWR for the year (2015, 2016, and/or 2017) in which the work was performed on a piece rate basis at either \$0.45 per 5/8 bushel bucket or \$0.50 per 5/8 bushel bucket?

(c) Pursuant to N.C.Gen.Stat. §§ 95-25.13(1)-(2) and 13 NCAC Tit. 12 § .0803 and 20 C.F.R. § 655.135(e), did defendant Ham Farms and/or defendants RGT, G, LLC, and/or 5 G, LLC disclose to the named Plaintiffs identified in ¶¶55 and 55(f)-(g), 55(j)-(k), and 55(m) above and the members of the class and each subclass defined in ¶¶55 and 55(f)-(g), 55(j)-

(k), and 55(m) above that one or more of all defendants would pay all promised wages on their regular weekly payday pursuant to 20 C.F.R. §§ 655.122(k) and 655.122(m) for the wages earned in the workweek just completed at an hourly wage rate that averaged to at least the AEWB applicable for the relevant year (2015, 2016, or 2017) for all hours worked or for each bucket of sweet potatoes harvested at the applicable piece rate, whichever was higher, for each workweek that they were employed or jointly employed by Ham Farms and the farm labor contractor(s) who furnished them?

(d) Did any of the defendants violate the wage payment provisions of N.C.Gen.Stat. § 95-25.6 of the NCWHA applicable to the named Plaintiffs and the class and subclasses defined in ¶¶55, 55(a)-(n) above by failing to pay wages free and clear at the rate that Ham Farms and/or the defendant farm labor contractors who furnished them disclosed to them for all hours worked harvesting sweet potatoes in 2015, 2016, and/or 2017?

(e) Did any of the defendants violate the wage payment provisions of N.C.Gen.Stat. § 95-25.6 of the NCWHA and the terms of their clearance order job contract pursuant to 20 C.F.R. §§ 655.122(k), 655.122(m), and 655.122(q) applicable to the named Plaintiffs and the class and subclasses defined in ¶¶ 55 and 55(f)-(n) above by failing to pay all wages when they were due on their regular payday at the rate that one or more of all defendants disclosed to them for all hours worked harvesting sweet potatoes or performing any form of agricultural labor in connection with the growing of sweet potatoes in 2015, 2016, and/or 2017 on their regular weekly

payday for the wages earned in the workweek just completed at the promised hourly wage rate or piece rate for all hours worked in any form of agricultural labor in connection with the growing of sweet potatoes and, if employed on the piece rate, all units harvested for each workweek?

(f) Based upon the de facto wage deductions described in ¶¶77-7 and 105-107 below from the promised wages owed to named Plaintiffs Palacios-Hernandez, De la Luz Armenta, and Espinosa-Vazquez and the subclass of workers described in ¶¶27, 29, 30A, 30C, 30D, and 55(k) above for inbound visa, transportation, and other expenses described in 29 C.F.R. §§ 531.3(d)(1), 531.32(a), and 531.32(c), N.C.Gen.Stat. §§ 95-25.2(16), 95-25.6 and 95-25.13(1)-(2), and 13 NCAC Tit. 12 §§ .0301(a)-(b) and .0301(d), and .0803 that were primarily for the benefit of Rivera, JRH, LLC, Ham Farms, and the defendant farm labor contractors RGT, G, LLC, 5 G, LLC, Moreno, and Villatoros, and an incident of and necessary to the employment of the those same workers, did any of the defendants fail to pay all promised wages dues to Plaintiffs Palacios-Hernandez, De la Luz Armenta, Espinosa-Vazquez, and the workers described in ¶¶27, 29, 30A, 30C, 30D, and 55(k) above when they were due on their regular payday for the wages earned in the first workweek after their arrival in the United States to perform work with an H-2A visa and in which they were employed or jointly employed by Rivera, JRH, LLC, Ham Farms and defendant farm labor contractors Moreno, Villatoros, RGT, G LLC, and/or 5 G, LLC in violation of: (i) the wage payment provisions of

N.C.Gen.Stat. §§ 95-25.6 and 95-25.13(1)-(2), and 13 NCAC Tit. 12 § .0803 of the NCWHA, (ii) and the terms of their clearance order job contract pursuant to 20 C.F.R. §§ 655.122(k), 655.122(m), and 655.122(q) at an hourly wage rate that averaged at least \$11.27/hour (for work in 2017), \$10.72/hour (for work in 2016), and \$10.32/hour (for work in 2015 after July 1, 2015)?

(g) Did any of the defendants violate the wage payment provisions of N.C.Gen.Stat. § 95-25.6 of the NCWHA applicable to the named Plaintiff and the class and subclasses defined in ¶¶55 and 55(i) above by failing to pay wages free and clear at the AEWR rate that Ham Farms and/or the defendant farm labor contractors who furnished them disclosed to them and were required to pay for H-2A work in North Carolina for all hours worked harvesting sweet potatoes or performing any other H-2A work in 2015 after July 2, 2015, 2016, and/or 2017 when that work was performed by the named Plaintiffs José Pablo Sandoval-Montalvo, Francisco Palacios-Hernandez, and the class and subclass members after they had performed other H-2A work in a state(s) with an AEWR rate that was lower than that which applied to North Carolina?

58. The claims in the Second Claim for Relief under the NCWHA of named Plaintiffs identified in ¶¶55(a)-55(n) are typical of the claims of the members of the class and subclasses identified in ¶55 and 55(a)-55(n) above, and those typical, common claims predominate over any questions affecting only individual class and subclass members. The named Plaintiffs identified in those same paragraphs have the same interests as other

members of the class and subclasses defined in ¶¶55 and 55(a)-55(n) above and will vigorously prosecute these interests on behalf of the class and subclasses defined in ¶¶55 and 55(a)-55(n) above.

59. The named Plaintiffs identified in ¶¶55 and 55(a)-55(n) will fairly and adequately represent the interests of the class and subclasses defined in ¶¶55 and 55(a)-55(n) above.

60. The undersigned counsel Robert J. Willis of the Law Office of Robert J. Willis, P.A., along with the undersigned counsel at the law firm Cohen Milstein Sellers and Toll PLLC, are experienced litigators who have been named counsel for many class actions. Plaintiffs' counsel is prepared to advance litigation costs necessary to vigorously litigate this action and to provide notice to the members of the class and subclasses defined in ¶¶55 and 55(a)-55(n) under Rule 23(b)(3).

61. A class action under Rule 23(b)(3) is superior to other available methods of adjudicating this controversy because, *inter alia*:

(a) The common issues of law and fact, as well as the relatively small size of the individual claims of each member of the class and subclasses defined in ¶55 and 55(a)-55(n) above, substantially diminish the interest of members of the class and subclasses defined in ¶¶55 and 55(a)-55(n) in individually controlling the prosecution of separate actions;

(b) Many members of the class and subclasses defined in ¶¶55 and 55(a)-55(n) are unaware of their rights to prosecute these claims and lack the means or resources to secure legal assistance;

(c) There has been no litigation already commenced against any individual defendant or corporate defendant named in this action by the members of the class and subclasses defined in ¶¶55 and 55(a)-55(n) above to determine the questions presented;

(d) It is desirable that the claims be heard in this forum because all defendants reside in this district and the cause of action arose in this district;

(e) A class action can be managed without undue difficulty because all defendants regularly committed the violations complained of herein, and were required to and did maintain detailed records concerning each member of the class and subclasses defined in ¶¶ 55 and 55(a)-55(n) above.

VIII. RULE 23(b)(3) CLASS ALLEGATIONS (H-2A CLEARANCE ORDER CONTRACT)

62. As alleged in the Third Claim for Relief, this class claim is brought under the common law of contracts pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure by named Plaintiffs Elena Rafael-Peralta, José Jimenez-Olivares, Isaias Espinosa-Vazquez, Humberto De La Luz Armenta, Francisco Palacios-Hernandez, and José Pablo Sandoval-Montalvo on behalf of themselves and all other similarly workers that are described in ¶¶9-10A, 11A-11B, 26-27, 29, 30A, 30B, 30C, and 30D above of this Amended Complaint who were the joint employees (as the word "employee" and "joint employment" are defined in the version of the H-2A regulations, 20 C.F.R. §§ 655.103(b) and 655.1300(c) that were effective as of the date this Complaint was filed) of Rivera and JRH, LLC and defendant Ham Farms or defendants Torres, RGT, G, LLC, Montero,

Villatoros, and/or 5 G, LLC and Ham Farms pursuant to the terms of the clearance order contracts that all such worker employees had with Rivera and JRH, LLC or with defendants Torres, RGT, G, LLC, 5 G, LLC, Montero, and/or Villatoros and Ham Farms during the time in 2015, 2016, and/or 2017 that they hand harvested sweet potatoes and performed other agricultural labor in connection with the growing of sweet potatoes for Ham Farms on land that was planted and owned or controlled by Ham Farms.

63. In this claim, those same named Plaintiffs seek to represent a class pursuant to Rule 23(b)(3) that consists of any H-2A worker employee that is described in ¶62 above who hand harvested sweet potatoes in 2015, 2016, and/or 2017 within the three (3) year time period immediately preceding the date this action was filed who were not paid all promised wages when due that were disclosed to them in their clearance order contract under 20 C.F.R. § 655.122(q) on their regular weekly payday for all hours worked for each workweek that they were employed or jointly employed by Ham Farms and the farm labor contractor(s) named in ¶¶ 8-10A, 11A, and 11B above who furnished them. This class consists of the following subclasses:

(a) For the work performed in 2015 by named Plaintiff Elena Rafael-Peralta and by the H-2A workers who are described in ¶26 above who were not paid all promised wages on their regular weekly payday pursuant to 20 C.F.R. §§ 655.122(k)-(m) and 635.135(e) at the higher of a piece rate of \$0.45 per 5/8 bushel bucket of sweet potatoes or an hourly wage rate that averaged at least \$10.32/hour for all hours worked

for each workweek that they were employees or joint employees of Ham Farms and defendant farm labor contractor Torres who furnished these workers to Ham Farms in 2015 to hand harvest sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2015.

(b) For the work performed in 2015 by named Plaintiff José Jimenez-Olivares, Francisco Palacios-Hernandez, and by the H-2A workers who are described in ¶¶9 and 27 above who were not paid all promised wages on their regular weekly payday pursuant to 20 C.F.R. §§ 655.122(k)-(m) and 635.135(e) at the higher of a piece rate of \$0.45 per 5/8 bushel bucket of sweet potatoes or an hourly wage rate that averaged at least \$10.32/hour for all hours worked for each workweek that they were employees or joint employees of Ham Farms and defendant farm labor contractor RGT and G, LLC who furnished them to Ham Farms in 2015 to hand harvest sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2015.

(c) For the work performed in 2016 by named Plaintiff José Pablo Sandoval-Montalvo, and by the workers who are described in ¶29 above who were not paid all promised wages on their regular weekly payday pursuant to 20 C.F.R. §§ 655.122(k)-(m) and 635.135(e) at the higher of a piece rate of \$0.50 per 5/8 bushel bucket of sweet potatoes or an hourly wage rate that averaged at least \$10.72/hour for all hours worked for each workweek that they were employees or joint employees of Ham Farms and the defendant farm labor contractor RGT and 5 G, LLC who furnished them to Ham Farms in 2016 to hand harvest sweet potatoes on a piece rate

basis in fields that were owned or controlled by Ham Farms in 2016.

(d) For the work performed in 2017 by named Plaintiff Francisco Palacios-Hernandez and by the H-2A workers who are described in ¶30A above who were not paid all promised wages on their regular weekly payday for the wages earned in the workweek just completed pursuant to 20 C.F.R. §§ 655.122(k)-(m) and 655.135(e) at the higher of a piece rate of \$0.50 per 5/8 bushel bucket of sweet potatoes or an hourly wage rate that averaged at least \$11.27/hour for all hours worked for each workweek that they were employees or joint employees of Ham Farms and defendant farm labor contractors RGT and 5 G, LLC, who furnished these workers to Ham Farms in 2017 to hand harvest sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2017.

(e) For the work performed in 2017 by named Plaintiff Francisco Palacios-Hernandez and by the H-2A workers who are described in ¶30B above who were not paid all promised wages on their regular weekly payday for the wages earned in the workweek just completed pursuant to 20 C.F.R. §§ 655.122(k)-(m) and 655.135(e) at the higher of a piece rate of \$0.50 per 5/8 bushel bucket of sweet potatoes or an hourly wage rate that averaged at least \$11.27/hour for all hours worked for each workweek that they were employees or joint employees of defendant farm labor contractor RGT and 5 G, LLC and Ham Farms during the time that those workers were furnished to Ham Farms in 2017 to hand harvest sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2017.

(f) For the work performed in 2016 and 2017 by named Plaintiff Isaias Espinoza-Vazquez and by the H-2A workers who are described in ¶30C above who were not paid all promised wages on their regular weekly payday for the wages earned in the workweek just completed pursuant to 20 C.F.R. §§ 655.122(k)-(m) and 655.135(e) at the higher of a piece rate of \$0.50 per 5/8 bushel bucket of sweet potatoes or an hourly wage rate that averaged at least \$10.72/hour (for work performed in 2016) and \$11.27/hour (for work performed in 2017) for all hours worked for each workweek that they were employees or joint employees of defendant farm labor contractor Moreno and Villatoros and fixed-situs employer Ham Farms during the time that those workers were furnished to Ham Farms in 2016 and/or 2017 to hand harvest sweet potatoes on a piece rate basis or to perform other agricultural labor in connection with the production of sweet potatoes in the fields that were owned or controlled by Ham Farms in 2016 and/or 2017.

(g) For the work performed in 2017 by named Plaintiff Humberto De La Luz Armenta and by the H-2A workers who are described in ¶30D above who were not paid all promised wages on their regular weekly payday for the wages earned in the workweek just completed pursuant to 20 C.F.R. §§ 655.122(k)-(m) and 655.135(e) at the higher of a piece rate of \$0.50 per 5/8 bushel bucket of sweet potatoes or an hourly wage rate that averaged at least \$11.27/hour for all hours worked for each workweek that they were employees or joint employees of farm labor contractor Rivera and JRH, LLC and fixed-situs employer defendant Ham Farms during

the time that those workers were furnished to defendant Ham Farms in 2017 to hand harvest sweet potatoes on a piece rate basis in the fields that were owned or controlled by Ham Farms in 2017.

(h) Based upon the de facto wage deductions described in ¶¶77-79 and ¶¶105-108 below from the promised wages owed to and in violation of the requirements of the H-2A visa program named Plaintiff Palacios-Hernandez and the workers described in ¶¶27, 29, 30A, 30C, and 30D above for inbound visa, transportation, and other expenses described in 20 C.F.R. § 655.135(j), 29 C.F.R. §§ 531.3(d)(1), 531.32(a), and 531.32(c), N.C.Gen.Stat. §§ 95-25.2(16), 95-25.6 and 95-25.13(1)-(2), and 13 NCAC Tit. 12 §§ .0301(a)-(b) and .0301(d), and .0803 that were primarily for the benefit of Rivera, JRH, LLC, defendant Ham Farms, and the defendant farm labor contractors Torres, Moreno, Villatoros, RGT, G, LLC, and/or 5 G, LLC, and an incident of and necessary to the employment of the those same workers, did Rivera, JRH, LLC, or any of those same defendants fail to pay all promised wages dues to Plaintiffs Palacios-Hernandez, Espinoza-Vazquez, De la Luz Armenta, and the workers described in ¶¶27, 29, 30A, 30C, and 30D when they were due on their regular payday for the wages earned in the first workweek after their arrival in the United States to perform work with an H-2A visa and in which they were jointly employed by Rivera, JRH, LLC, and defendant Ham Farms, or Torres, Moreno, Villatoros, RGT, G LLC, and/or 5 G, LLC and Ham Farms in violation of: (i) the wage payment provisions of N.C.Gen.Stat. §§ 95-25.6 and 95-25.13(1)-(2), and 13 NCAC Tit. 12 § .0803 of the NCWHA, and (ii) the

terms of their clearance order job contract pursuant to 20 C.F.R. §§ 655.122(k), 655.122(m), and 655.122(q) at an hourly wage rate that averaged at least \$11.27/hour (for work in 2017), \$10.72/hour (for work in 2016), and \$10.32/hour (for work in 2015 after July 1, 2015)?

64. The class and each subclass alleged in ¶¶63 and 63(a)-63(h) above are so numerous and so geographically dispersed as to make joinder impractical. The precise number of individuals in this class and in each subclass in this class is known only to the defendants. However, the class and each subclass in the class are believed to include over fifty (50) individuals. This class and each subclass are comprised of indigent migrant and seasonal agricultural and temporary agricultural workers and other workers many of whom maintain no permanent residence in the United States. Many of the members in this class are not fluent in the English language and are unfamiliar with the American judicial system. The relatively small size of the individual claims and the indigence of the members of this class also make the maintenance of separate actions by each member of this class infeasible.

65. There are questions of law and fact common to the class and each subclass alleged in ¶¶63 and 63(a)-63(h) above. These common legal and factual questions are, among others:

(a) Did Ham Farms jointly employ any of the workers that are described in ¶¶63(a)-(h) above pursuant to 20 C.F.R. §§ 655.103(b) and 655.1300(c)?

(b) For 2015, pursuant to N.C.Gen.Stat. §§ 95-25.13(1)-(2) and 13

N.C.A.C. Tit. 12 § .0803, did defendants Ham Farms, Torres, RGT, and/or G, LLC disclose to the named Plaintiffs identified in ¶¶8-9 above and the members of the class and each subclass defined in ¶¶63 and 63(a)-(b) above that defendant Ham Farms, Torres, RGT, and/or G, LLC would pay wages on the employee's regular payday that were equal to the higher of the wage earnings paid for piece work at the rate of \$0.45 per 5/8 bushel bucket or an average of no less than \$10.32 per hour even though the work was performed on a piece rate basis at \$0.45 per 5/8 bushel bucket, depending upon which was higher?

(c) For 2016, pursuant to N.C.Gen.Stat. §§ 95-25.13(1)-(2) and 13 N.C.A.C. Tit. 12 § .0803, did defendants Ham Farms, RGT, and/or 5 G, LLC disclose to the named Plaintiff identified in ¶10 above and the members of the class and the subclass defined in ¶¶63 and 63(c) above that defendant Ham Farms, RGT, and/or 5 G, LLC would pay wages on the employee's regular payday that were equal to the higher of the wage earnings paid for piece work at the rate of \$0.50 per 5/8 bushel bucket or an average of no less than \$10.72 per hour even though the work was performed on a piece rate basis at \$0.50 per 5/8 bushel bucket, depending upon which was higher?

(d) For 2017, pursuant to N.C.Gen.Stat. §§ 95-25.13(1)-(2) and 13 N.C.A.C. Tit. 12 § .0803, did defendants Ham Farms, RGT, and/or 5 G, LLC disclose to Francisco Palacios-Hernandez and the members of the class and the subclass defined in ¶¶ 63 and 63(d) above that defendant Ham Farms, RGT, and/or 5 G, LLC would pay wages on the employee's regular payday that

were equal to the higher of the wage earnings paid for piece work at the rate of \$0.50 per 5/8 bushel bucket or an average of no less than \$10.72 per hour even though the work was performed on a piece rate basis at \$0.50 per 5/8 bushel bucket, depending upon which was higher?

(e) In 2015, 2016, or 2017, did defendants Ham Farms, Torres, RGT, G, LLC, and/or 5 G, LLC violate the wage payment provisions of N.C.Gen.Stat. § 95-25.6 of the NCWHA applicable to the named Plaintiffs identified in ¶¶8-10 and 11B above and the class and subclasses defined in ¶¶63 and 63(a)-(e) above by failing to pay all wages when those wages were due pursuant to 20 C.F.R. §§ 655.122(k)-(m) and 655.135(e) at the hourly rate that one or more of those same defendants disclosed to them for all hours worked hand harvesting sweet potatoes on a piece rate basis?

(f) In 2015, 2016, or 2017, did defendants Ham Farms, RGT, G, LLC, and/or 5 G, LLC violate the wage payment provisions of N.C.Gen.Stat. § 95-25.6 of the NCWHA applicable to the named Plaintiffs and workers identified and described in ¶¶ 63(h), 11B, 27, 29, and 30A above for inbound visa, transportation, and other expenses described in ¶63(h) above by failing to pay all wages when those wages were due based upon the de facto wage deductions that are described in ¶63(h) above at the hourly rate that one or more of those same defendants disclosed to them for all hours worked hand harvesting sweet potatoes or in the performance of other agricultural labor on land that was owned or controlled by Ham Farms?

(g) In either 2016 or 2017, or both, did defendants Ham Farms,

Moreno, and Villatoros violate the wage payment provisions of N.C.Gen.Stat. § 95-25.6 of the NCWHA applicable to the named Plaintiffs identified in ¶¶10A and 11A above and the class and subclasses defined in ¶¶ 63 and 63(f)-(h) above by failing to pay all wages when those wages were due on the employee's regular payday for the wages earned in the workweek just completed pursuant to 20 C.F.R. §§ 655.122(k) and 655.122(m) at the rate that one or more of those same defendants disclosed to them for all hours worked hand harvesting sweet potatoes in either 2015 or 2016, or both?

66. The claims in the Third Claim for Relief under the clearance order contract by the named Plaintiffs identified in ¶¶63(a)-63(j) are typical of the claims of the members of the class and subclasses identified in ¶¶63 and 63(a)-63(h) above, and those typical, common claims predominate over any questions affecting only individual class and subclass members. The named Plaintiffs identified in those same paragraphs have the same interests as other members of the class and subclasses defined in ¶¶63 and 63(a)-63(h) above and will vigorously prosecute these interests on behalf of the class and subclasses defined in ¶¶63 and 63(a)-63(h) above.

67. The named Plaintiffs identified in ¶¶63 and 63(a)-63(j) will fairly and adequately represent the interests of the class and subclasses defined in ¶¶63 and 63(a)-63(h) above.

68. The undersigned counsel Robert J. Willis of the Law Office of Robert J. Willis, P.A., along with the undersigned counsel with the law firm Cohen Milstein Sellers and Toll PLLC, are experienced litigators who

have been named counsel for many class actions. Plaintiffs' counsel are prepared to advance litigation costs necessary to vigorously litigate this action and to provide notice to the members of the class and subclasses defined in ¶¶63 and 63(a)-63(h) under Rule 23(b)(3).

69. A class action under Rule 23(b)(3) is superior to other available methods of adjudicating this controversy because, *inter alia*:

(a) The common issues of law and fact, as well as the relatively small size of the individual claims of each member of the class and subclasses defined in ¶¶63 and 63(a)-63(h) above, substantially diminish the interest of members of the class and subclasses defined in ¶¶63 and 63(a)-63(h) in individually controlling the prosecution of separate actions;

(b) Many members of the class and subclasses defined in ¶¶63 and 63(a)-63(h) are unaware of their rights to prosecute these claims and lack the means or resources to secure legal assistance;

(c) There has been no litigation already commenced against any individual defendant or corporate defendant named in this action by the members of the class and subclasses defined in ¶¶63 and 63(a)63(h) above to determine the questions presented;

(d) It is desirable that the claims be heard in this forum because all defendants reside in this district and the cause of action arose in this district;

(e) A class action can be managed without undue difficulty because all defendants regularly committed the violations complained of herein,

and were required to and did maintain detailed records concerning each member of the class and subclasses defined in ¶¶63 and 63(a)-63(h) above.

IX. RULE 23(b)(3) CLASS ALLEGATIONS (AWPA)

70. As alleged in the Fourth Claim for Relief, this class claim is brought under the Migrant and Seasonal Agricultural Worker Protection Act ("AWPA") by named Plaintiffs Adan Lopez, Francisco Mendez, Ezequiel Aburto-Hernandez, and Alejandro Martinez-Mendez on behalf of themselves and all other similarly situated persons pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.

71. In the Fourth Claim for Relief based on the AWPA, the four (4) named Plaintiffs identified in ¶70 above seek to represent a class consisting of all migrant and seasonal agricultural workers (as the terms "migrant agricultural worker" and "seasonal agricultural worker" are defined in 29 U.S.C. §§ 1802(8) and 1802(10) and 29 C.F.R. §§ 500.20(p) and 500.20(r)) who performed temporary or seasonal work in agriculture when they were either directly employed by Ham Farms and/or Ham Produce or jointly employed by one or more of those same two (2) defendants and farm labor contractors Torres, Ismael, Pacheco, Inc., Martinez, and/or Garcia at any time in the three (3) year time period immediately preceding the date on which this action was filed and continuing thereafter until the date on which final judgment is filed in this action. Except as otherwise alleged, this class consists of the following subclasses and, unless otherwise specified, for each separate agricultural season that occurred in that same time period:

(a) In 2016, named Plaintiffs Adan Lopez, Francisco Mendez, and Alejandro Martinez-Mendez and those workers that those same three (3) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) to whom defendant Ham Farms and defendant Garcia failed to pay weekly wages that were due when they were due for all hours worked when they were directly employed by defendant Ham Farms or jointly employed by defendant Ham Farms and farm labor contractor Garcia to perform the "corresponding employment" field work that is described in ¶¶7 and 30 above when the gross compensation paid did not equal or exceed the higher of the product of a piece rate of \$0.50 per 5/8 bushel bucket for all buckets picked in each workweek in 2016 or the produce of all hours worked and the average of \$10.72 per hour in violation of 29 U.S.C. §§ 1822(a) and 1832(a), and

(b) named Plaintiff Ezequiel Aburto-Hernandez and those migrant or seasonal agricultural workers that named Plaintiff Aburto-Hernandez seeks to represent pursuant to Rule 23(b)(3) that are described in ¶52 above to whom defendants Ham Farms and/or Ham Produce failed to pay weekly wages when those wages were due for any workweek ending at any time in the three (3) year time period immediately preceding the date on which this action for all hours worked when they were jointly employed by defendant Ham Produce and defendant farm labor contractor Martinez and were not paid at the hourly rate required by 29 U.S.C. § 207(a)(1) for the hours they performed work totaling in excess of 40 hours in the same workweek when all or some part of those hours worked were performed in connection with defendant Ham Produce's sweet potato packing house to

process or pack sweet potatoes that were produced by person(s) or business entities other than Ham Farms and/or Ham Produce, or some combination or totally-owned affiliate of one or both of those two named defendants in violation of 29 U.S.C. §§ 1822(a) and/or 1832(a), and

(c) in 2015 on and after July 1, 2015, named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, Ezequiel Aburto-Hernandez, and those migrant or seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) to whom defendants Ham Farms, Torres, Garcia, Ismael, and Pacheco, Inc. failed to provide to those same four (4) named Plaintiffs and the workers they seek to represent itemized written wage statements that accurately stated the number of hours worked for each pay period that each such named Plaintiff and class member was employed by one or more of those same defendants in violation of 29 U.S.C. §§ 1821(d)(2) and/or 1831(c)(2) for all hours worked when they were jointly employed by defendant Ham Farms and farm labor contractor defendants Ismael, Pacheco, Inc., Garcia, and Torres to perform agricultural employment by one or more of those same defendants, and

(d) in 2015 on or after July 1, 2015, named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, Ezequiel Aburto-Hernandez, and those migrant or seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) for whom defendants Ham Farms, Torres, Garcia, Ismael, and Pacheco, Inc. failed to maintain for those same four (4) named Plaintiffs and the

workers they seek to represent written wage records that accurately stated the number of hours worked for each pay period that each such named Plaintiff and class member was employed by one or more of those same defendants in violation of 29 U.S.C. §§ 1821(d)(2) and/or 1831(c)(2) for all hours worked when they were jointly employed by defendant Ham Farms and farm labor contractor defendants Ismael, Pacheco, Inc., Garcia, and Torres to perform agricultural employment by one or more of those same defendants, and

(e) in 2016, named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez and those migrant or seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) to whom defendants Ham Farms and Garcia failed to provide to those same four (4) named Plaintiffs and the workers they seek to represent itemized written wage statements that accurately stated the number of hours worked for each pay period that each such named Plaintiff and class member was employed by one or more of those same defendants in violation of 29 U.S.C. §§ 1821(d)(2) and/or 1831(c)(2) for all hours worked when they were jointly employed by defendant Ham Farms and farm labor contractor defendant Garcia to perform agricultural employment by one or more of those same defendants, and

(f) in 2016, named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez and those migrant or seasonal agricultural workers that those same four (4) named

Plaintiffs seek to represent pursuant to Rule 23(b)(3) for whom defendants Ham Farms and Garcia failed to maintain for those same four (4) named Plaintiffs and the workers they seek to represent written wage records that accurately stated the number of hours worked for each pay period that each such named Plaintiff and class member was employed by one or more of those same defendants in violation of 29 U.S.C. §§ 1821(d)(2) and/or 1831(c)(2) for all hours worked when they were jointly employed by defendant Ham Farms and farm labor contractor defendant Garcia to perform agricultural employment by one or more of those same defendants, and

(g) in 2015 on and after July 1, 2015, at the time that defendants Ham Farms, Torres, Garcia, Ismael, and Pacheco, Inc. recruited named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, Ezequiel Aburto-Hernandez, and those migrant agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3), those same named defendants failed to ascertain and disclose accurate information in writing as to the actual wage rates to be paid to those same named Plaintiffs and those migrant agricultural workers that those same four (4) named Plaintiffs seek to represent in violation of 29 U.S.C. § 1821(a)(2) for all crops and activities on which those workers may be employed when they were jointly employed by defendant Ham Farms and farm labor contractor defendants Ismael, Pacheco, Inc., Garcia, and Torres to perform agricultural employment for one or more of those same defendants, and

(h) in 2016, at the time that defendants Ham Farms and Garcia recruited named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez, and those migrant agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3), those same named defendants failed to ascertain and disclose accurate information in writing as to the actual wage rates to be paid to those same named Plaintiffs and those migrant agricultural workers that those same four (4) named Plaintiffs seek to represent in violation of 29 U.S.C. § 1821(a)(2) for all crops and activities on which those workers may be employed when they were jointly employed by defendant Ham Farms and farm labor contractor defendant Garcia to perform agricultural employment for one or more of those same defendants, and

(i) in 2015, on or after July 1, 2015, for named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, Ezequiel Aburto-Hernandez, and those migrant and seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3), defendants Ham Farms, Torres, Garcia, Ismael, and Pacheco, Inc. violated, without justification, the working arrangement they had with those same workers to pay all applicable wage taxes in a timely manner on the wages that one or more of those same named defendants paid to those same workers that they jointly employed during that same time period in violation of 29 U.S.C. §§ 1822(c) and 1832(c), and

(j) in 2016, for named Plaintiffs Adan Lopez, Francisco Mendez,

Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez and those migrant and seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3), defendants Ham Farms and Garcia violated, without justification, the working arrangement they had with those same workers to pay all applicable wage and FICA taxes in a timely manner on the wages that one or more of those same named defendants paid to those same workers that they jointly employed during that same time period in violation of 29 U.S.C. §§ 1822(c) and 1832(c), and

(k) in 2015, on or after July 1, 2015, for named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez and those migrant and seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3), defendant Ham Farms used farm labor contractor Garcia to furnish those same workers to defendant Ham Farms when defendant Ham Farms did not first take reasonable steps to determine that farm labor contractor Garcia possessed a certificate of registration issued by the United States Department of Labor, Wage and Hour Division which was valid and which authorized that same farm labor contractor to engage in that same farm labor contracting activity in 2015 on or after July 1, 2015 in violation of 29 U.S.C. § 1842, and

(l) in 2016, for named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez and those migrant and seasonal agricultural workers that those same four (4) named

Plaintiffs seek to represent pursuant to Rule 23(b)(3), defendant Ham Farms used farm labor contractor Garcia to furnish those same workers to defendant Ham Farms when defendant Ham Farms did not first take reasonable steps to determine that farm labor contractor Garcia possessed a certificate of registration issued by the United States Department of Labor, Wage and Hour Division which was valid and which authorized that same farm labor contractor to engage in that same farm labor contracting activity in 2016 in violation of 29 U.S.C. § 1842, and

(m) in 2015 on and after July 1, 2015, named Plaintiffs Adan Lopez, Francisco Mendez, and Ezequiel Aburto-Hernandez, and those migrant or seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) to whom defendants Ham Farms, Torres, Garcia, Ismael, and Pacheco, Inc. failed to pay all wages when due to each of those same workers when those same defendants paid those workers weekly wages which were the lower of the product of the number of sweet potato units or buckets harvested by each such worker and the applicable piece rate for each such unit or bucket of sweet potatoes compared to the product of the total actual hours worked in the harvest of those sweet potatoes and the required or promised hourly wage rate for that same harvest work, and

(n) in 2016, named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez and those migrant or seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) to whom defendants

Ham Farms and Garcia failed to pay all wages when due to each of those same workers when those same defendants paid those workers weekly wages which were the lower of the product of the number of sweet potato units or buckets harvested by each such worker and the applicable piece rate for each such unit or bucket of sweet potatoes compared to the product of the total actual hours worked in the harvest of those sweet potatoes and the required or promised hourly wage rate for that same harvest work, and

(o) in 2016, as alleged in ¶7 above and ¶80 below, defendants Garcia and Ham Farms failed to pay all wages when due in violation of 29 U.S.C. §§ 1822(a) and 1832(a) to named Plaintiffs Alejandro Martinez-Mendez, Adan Lopez, and Francisco Mendez, and the migrant and seasonal agricultural workers described in ¶¶30, 54-55, and 55(h) above that they seek to represent to work and perform corresponding employment in 2016 in the hand harvest of sweet potatoes on a piece rate basis of \$0.45 per 5/8 bushel bucket with without any guaranteed minimum of \$10.72 per hour for the periods of time described in ¶¶6 and 28 above, and 80 below when H-2A workers who were employed or jointly employed by RGT and 5 G, LLC and Ham Farms were compensated on a piece rate basis of \$0.50 per bushel bucket with a guaranteed minimum of \$10.72 per hour to perform sweet potato hand harvest work pursuant to an H-2A labor certification and H-2A visas issued in 2016 to RGT and 5 G, LLC, the joint employer of those workers.

72. The class and each subclass alleged in ¶¶71(a)-(o) above are so numerous and so geographically dispersed as to make joinder

impractical for the same reasons alleged in ¶56 above.

73. There are questions of law and fact common to the class and each of the subclasses alleged in ¶¶71(a)-(o) above. These common legal and factual questions are, among others:

(a) For each separate agricultural season that occurred in the time period described in ¶71 above, did all defendants who are named in the class and subclasses alleged in ¶¶71 and 71(a)-(o) employ or jointly employ the named Plaintiffs and the persons described in the class and subclasses in ¶¶71 and 71(a)-(o) above as migrant or seasonal agricultural workers under the AWPA for the time periods and years alleged in those same paragraphs?

(b) For each agricultural season that occurred in the time period described in ¶71 above, for the migrant and seasonal agricultural workers described in ¶¶71, 71(c), and 71(d) above, did all defendants named in ¶¶71(c)-71(f) violate the recordkeeping and wage statement provisions of 29 U.S.C. §§ 1821(d)(1)(C), 1821(d)(2), 1831(c)(1)(C), and 1831(c)(2) of the AWPA applicable to all named Plaintiffs and the class and subclasses defined in ¶¶71, 71(c)-71(f) above by failing to disclose, make, and preserve wage statements and records which accurately disclosed and recorded the hours worked for all named Plaintiffs identified in ¶¶71(c)-71(f) above and the members of the class and subclasses defined in ¶¶71(c)-71(f) above?

(c) For each separate agricultural season that occurred in time period described in ¶71 above, did all defendants named in ¶¶71(i)-71(j)

violate the rights of all named Plaintiffs identified in those same two paragraphs and the members of the class and subclasses defined in ¶¶71, 71(i)-71(j) above with respect to the violation of the working arrangement described in those same paragraphs by those same defendants in violation of 29 U.S.C. §§ 1822(c) and 1832(c) in the manner alleged in ¶¶71(i) and 71(j) above?

(d) For each separate agricultural season that occurred in the time period described in ¶71 above and in ¶¶71(a)-71(b), and 71(m)-(o), for the migrant and seasonal agricultural workers described in ¶¶71, 71(a)-71(b), and 71(m)-(o) above, did all defendants named in ¶¶71(a)-71(b) and 71(m)-71(o) fail to pay all wages when due in violation of 29 U.S.C. §§ 1822(a) and 1832(a) of the AWPA applicable to all named Plaintiffs and the class and subclasses defined in ¶¶71, 71(a)-71(b), and 71(m)-71(o) above by engaging in the payment practice described in ¶¶71(a)-71(b) and 71(m)-71(o) above?

(e) For each separate agricultural season that occurred in time period described in ¶71 above, did all defendants violate the rights of named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, Ezequiel Aburto-Hernandez, and the members of the class and subclasses defined in ¶¶71 and 71(g)-71(h) above under work disclosure requirements of 29 U.S.C. § 1821(a)(2) as described in ¶¶71 and 71(g)-71(h) above in the manner alleged in ¶¶71(g) and 71(h) above?

(f) For each separate agricultural season that occurred in the time period alleged in ¶71 above, did the defendants named in ¶¶71(k)-71(l)

violate the rights of Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, Ezequiel Aburto-Hernandez and the members of the class and subclass defined in ¶¶71 and 71(k)-71(l) above with respect to the required verification of the farm labor contractor's certificate of registration called for by 29 U.S.C. § 1842 as described in ¶¶71(k)-(l) above in the manner alleged in ¶¶71(k)-(l) above.

73A. The claims of the named Plaintiffs in the class and subclasses defined in ¶¶71 and 71(a)-(o) above are typical of the claims of the members of the class and subclasses defined in ¶¶71 and 71(a)-(o) above, and those typical, common claims predominate over any questions affecting only individual class and/or subclass members. The named Plaintiffs have the same interests as to other members of the class and subclasses defined in ¶¶71 and 71(a)-(o) above and will vigorously prosecute these interests on behalf of the class and subclasses defined in ¶¶71 and 71(a)-(o) above.

73B. The named Plaintiffs identified in ¶¶71 and 71(a)-91(o) above will fairly and adequately represent the interests of the class and subclasses defined in ¶¶71 and 71(a)-71(o) above.

74. The undersigned counsel Robert J. Willis of the Law Office of Robert J. Willis, P.A., along with counsel at the law firm Cohen Milstein Sellers and Toll PLLC, are experienced litigators who have been named counsel for many class actions. Plaintiffs' counsel are prepared to advance litigation costs necessary to vigorously litigate this action and to provide notice to the members of the class and subclasses defined in ¶¶71 and 71(a)-71(o) above under Rule 23(b)(3).

75. The reasons, *inter alia*, that a class action under Rule 23(b)(3) is superior to other available methods of adjudicating the controversy alleged with respect to the class and subclasses defined in ¶¶71 and 71(a)-(o) above are materially identical to those alleged in ¶69(a)-(e) above with respect to the class and subclasses defined in ¶¶71 and 71(a)-(o) above.

X. FLSA COLLECTIVE ACTION #2 (§ 206(a))(FLSA)

76. In 2015, 2016, and 2017, named Plaintiff H-2A workers Elena Rafael-Peralta, Isaias Espinosa-Vazquez, Humberto De La Luz Armenta, José Jimenez-Olivarez, José Pablo Sandoval-Montalvo, and Francisco Palacios-Hernandez, and those other H-2A workers who are named or described in ¶¶9-10A, 11A-11B, 26-27, 29, 30A, 30C, and 30D above of this Amended Complaint maintain this action against Ham Farms and the defendant farm labor contractors identified in ¶¶8-10A, 11B, 26-27, 29, 30A, and 30C above for and on behalf of themselves and all other similarly situated persons who were jointly employed by defendant Ham Farms and one or more of the farm labor contractor defendants described in ¶¶8-10A, 11A-11B, 26-27, 29, 30A, and 30C above to hand harvest sweet potatoes in fields in or around Greene County, North Carolina that were owned or controlled by defendant Ham Farms.

77. This collective action is for those H-2A workers described in ¶76 above who suffered a *de facto* wage deduction by those same defendants which reduced the net hourly wage of those same H-2A workers below the \$7.25 per hour required by law for each such H-2A worker's weekly wage in

the manner that is described and alleged in ¶¶105-108 below.

78. In the three (3) year time period immediately preceding the date on which any such person files a Consent to Sue in this action pursuant to 29 U.S.C. §216(b), and ending with the date final judgment is entered in this action, defendant Ham Farms and the farm labor contractor defendants identified in ¶¶8-10A, 11A-11B, 26-27, 29, 30A, and 30C above shifted the entire cost of all inbound employment expenses and other expenses that were a term and condition of each worker's joint employment described in ¶76 above onto these named Plaintiffs and the group of employees of the defendant Ham Farms and the farm labor contractor defendants described in ¶76 above. Those inbound employment expenses included bus transportation within the nation of Mexico, bus transportation within the United States, hotel fees that were required because these Plaintiffs were forced to wait in Monterrey, Mexico for at least one 24-hour period before they were allowed to obtain processing for their visa interviews, the cost of subsistence food purchased in the United States at 13 times or more the cost for that same subsistence food had it been purchased in the Republic of Mexico during the inbound journey, and the cost of the border crossing fee required by the U.S. government.

79. The defendant employer Ham Farms and the defendant farm labor contractors referred to in ¶¶8-10A, 11A-11B, 26-27, 29, 30A, and 30C above of this Complaint willfully and recklessly shifted the entire cost of all inbound employment expenses and other expenses that were a term and condition of each worker's joint employment described in ¶76 above onto

these named Plaintiffs and the group of joint employees of the defendant Ham Farms and the farm labor contractor defendant described in ¶76 above.

XI. FACTUAL ALLEGATIONS

80. In 2015, on and after July 1, 2015, in 2016, and/or in 2017, to the extent and in the manner alleged in ¶¶6-10A, 11A-11B, 12-24, 26-30, 48-49, 51-52, and 55-57 above, defendant Ham Farms, defendant Ham Produce, and the defendant farm labor contractor defendants described in ¶¶12-30C, inclusive, above, directly employed or jointly employed in the manner described in ¶¶6-11B, 12-18, 24, 26-30D, and 31-53, inclusive, above, all of the named Plaintiffs identified in ¶¶6-11B, inclusive, above, and the members of the collective actions, classes, and subclasses of migrant and seasonal agricultural workers described in ¶¶50-51, 54-55, 62-63, 70-71, and 76-79 to perform seasonal labor in the processing and packing of sweet potatoes in a packing shed, the hand harvest of sweet potatoes, and/or other forms of agricultural labor in the growing of sweet potatoes for the time periods and years described in those same paragraphs of the Amended Complaint.

81. During the time period described in ¶¶50-51 above, defendant Ham Produce and farm labor contractor Martinez employed or jointly employed named Plaintiff Aburto-Hernandez and, upon information and belief, in excess of twenty (20) other employees who did not have H-2A visas to pack and process sweet potatoes for in excess of 40 hours in the same workweek in at least two (2) different workweeks that occurred in each calendar year in the years 2016 and in 2017 when all or some part

of those hours worked were and/or will be performed in connection with defendant Ham Produce's sweet potato packing house to process or pack sweet potatoes that were and will be produced by person(s) or business entities other than Ham Farms and/or Ham Produce, or some combination or totally-owned affiliate of one or both of those two named defendants.

82. In the at least two workweeks that occurred in December 2016 and January 2017 that are described in ¶81 above, defendant Ham Produce and farm labor contractor Martinez willfully failed to pay named Plaintiff Aburto-Hernandez and the members of the collective action defined in ¶¶50-51 above wages free and clear on or before their regular payday for each workweek for the work they performed in excess of 40 hours in those same workweeks for that same work that are described in ¶¶50-52 above at the overtime rate required by 29 U.S.C. § 207(a)(1) for each hour worked or part of an hour that named Plaintiff Aburto-Hernandez and each member of this collective action worked in excess of 40 hours during each of those same workweeks. That failure was in reckless disregard of the rights of those employees under § 207 of the FLSA when both Ham Produce and farm labor contractor Martinez knew, from long experience as employers covered by federal wage and hour laws, that such work required payment at the overtime rate required by 29 U.S.C. § 207(a)(1).

83. In 2015 on or after July 1, 2015, defendant Ham Farms and defendant farm labor contractors Torres, Pacheco, Inc., and/or Ismael employed or jointly employed named Plaintiffs Adan Lopez, Francisco

Mendez, and Elena Rafael-Peralta and the class and subclasses of workers described in ¶¶22, 26, 54-55, 55(a), 71, and 71(c) to perform the work that is described in ¶¶22, 26, 54-55, 55(a), 71, and 71(c).

84. In 2015 on or after July 1, 2015, defendant Ham Farms and defendant farm labor contractors Torres, Pacheco, Inc., and/or Ismael did not pay an hourly wage to the Plaintiffs and workers described in the immediately preceding paragraph of this Amended Complaint that averaged at least \$10.32/hour per workweek's wages for all hours worked for at least two (2) separate workweeks that those same defendants jointly suffered or permitted those workers to work in the hand harvest of sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2015 because the gross amount that they paid those workers on the piece rate basis was less than the minimum rate of \$10.32/hour for all hours worked.

85. In 2015 on or after July 1, 2015, defendants Ham Farms and farm labor contractor Garcia jointly suffered or permitted named Plaintiff Ezequiel Aburto-Hernandez and the workers who are described in ¶¶23, 28, 54-55, 55(b), 71, and 71(b) above to work in the hand harvest of sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2015.

86. In 2015 on or after July 1, 2015, defendant Ham Farms and defendant farm labor contractor Garcia did not pay an hourly wage to the Plaintiff and workers described in the immediately preceding paragraph of this Complaint that averaged at least \$10.32/hour per workweek's wages

for all hours worked for at least two (2) separate workweeks that those same defendants jointly suffered or permitted those workers to work in the hand harvest of sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2015 because the gross amount that they paid those workers on the piece rate basis was less than the minimum rate of \$10.32/hour for all hours worked.

87. In 2015, on or after July 1, 2015, defendant Ham Farms and defendant farm labor contractor RGT and G, LLC jointly suffered or permitted the named Plaintiffs José Jimenez-Olivarez, Francisco Palacios-Hernandez, and the H-2A workers who are described in ¶¶27, 54-55, 55(c), 63, and 63(b) above to work in the hand harvest of sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2015.

88. In 2015 on or after July 1, 2015, defendant Ham Farms and defendant farm labor contractors RGT and G, LLC did not pay an hourly wage to the Plaintiffs and the workers described in the immediately preceding paragraph of this Complaint that averaged at least \$10.32/hour per workweek's wages for all hours worked for at least two (2) separate workweeks that those same defendants jointly suffered or permitted those workers to work in the hand harvest of sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2015 because the gross amount that they paid those workers on the piece rate basis was less than the minimum rate of \$10.32/hour for all hours worked.

89. In 2016 defendants Ham Farms and farm labor contractor Garcia

jointly suffered or permitted named Plaintiff Ezequiel Aburto-Hernandez and the workers who are described in ¶¶23, 30, 54-55, 55(d), 71, and 71(a) above to work in the hand harvest of sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2016.

90. In 2016, defendant Ham Farms and defendant farm labor contractor Garcia did not pay an hourly wage to the Plaintiff and workers described in the immediately preceding paragraph of this Complaint that averaged at least \$10.72/hour per workweek's wages for all hours worked for at least two (2) separate workweeks that those same defendants jointly suffered or permitted those workers to work in the hand harvest of sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2016 because the gross amount that they paid those workers on the piece rate basis was less than the minimum rate of \$10.72/hour for all hours worked.

91. In 2016 defendants Ham Farms and farm labor contractors RGT and 5 G, LLC jointly suffered or permitted named Plaintiffs José Pablo Sandoval-Montalvo and the workers who are described in ¶¶29, 54-55, 55(e), 63, and 63(c) above to work in the hand harvest of sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2016.

92. In 2016, defendant Ham Farms and defendant farm labor contractors RGT and 5 G, LLC did not pay an hourly wage to the Plaintiff and workers described in the immediately preceding paragraph of this complaint that averaged at least \$10.72/hour per workweek's wages for

all hours worked for at least two (2) separate workweeks that those same defendants jointly suffered or permitted those workers to work in the hand harvest of sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2016 because the gross amount that they paid those workers on the piece rate basis was less than the minimum rate of \$10.72/hour for all hours worked.

93. In 2015 on or after July 1, 2015, 2016, and 2017, defendants Ham Farms and farm labor contractors RGT, 5 G, LLC, and/or G, LLC jointly suffered or permitted named Plaintiffs José Jimenez-Olivares, José Pablo Sandoval-Montalvo, Francisco Palacios-Hernandez, and the workers who are described in ¶¶27, 29, 30A, 30B, 54-55, 55(f)-(g), 55(j)-55(m), 63, and 63(a)-(e) above to work in the hand harvest of sweet potatoes on a piece rate basis and/or to perform other agricultural labor in connection with the growing of sweet potatoes in fields that were owned or controlled by Ham Farms in 2016 and 2017.

94. In 2015, on or after July 1, 2015, and continuing in 2016 and 2017, defendant Ham Farms and defendant farm labor contractors RGT, G LLC, and/or 5 G, LLC did not pay wages to the named Plaintiffs and workers described in the immediately preceding paragraph of this Amended Complaint in an amount that was equal to all promised wages when they were due on their regular weekly payday for the wages earned in the workweek just completed as a result of the week in reserve semana en fondo wage payment system used by farm labor contractor defendants RGT, G LLC, and 5 G, LLC which was not disclosed to those same named Plaintiffs

or the workers they seek to represent as required by 20 C.F.R. §§ 655.122(k), 655.122(m), 655.135(e), N.C.Gen.Stat. §§ 95-25.13(1)-(2) and 13 NCAC Tit. 12 § .0803.

95. In many instances throughout the time period described in ¶94 above, the wage payment practice described in ¶94 above frequently resulted in weekly wage payments by the farm labor contractor defendants RGT, G LLC, and 5 G, LLC and the fixed-situs employers to which and with whom those same farm labor contractor defendants furnished and jointly employed the affected workers that were substantially less than the amount that had been earned in the workweek just completed by the workers involved at an hourly wage rate much less than that required by 20 C.F.R. § 655.122(1) for all hours worked for every worker furnished by defendants RGT, G LLC, and/or 5 G, LLC workweeks in each such year.

96. In 2016, defendant Ham Farms and the defendant farm labor contractor Garcia jointly suffered or permitted the named Plaintiffs Adan Lopez, Francisco Mendez, and Alejandro Martinez-Mendez, and the workers who are described in ¶¶23, 30, 54-55, 55(h), 71, and 71(o) above to do "corresponding employment" work in the hand harvest of sweet potatoes on a piece rate basis in fields that were owned or controlled by Ham Farms in 2016.

97. In 2016, defendant Ham Farms and defendant farm labor contractor Garcia did not pay a weekly wage to the Plaintiffs and workers described in the immediately preceding paragraph of this Amended Complaint when that wage was due that was **the higher** of the product of

the number of hours worked multiplied by \$10.72/hour **or** the product of the total number of 5/8 bushel buckets harvested for each workweek that those workers were so employed multiplied by \$0.50 per 5/8 bushel bucket as required by N.C.Gen.Stat. §95-25.6.

98. For the months of at least August, September, October, and November 2015, defendant RGT doing business as G, LLC contracted with, was paid a fee by, and actually furnished to Ham Farms and other "fixed-site employers" and "fixed-site agricultural businesses" located within North Carolina pursuant to 20 C.F.R. §§ 655.103(b), 655.132(a), and 655.132(b)(1) approximately 500 additional workers with H-2A visas to hand harvest sweet potatoes and other agricultural commodities for those "fixed-site employers" in North Carolina after defendant RGT and G, LLC had already furnished those same H-2A workers to perform work for fixed-site employers in states other than North Carolina for which the adverse effect wage rate required by 29 C.F.R. §§ 655.122(1) and 655.120(a) was lower than that required for H-2A work in North Carolina.

99. After arrival in North Carolina to perform certain H-2A work for defendants RGT, G, LLC, and 5 G, LLC and fixed-site employer Ham Farms in North Carolina, defendants RGT, G, LLC, 5 G, LLC, and Ham Farms continued to compensate Plaintiff Sandoval-Montalvo and the persons he seeks to represent that are defined in ¶¶27, 29, and 30B above based upon the failure of RGT, G, LLC, and 5 G, LLC to pay him and his fellow H-2A workers who, like Plaintiff Sandoval-Montalvo, were coming to North Carolina after doing H-2A work for these same defendants at a lower AEWR

in another state only to have RGT, G, LLC, 5 G, LLC and the fixed situs employers to which those workers were furnished and who jointly employed them to maintain his and their wages at that lower rate for his and their work in North Carolina.

100. After arrival in North Carolina to perform certain H-2A work for RGT, G, LLC, and 5 G, LLC and fixed-site employer Ham Farms, defendants RGT, G, LLC and 5 G, LLC and fixed-site employer Ham Farms continued to compensate Plaintiff Sandoval-Montalvo and the persons he seeks to represent as they are defined in ¶¶54, 55(c), 55(e)-55(g), and 55(q) above based upon a completely inaccurate count of the total hours worked for the workweek. It was not uncommon to undercount the hours worked during a particular workweek by 10-20 hours. Accurate records of hours worked, start times for work, and stop time from work in each workweek or each workday were not kept by the defendant employer.

101. In 2015, on or after July 1, 2015, and in 2016, to date, defendants Ham Farms, Torres, Ismael, Pacheco, Inc., and Garcia failed to provide named Plaintiffs Adan Lopez, Francisco Mendez, Ezequiel Aburto-Hernandez, Alejandro Martinez-Mendez, and the members of the classes and subclasses defined in ¶¶54-55, 70, and 71(a)-71(o) above that they seek to represent with itemized wage statements containing an accurate statement of hours worked for any period in which the hours worked included any time period during which work was compensated on a piece work basis.

102. All defendants who suffered or permitted Adan Lopez,

Francisco Mendez, Ezequiel Aburto-Hernandez, Alejandro Martinez-Mendez, and the members of the classes and subclasses defined in ¶¶54-55, 70, and 71(a)-71(o) to do any form of work after July 1, 2015 through December 31, 2016 failed to ascertain and disclose accurate information to those same workers in writing information as to the actual wage rates to be paid to those same four (4) named Plaintiffs and those same migrant agricultural workers that those same four (4) named Plaintiffs seek to represent in violation of 29 U.S.C. § 1821(a)(2) for all crops and activities on which those workers may be employed when they were jointly employed by defendant Ham Farms and farm labor contractor defendants Ismael, Pacheco, Inc., Garcia, and Torres to perform agricultural employment for one or more of those same defendants.

102A. All defendants who suffered or permitted any migrant agricultural worker to do any work for them at any time after July 1, 2015 through December 31, 2016 violated, without justification, the working arrangement they had with those same workers to pay all applicable wage and FICA taxes in a timely manner on the wages that one or more of those same named defendants paid to those same workers that they jointly employed during that same time period in violation of 29 U.S.C. §§ 1822(c) and 1832(c).

103. In 2015, on or after July 1, 2015, and again in 2016, defendant Ham Farms used farm labor contractor Garcia to furnish those same workers to defendant Ham Farms when defendant Ham Farms did not first take reasonable steps to determine that farm labor contractor Garcia possessed

a certificate of registration which was valid and which authorized that same farm labor contractor to engage in that same farm labor contracting activity in 2015 on or after July 1, 2015 in violation of 29 U.S.C. § 1842.

104. In 2015 on and after July 1, 2015 and continuing in 2016, defendants Ham Farms, Torres, Garcia, Ismael, and Pacheco, Inc. failed to pay all wages when due to each named Plaintiff identified in ¶¶6-8 and 11 when those same defendants failed to pay those workers for all hours worked because those defendants did not keep an accurate count of hours worked by those same named Plaintiffs and the workers they seek to represent.

104A. In 2015 on and after July 1, 2015, in 2016, and throughout 2017, defendants Ham Farms, RGT, G, LLC, and 5 G, LLC failed to pay all wages when due to each named Plaintiff H-2A worker identified in ¶¶8-10A, and 11A-11B, inclusive, when those same defendants failed to pay those same workers for all hours worked because those defendants did not keep an accurate record of hours worked, the time at which each such worker started work for each workday, the time at which each such worker stopped work for each workday, and any periods of time during the workday when each such worker was not engaged in the performance of work for those same named Plaintiffs and the H-2A workers they seek to represent.

105. In 2015, 2016, and/or 2017, named Plaintiff H-2A workers Isaias Espinosa-Vazquez, Humberto De La Luz Armenta, Elena Rafael-Peralta, Francisco Palacios-Hernandez, José Jimenez-Olivarez, and those other H-2A

workers who are named or described in ¶¶8-10A, 11A-11B, 26-27, 29, 30A, 30C, and 30D above of this Amended Complaint suffered *de facto* wage deductions by Rivera and JRH, LLC, and defendant farm labor contractors RGT, G, LLC, 5 G, LLC, Moreno, Villatoros, and defendant fixed-situs employer Ham Farms which reduced the net hourly wage of those same H-2A workers below the \$7.25 per hour required by law for each such H-2A worker's weekly wage and below the applicable adverse effect wage rate (AEWR) required by 20 C.F.R. § 655.122(1) and the terms of the job contract that each H-2A worker had with the defendants.

106. In the three (3) year time period immediately preceding the date on which any person or worker identified or referred to in ¶¶8-10A, 11A-11B, 26-27, 29, 30A, 30C, and 30D above of this Complaint files a Consent to Sue in this action pursuant to 29 U.S.C. §216(b), and ending with the date final judgment is entered in this action, Rivera, JRH, LLC, the defendant fixed situs employer Ham Farms, and the defendant farm labor contractors Torres, Moreno, Villatoros, RGT, G, LLC, and 5 G, LLC identified in ¶¶8-10A, 26-27, 29, 30A, and 30C above shifted the entire cost of all inbound employment expenses and other expenses that were a term and condition of each worker's joint employment described in ¶76 above of this Amended Complaint onto these same named Plaintiffs and the group of employees of defendant Ham Farms and the farm labor contractor defendants identified in ¶76 above.

107. Those inbound employment expenses included bus transportation within the nation of Mexico, bus transportation within the United States,

hotel fees that were required because these Plaintiffs were forced to wait in Monterrey, Mexico for at least one 24-hour period before they were allowed to obtain processing for their visa interviews, the cost of subsistence food purchased in the United States at 13 times or more the cost for that same subsistence food had it been purchased in the Republic of Mexico during the inbound journey, and the cost of the border crossing fee required by the U.S. government.

108. The defendant employer Ham Farms and the defendant farm labor contractors referred to above willfully and recklessly shifted the entire cost of all inbound employment expenses and other expenses that were a term and condition of each worker's joint employment described in ¶76 above onto these named Plaintiffs and the group of joint employees of the defendant Ham Farms and the farm labor contractor defendants named as defendants in ¶76 above.

XIII. FIRST CLAIM FOR RELIEF (FLSA OT claim - Ham Produce)

109. Paragraphs 3 through 53 and 80-82 above are realleged and incorporated herein by reference by named Plaintiff Ezequiel Aburto-Hernandez and each member of the collective action described in ¶¶50-51 above of this complaint that the named Plaintiff seeks to represent pursuant to 29 U.S.C. §216(b) against defendants Martinez and Ham Produce.

110. The defendants named in ¶109 did not pay and will not pay all wages due to the named Plaintiff and the collective group of persons defined in ¶¶50-51 above of this Amended Complaint that the named Plaintiff

seeks to represent under 29 U.S.C. §216(b) at the rate required by 29 U.S.C. § 207(a) for the work described in ¶¶11, 24, and 50-53 above of this Amended Complaint.

111. As a result of these willful actions of the defendants named in ¶109 above that were in reckless disregard of the rights of named Plaintiff Aburto-Hernandez and each person who is a member of the collective action of persons defined in ¶¶50-51 above of this Amended Complaint under 29 U.S.C. § 207(a), named Plaintiff Aburto-Hernandez and each member of the collective action defined in ¶¶50-51 above have suffered and/or will suffer damages in the form of unpaid wages and liquidated damages that may be recovered under 29 U.S.C. §216(b).

XIII. SECOND CLAIM FOR RELIEF (NCWHA #1 against all defendants)

112. Paragraphs 3 through 49, 54-61, and 80-108, inclusive, above are realleged and incorporated herein by reference by all named Plaintiffs and each member of the class and subclasses defined in ¶54-55 of this complaint that all named Plaintiffs seek to represent pursuant to Rule 23(b)(3), Fed.R.Civ.P., against all defendants under the North Carolina Wage and Hour Act, N.C.Gen.Stat. §§ 95-25.1 *et seq.*

113. As alleged in ¶¶5-49, 54-61, and 80-108 above, all defendants violated their duty to all named Plaintiffs and the class and subclasses defined in ¶¶54-55 above to pay all wages under N.C.Gen.Stat. § 95-25.6 when those wages were due pursuant to the terms of the agreement and disclosures that are described in ¶¶80-108 above that all defendants made with all named Plaintiffs and the members of the class and subclasses

defined in ¶¶54 and 55 above.

114. As a result of the actions or omissions of all defendants that are described or referred to in ¶¶54-55, and 80-109 above of this Complaint, the named Plaintiffs and each person who is a member of the class and subclasses defined in ¶¶54 and 55 above of this Amended Complaint have suffered damages in the form of unpaid wages and liquidated damages that may be recovered under N.C.Gen.Stat. §§ 95-25.6, 95-25.22(a), and 95-25.22(a1).

XIV. THIRD CLAIM FOR RELIEF (Clearance Order contract)

115. Paragraphs 3 through 49, 62-69, and 80-108, inclusive, above are realleged and incorporated herein by reference by all named Plaintiffs and each member of the class and subclasses defined in ¶¶62-63 of this Complaint that all named Plaintiffs who are identified in ¶¶8-10A, and 11A-11B seek to represent pursuant to Rule 23(b)(3), Fed.R.Civ.P., against defendants Ham Farms, Moreno, Villatoros, RGT, Torres, G, LLC, and 5 G, LLC, under the common law of contracts.

116. As alleged in ¶¶12-18, 62-63, and 80-108, inclusive, above, defendant Ham Farms and defendant Ham Produce are an enterprise and closely held corporation operated by defendant Bobby G. Ham. Defendants Ham Produce and Ham Farms violated their duty to the named Plaintiffs identified in ¶¶6-8 and the class defined in ¶62 above and subclasses defined in ¶¶62-63 to the extent alleged in ¶¶63 and 80-108 above to pay all wages under N.C.Gen.Stat. § 95-25.6 when those wages were due pursuant to the terms of the agreement and disclosures that are described in ¶¶54-55(a), 62-69,

70-71, and 80-108 that defendant Ham Farms and its agents and joint employers G, LLC, 5 G, LLC, and RGT made to and has had with those same named Plaintiffs and the members of the class and subclasses defined in ¶¶54-55 and 62-63 who are represented by one or more of those same named Plaintiffs.

117. As alleged in ¶¶12-18, 62-63, and 80-108, inclusive, above, defendant Ham Farms and defendant Ham Produce are an enterprise and closely held corporations operated by defendant Bobby G. Ham. Defendants Ham Produce and Ham Farms violated their duty to all of the H-2A worker named Plaintiffs identified in ¶¶8-10A and 11-11B, inclusive, above, the class of H-2A workers defined in ¶62 above and subclasses of H-2A workers defined in ¶¶62-63 to the extent alleged in ¶63 above to pay all wages when those wages were due pursuant to the terms of the clearance order contract that each of those same H-2A workers had with Ham Farms, RGT, G LLC, and 5 G Harvesting, and the disclosures that are described in ¶¶54-55(a), 62-69, 70-71, and 80-108 that defendant Ham Farms and its agents and joint employers G, LLC, 5 G, LLC, and RGT made to and has had with the named Plaintiffs identified in ¶¶8-10A, inclusive, and 11-11B, inclusive, above and the members of the class and subclasses defined in ¶¶54-55 and 62-63 who are represented by one or more of those same named Plaintiffs.

118. As a result of the actions or omissions of all defendants that are described or referred to in ¶¶3-49, 54-61, 62-69, 80-108, and 115-18 above of this Complaint, all named Plaintiffs and each person who is a member of the class and subclasses defined in ¶¶62 and 63(a)-(h) above of

this Complaint have suffered damages in the form of unpaid wages and liquidated damages that may be recovered under the common law of contracts.

XV. FOURTH CLAIM FOR RELIEF (AWPA)

119. The Fourth Claim for Relief is brought under the AWPA by named Plaintiffs Adan Lopez, Francisco Mendez, Ezequiel Aburto-Hernandez, and Alejandro Martinez-Mendez on behalf of themselves and all other similarly situated persons pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.

120. In the Fourth Claim for Relief based on the AWPA, the four (4) named Plaintiffs identified in ¶¶70 and 119 above allege the following intentional AWPA violations on behalf of themselves and the class and subclasses defined in ¶¶70-71 above of this Complaint against Ham Farms and/or Ham Produce and the farm labor contractors (Torres, Ismael, Pacheco, Inc., Martinez, and/or Garcia) with whom Ham Farms and/or Ham Produce jointly employed the class and subclasses defined in ¶¶70-71 above.

121. Pursuant to Rule 23(b)(3), that class and those subclasses consist of all migrant and seasonal agricultural workers (as the terms "migrant agricultural worker" and "seasonal agricultural worker" are defined in 29 U.S.C. §§ 1802(8) and 1802(10) and 29 C.F.R. §§ 500.20(p) and 500.20(r)) who performed temporary or seasonal work in agriculture when they were either directly employed by Ham Farms and/or Ham Produce or jointly employed by one or more of those same two (2) defendants and farm labor contractors Torres, Ismael, Pacheco, Inc., Martinez, and/or

Garcia at any time in the three (3) year time period immediately preceding the date on which this action was filed and continuing thereafter until the date on which final judgment is filed in this action. Except as otherwise alleged, this class consists of the following subclasses and, unless otherwise specified, for each separate agricultural season that occurred in that same time period:

(a) In 2016, named Plaintiffs Adan Lopez, Francisco Mendez, and Alejandro Martinez-Mendez and those workers that those same three (3) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) to whom defendant Ham Farms and defendant Garcia failed to pay weekly wages that were due when they were due for all hours worked when they were directly employed by defendant Ham Farms or jointly employed by defendant Ham Farms and farm labor contractor Garcia to perform the "corresponding employment" field work that is described in ¶¶7 and 30 above when the gross compensation paid did not equal or exceed the higher of the product of a piece rate of \$0.50 per 5/8 bushel bucket for all buckets picked in each workweek in 2016 or the produce of all hours worked and the average of \$10.72 per hour in violation of 29 U.S.C. §§ 1822(a) and 1832(a), and

(b) named Plaintiff Ezequiel Aburto-Hernandez and those migrant or seasonal agricultural workers that named Plaintiff Aburto-Hernandez seeks to represent pursuant to Rule 23(b)(3) that are described in ¶52 above to whom defendants Ham Farms and/or Ham Produce failed to pay weekly wages when those wages were due for any workweek ending at any time in the three (3) year time period immediately preceding the date on which

this action for all hours worked when they were jointly employed by defendant Ham Produce and defendant farm labor contractor Martinez and were not paid at the hourly rate required by 29 U.S.C. § 207(a)(1) for the hours they performed work totaling in excess of 40 hours in the same workweek when all or some part of those hours worked were performed in connection with the defendant Ham Produce sweet potato packing house to process or pack sweet potatoes that were produced by person(s) or business entities other than Ham Farms and/or Ham Produce, or some combination or totally-owned affiliate of one or both of those two named defendants in violation of 29 U.S.C. §§ 1822(a) and/or 1832(a), and

(c) in 2015 on and after July 1, 2015, named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez, and those migrant or seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) to whom defendants Ham Farms, Torres, Garcia, Ismael, and Pacheco, Inc. failed to provide to those same four (4) named Plaintiffs and the workers they seek to represent itemized written wage statements that accurately stated the number of hours worked for each pay period that each such named Plaintiff and class member was employed by one or more of those same defendants in violation of 29 U.S.C. §§ 1821(d)(2) and/or 1831(c)(2) for all hours worked when they were jointly employed by defendant Ham Farms and farm labor contractor defendants Ismael, Pacheco, Inc., Garcia, and Torres to perform agricultural employment by one or more of those same defendants, and

(d) in 2015 on or after July 1, 2015, named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez, and those migrant or seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) for whom defendants Ham Farms, Torres, Garcia, Ismael, and Pacheco, Inc. failed to maintain for those same four (4) named Plaintiffs and the workers they seek to represent written wage records that accurately stated the number of hours worked for each pay period that each such named Plaintiff and class member was employed by one or more of those same defendants in violation of 29 U.S.C. §§ 1821(d)(2) and/or 1831(c)(2) for all hours worked when they were jointly employed by defendant Ham Farms and farm labor contractor defendants Ismael, Pacheco, Inc., Garcia, and Torres to perform agricultural employment by one or more of those same defendants, and

(e) in 2016, named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez and those migrant or seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) to whom defendants Ham Farms and Garcia failed to provide to those same four (4) named Plaintiffs and the workers they seek to represent itemized written wage statements that accurately stated the number of hours worked for each pay period that each such named Plaintiff and class member was employed by one or more of those same defendants in violation of 29 U.S.C. §§ 1821(d)(2) and/or 1831(c)(2) for all hours worked when they were jointly

employed by defendant Ham Farms and farm labor contractor defendant Garcia to perform agricultural employment by one or more of those same defendants, and

(f) in 2016, named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez and those migrant or seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) for whom defendants Ham Farms and Garcia failed to maintain for those same four (4) named Plaintiffs and the workers they seek to represent written wage records that accurately stated the number of hours worked for each pay period that each such named Plaintiff and class member was employed by one or more of those same defendants in violation of 29 U.S.C. §§ 1821(d)(2) and/or 1831(c)(2) for all hours worked when they were jointly employed by defendant Ham Farms and farm labor contractor defendant Garcia to perform agricultural employment by one or more of those same defendants, and

(g) In 2015 on and after July 1, 2015, at the time that defendants Ham Farms, Torres, Garcia, Ismael, and Pacheco, Inc. recruited named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez, and those migrant agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3), those same named defendants failed to ascertain and disclose accurate information in writing information as to the actual wage rates to be paid to those same named Plaintiffs and those migrant agricultural

workers that those same four (4) named Plaintiffs seek to represent in violation of 29 U.S.C. § 1821(a)(2) for all crops and activities on which those workers may be employed when they were jointly employed by defendant Ham Farms and farm labor contractor defendants Ismael, Pacheco, Inc., Garcia, and Torres to perform agricultural employment for one or more of those same defendants, and

(h) in 2016, at the time that defendants Ham Farms and Garcia recruited named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez, and those migrant agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3), those same named defendants failed to ascertain and disclose accurate information in writing information as to the actual wage rates to be paid to those same named Plaintiffs and those migrant agricultural workers that those same four (4) named Plaintiffs seek to represent in violation of 29 U.S.C. § 1821(a)(2) for all crops and activities on which those workers may be employed when they were jointly employed by defendant Ham Farms and farm labor contractor defendant Garcia to perform agricultural employment for one or more of those same defendants, and

(i) in 2015, on or after July 1, 2015, for named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez, and those migrant and seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3), defendants Ham Farms, Torres, Garcia, Ismael, and Pacheco,

Inc. violated, without justification, the working arrangement they had with those same workers to pay all applicable wage taxes in a timely manner on the wages that one or more of those same named defendants paid to those same workers that they jointly employed during that same time period in violation of 29 U.S.C. §§ 1822(c) and 1832(c), and

(j) in 2016, for named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez and those migrant and seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3), defendants Ham Farms and Garcia violated, without justification, the working arrangement they had with those same workers to pay all applicable wage and FICA taxes in a timely manner on the wages that one or more of those same named defendants paid to those same workers that they jointly employed during that same time period in violation of 29 U.S.C. §§ 1822(c) and 1832(c), and

(k) in 2015, on or after July 1, 2015, for named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez and those migrant and seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3), defendants Ham Farms used farm labor contractor Garcia to furnish those same workers to defendant Ham Farms when the defendant Ham Farms did not first take reasonable steps to determine that farm labor contractor Garcia possessed a certificate of registration which was valid and which authorized that same farm labor contractor to engage in that

same farm labor contracting activity in 2015 on or after July 1, 2015 in violation of 29 U.S.C. § 1842, and

(l) in 2016, for named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, and Ezequiel Aburto-Hernandez and those migrant and seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3), defendants Ham Farms used farm labor contractor Garcia to furnish those same workers to defendant Ham Farms when the defendant Ham Farms did not first take reasonable steps to determine that farm labor contractor Garcia possessed a certificate of registration which was valid and which authorized that same farm labor contractor to engage in that same farm labor contracting activity in 2016 in violation of 29 U.S.C. § 1842, and

(m) in 2015 on and after July 1, 2015, named Plaintiffs Adan Lopez, Francisco Mendez, and Ezequiel Aburto-Hernandez, and those migrant or seasonal agricultural workers that those same three (3) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) to whom defendants Ham Farms, Torres, Garcia, Ismael, and Pacheco, Inc. failed to pay all wages when due to each of those same workers when those same defendants paid those workers weekly wages which were the lower of the product of the number of sweet potato units or buckets harvested by each such worker and the applicable piece rate for each such unit or bucket of sweet potatoes compared to the product of the total actual hours worked in the harvest of those sweet potatoes and the required or promised hourly wage rate for that same harvest work in violation of 29 U.S.C. §§ 1822(a) and/or

1832(a), and

(n) in 2016, named Plaintiffs Adan Lopez, Francisco Mendez, Alejandro Martinez-Mendez, Ezequiel Aburto-Hernandez and those migrant or seasonal agricultural workers that those same four (4) named Plaintiffs seek to represent pursuant to Rule 23(b)(3) to whom defendants Ham Farms and Garcia failed to pay all wages when due to each of those same workers when those same defendants paid those workers weekly wages which were the lower of the product of the number of sweet potato units or buckets harvested by each such worker and the applicable piece rate for each such unit or bucket of sweet potatoes compared to the product of the total actual hours worked in the harvest of those sweet potatoes and the required or promised hourly wage rate for that same harvest work in violation of 29 U.S.C. §§ 1822(a) and/or 1832(a), and

(o) In 2016, as alleged in ¶¶7, 71(o), 80, and 97 above, defendants Garcia and Ham Farms failed to pay all wages when due in violation of 29 U.S.C. §§ 1822(a) and 1832(a) to named Plaintiffs Ezequiel Aburto-Hernandez, Alejandro Martinez-Mendez, Adan Lopez, and Francisco Mendez, and the migrant and seasonal agricultural workers described in ¶¶30, 54-55, 55(h), 71(o), and 97 above that they seek to represent to work and perform corresponding employment in 2016 in the hand harvest of sweet potatoes on a piece rate basis of at least \$0.50 per 5/8 bushel bucket without any guaranteed minimum of \$10.72 per hour for the periods of time described in ¶¶7, 29, and 80 above when H-2A workers who were jointly employed by defendants RGT, 5 G, LLC and Ham Farms were compensated on a

piece rate basis of \$0.50 per 5/8 bushel bucket with a guaranteed minimum of \$10.72 per hour to perform sweet potato hand harvest work pursuant to an H-2A labor certification and H-2A visas issued in 2016 to RGT and 5 G, LLC, the joint employer of those workers.

122. As a result of the intentional actions or omissions of all defendants that are described or referred to in ¶¶121(a)-121(o), inclusive, above of this Amended Complaint, all named Plaintiffs identified in ¶119 above and each person who is a member of the class and subclasses defined in ¶¶70-71 above of this Complaint has suffered damages, and are entitled to payment of statutory damages in the full amount authorized by 29 U.S.C. § 1854(c) pursuant to 29 U.S.C. § 1854(c)(1) for each agricultural season that occurred in the 3-year time period immediately preceding the date on which this action was filed and continuing, on information and belief, through the date that final judgment is entered in this action.

XVI. FIFTH CLAIM FOR RELIEF(FLSA #2 - § 206 Arriaga claim)

123. Paragraphs 1 through 49, and 76-108 above are realleged and incorporated herein by reference by the named Plaintiffs and each member of the collective action described in ¶¶76-79 above of this Amended Complaint that named Plaintiffs Elena Rafael-Peralta, Isaias Espinoza-Vazquez, Humberto De La Luz Armenta, José Pablo Sandoval-Montalvo, Francisco Palacios-Hernandez, and José Jimenez-Olivarez seek to represent pursuant to 29 U.S.C. §216(b) against defendants Ham Farms, Torres, Moreno, Villatoros, RGT, G, LLC, and 5 G, LLC.

124. The defendants did not pay all wages due to the named Plaintiffs listed in ¶123 above and the collective group of persons defined in ¶¶76-77 above of this Complaint that those same six named Plaintiffs seek to represent under 29 U.S.C. §216(b) at the rate required by 29 U.S.C. § 206(a) for the work described in ¶¶8-10A, 76-79, and 105-108 above of this Amended Complaint.

125. As a result of these willful actions of the defendants in reckless disregard of the rights of these six named Plaintiffs and each person who is a member of the collective group of persons defined in ¶¶76-77 above of this Complaint under 29 U.S.C. § 206(a), those six named Plaintiffs and each member of that collective group have suffered damages in the form of unpaid wages and liquidated damages that may be recovered under 29 U.S.C. §216(b).

WHEREFORE Plaintiffs respectfully request that the Court:

- (a) Grant a jury trial on all issues so triable;
- (b) Certify named Plaintiff Aburto-Hernandez as the representative of the group of persons defined in ¶¶50-51 above of this Complaint in a collective action class action for back wages and liquidated damages under 29 U.S.C. §216(b) pursuant to 29 U.S.C. §216(b);
- (c) Certify named Plaintiffs Elena Rafael-Peralta, Isaias Espinoza-Vazquez, Humberto De La Luz Armenta, José Pablo Sandoval-Montalvo, Francisco Palacios-Hernandez, and José Jimenez-Olivarez as representatives of the group of persons defined in ¶¶76-77 above of this

Complaint in a collective action class action for back wages and liquidated damages under 29 U.S.C. §216(b) pursuant to 29 U.S.C. §216(b);

(d) Certify all of the named Plaintiffs as representatives of the class and subclasses of persons defined in ¶54-55 above of this Complaint in a class action for back wages and liquidated damages under N.C.Gen.Stat. §95-25.22(a) and 95-25.22(a1) pursuant to Rule 23(b)(3), Fed.R.Civ.P.;

(e) Certify the named Plaintiffs identified in ¶¶8-10A and 11A-11B above as representatives of the class and subclasses of persons defined in ¶62-63 above of this Complaint in a class action for compensatory damages under the common law of contracts pursuant to Rule 23(b)(3), Fed.R.Civ.P.;

(f) Certify the named Plaintiffs identified in ¶¶6-7 above as representatives of the class and subclasses of persons defined in ¶70-71 above of this Complaint in a class action for statutory damages under 29 U.S.C. § 1854(c)(1) of the AWPAA pursuant to Rule 23(b)(3), Fed.R.Civ.P.;

(g) Enter judgment against defendants Ham Produce and Martinez, jointly and severally, and in favor of the named Plaintiff Ezequiel Aburto-Hernandez and each member of that collective action who has filed a timely Consent to Sue as required by 29 U.S.C. § 216(b) for back wages and liquidated damages under 29 U.S.C. § 216(b) in connection with the Plaintiffs' First Claim for Relief in an amount equal to the total of the unpaid wages due named Plaintiff Aburto-Hernandez and each member of the collective action that is defined in ¶¶50-51 above of this Complaint plus an equal additional amount as liquidated damages under 29 U.S.C. §§

207(a)(1) and 216(b);

(h) Enter judgment against all of the defendants named in the heading of this Complaint, jointly and severally, and in favor of each of the named Plaintiffs and each member of the class and subclasses defined in ¶¶54-55 above for back wages and liquidated damages under G.S. §§95-25.22(a) and 95-25.22(a1), plus interest in the manner and at the rate prescribed in N.C.Gen.Stat. §95-25.22(a) in connection with the plaintiffs' Second Claim for Relief in an amount equal to the total of the unpaid wages due each named Plaintiff and each member of the class and subclasses that are defined in ¶¶54-55 above of this Complaint; G.S. §§95-25.6 and 95-25.13(1)-(2) for any workweek in which the named Plaintiff or any member of the class of persons defined in ¶54-55 above of this Complaint performed the type of work described in ¶¶6-10A, inclusive, and 11A-11B, and 22-33 of the Amended Complaint, plus an equal additional amount as liquidated damages under G.S. §§95-25.22(a) and 95-25.22(a1), plus interest in the manner and at the rate prescribed in N.C.Gen.Stat. §95-25.22(a);

(i) Enter judgment against each defendant, jointly and severally, and in favor of the named Plaintiffs identified in ¶¶8-10A and 11A-11B above and all other similarly situated employees of those same defendants that are described in ¶¶62-63 above of this Amended Complaint for compensatory damages against the defendants under the Third Claim for Relief in an amount equal to the amount of compensation due in compensatory damages from defendants Ham Farms, Ham Produce, and each of the named farm

labor contractor defendants, jointly and severally, for any workweek in which the named Plaintiffs and any member(s) of the class and subclasses defined in ¶¶62-63 suffered an economic loss or lost wages as a proximate result of any defendant's failure to comply with either the express written terms of the clearance order job contract that the named Plaintiffs had with RGT, G, LLC, and/or 5 G, LLC to perform any H-2A work for Ham Farms or any other employer in North Carolina in 2015, 2016, and/or 2017, or the requirement(s) of any federal H-2A regulation(s) that was incorporated into that same clearance order job contract between the named Plaintiffs and the workers defined in ¶¶62-63 above of this Complaint that they are seeking to represent pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure, or both;

(j) Enter judgment on the Plaintiffs' Fourth Claim for Relief against defendants Ham Farms, Ham Produce, Torres, Ismael, Pacheco, Martinez, and Garcia, jointly and severally, and in favor of the named Plaintiffs identified in ¶¶6-7 above and each member of the class and the subclasses they seek to represent under Rule 23(b)(3) as defined in ¶¶70-71 above of this Complaint for the full amount of statutory damages under AWPA (\$500.00) for each violation of AWPA for each separate season when any such violation(s) pursuant to 29 U.S.C. § 1854(c)(1), plus interest at the highest rate allowable by law on any such damage award;

(k) Enter judgment against all defendants, jointly and severally, and in favor of the named Plaintiffs Elena Rafael-Peralta, Isaias Espinoza-Vazquez, Humberto De La Luz Armenta, José Pablo Sandoval-Montalvo,

Francisco Palacios-Hernandez, and José Jimenez-Olivarez and each member of the collective action who files a timely Consent to Sue under 29 U.S.C. § 216(b) for back wages and liquidated damages under 29 U.S.C. § 216(b) in connection with the Plaintiffs' Fifth Claim for Relief in an amount equal to the total of the unpaid wages due each such named Plaintiff and each member of the collective action that is defined in ¶¶76-77 above of this Complaint, under 29 U.S.C. § 206(a)(1);

(l) Award the named Plaintiffs the costs of this action against all defendants, jointly and severally;

(m) Award the named Plaintiffs reasonable attorney fees under N.C.Gen.Stat. §95-25.22(d) and 29 U.S.C. §216(b) against the defendants, jointly and severally;

(n) Award prejudgment and post judgment interest at the highest amount authorized by applicable law on any amount of monetary damages awarded for back wages as requested in paragraph (d) of this Prayer for Relief based upon such date(s) as may be appropriate under applicable law;

(o) Award such other relief as may be just and proper in this action.

This the 31st day of May, 2018.

LAW OFFICE OF ROBERT J. WILLIS, P.A.

BY: /s/Robert J. Willis
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CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notifications of such filing to the following: R. Daniel Boyce, William H. Floyd, III, Elizabeth C. King, Stephen L. Beaman, Kyle R. Still, and Thomas C. Stafford.

Dated: May 31, 2018

Respectfully submitted,

/s/ Martha A. Geer
Martha A. Geer, Esq.
NC Bar #13972

Francisco Palacios-Hernandez
Consent to Sue

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

ADAN LOPEZ, FRANCISCO MENDEZ, EZEQUIEL)
ABURTO-HERNANDEZ, ELENA RAFAEL-PERALTA,)
JOSÉ PABLO SANDOVAL-MONTALVO, and JOSÉ)
JIMENEZ-OLIVAREZ, and ALEJANDRO MARTINEZ-)
MENDEZ, on behalf of themselves and other similarly)
situated persons,)

Plaintiffs,)

COLLECTIVE ACTION)

v.)
HAM FARMS, LLC f/k/a HAM FARMS, INC., HAM)
PRODUCE, LLC f/k/a HAM PRODUCE COMPANY,)
INC., ISMAEL PACHECO, PACHECO)
CONTRACTORS, INC., HUGO MARTINEZ,)
GUTIERREZ HARVESTING, LLC, ROBERTO)
TORRES-LOPEZ, 5 G HARVESTING, LLC, RODRIGO)
GUTIERREZ-TAPIA, SR., and CIRILA GARCIA-)
PINEDA,)

Defendants.)

CLASS ACTION)

Civil Action No.:)
5:17-CV-329-D)

CONSENT TO SUE

I, Francisco Palacios Hernandez hereby consent to be a party under 29 U.S.C. §216(b) to this lawsuit to assert my right to the lawful wage required by the Fair Labor Standards Act.



SIGNATURE

28 / Junio / 2017

DATE

Humberto De La Luz Armenta
Consent to Sue

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

ADAN LOPEZ, FRANCISCO MENDEZ, EZEQUIEL)
ABURTO-HERNANDEZ, ELENA RAFAEL-PERALTA,)
JOSÉ PABLO SANDOVAL-MONTALVO, and JOSÉ)
JIMENEZ-OLIVAREZ, and ALEJANDRO MARTINEZ-)
MENDEZ, on behalf of themselves and other similarly)
situated persons,)

Plaintiffs,)

COLLECTIVE ACTION)

v.)
ACTION)

CLASS)

HAM FARMS, LLC f/k/a HAM FARMS, INC., HAM)
PRODUCE, LLC f/k/a HAM PRODUCE COMPANY,)
INC., ISMAEL PACHECO, PACHECO)
CONTRACTORS, INC., HUGO MARTINEZ,)
GUTIERREZ HARVESTING, LLC, ROBERTO)
TORRES-LOPEZ, 5 G HARVESTING, LLC, RODRIGO)
GUTIERREZ-TAPIA, SR., and CIRILA GARCIA-)
PINEDA,)

Civil Action No.:)
5:17-CV-329-D)

Defendants.)

CONSENT TO SUE

I, Humberto Armenta, hereby consent to be a party under 29 U.S.C. §216(b) to this lawsuit to assert my right to the lawful wage required by the Fair Labor Standards Act.

Humberto A.
SIGNATURE

2/9/18

DATE

Isaias Espinosa-Vazquez
Consent to Sue

CONSENT TO SUE


I, _____, hereby consent to be a party under 29 U.S.C. § 216(b) to the lawsuit to assert my right to the minimum wage required by the Fair Labor Standards Act.

Signature

Date

CONSENTIMIENTO PARA DEMANDAR:

Yo, ISAIAS ESPINOSA VAZQUEZ por la presente estoy de acuerdo en ser parte, como lo estipula 29 U.S.C. § 216(b) para demandar con el objeto de hacer valer mis derechos al salario mínimo como lo exige el Acta de Normas Laborales Justas.

* 

Firma

* 8/16/17

Fecha

Akò pou Fè Prose

Mwen, _____ bay akò mwen pou m se yon plentif anba law 29 U.S.C. §216 (b) nan prose a pou defann dwa mwen pou m touché sale minimum jan Lalwa pou Standa Jis nan Travay (Fair Labor Standards Act) egzije.

Siyati

Dat