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17 IN THE SUPERIOR COURT OF SAN BENITO COUNTY

18 STATE OF CALIFORNIA

19	ORGANIC PASTURES DAIRY)	Case No.: CU-07-00204
	COMPANY, LLC, and)	
	CLARAVALE FARM, INC.,)	
)	MOTION FOR TEMPORARY
	Plaintiffs,)	RESTRAINING ORDER
)	
	v.)	
)	
	STATE OF CALIFORNIA and)	
	A.G. KAWAMURA, Secretary of California)	
	Department of Food and Agriculture,)	
)	
	Defendants.)	
)	
)	

20 Plaintiffs, Organic Pastures Dairy Company (OPDC), LLC and Claravale Farms, Inc.
21 (Claravale), (together "the Plaintiffs") hereby respectfully move the Court pursuant to California
22 Rule of Civil Procedure 527 for a Temporary Restraining Order to:
23 (A) Enjoin the State of California and A.G. Kawamura Secretary of the California Department of
24 Food and Agriculture (CDFA) from enforcing the provisions of and AB1735; and
25 (B) Enjoin the State of California and A.G. Kawamura, Secretary of CDFA from testing,
26 inspecting, sampling or otherwise taking any action with respect to the enforcement of newly
27 enacted AB1735.

1 Plaintiffs respectfully state that OPDC is suffering immediate and irreparable harm
2 because it has failed its third test for coliform levels for its raw cream products made from raw
3 milk. Because of this third failure, Plaintiff OPDC has been ordered by CDFA to immediately
4 stop the sale of its dairy cream made from raw milk and is losing \$10,000 per week in lost sales
5 of cream.

6 Both plaintiffs anticipate they will soon fail three out of five tests for raw whole milk and
7 or skim milk or cream because of their inability to comply with the coliform requirements of AB
8 1735. Plaintiffs believe that this failure to comply with the coliform requirements of AB 1735
9 will cause them immediate and irreparable harm because upon a third failure they will be ordered
10 by CDFA to stop the sale of raw milk, which is their principal business. Plaintiffs believe this
11 third failure will occur during the month of March 2008.

12 Plaintiffs incorporate by reference herein the citations to law and fact contained in their
13 complaint and in their Motion and Memorandum in Support of a Preliminary Injunction as a
14 Memorandum in Support of this Temporary Restraining Order.

15 Plaintiffs request leave to file a supplemental memorandum in support of its motion in
16 advance of the hearing in this matter.

17 Date: March 5, 2008

Respectfully submitted,

18
19 _____
20 David G. Cox (OH Sup. Ct. No. 0042724)
21 Donald M. Collins (OH Sup. Ct. No. 0037701)
22 LANE, ALTON & HORST, LLC
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23 and

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Attorneys for Plaintiffs
Organic Pastures Dairy Company, LLC and
Claravale Farm, Inc.

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PROOF OF SERVICE

I am employed in the County of Franklin, State of Ohio. I am over the age of eighteen years and not a party to the within action. My business address is Two Miranova Place, Suite 500, Columbus, Ohio, 43215-7052.

On the date set forth below, I caused the following document(s) entitled:

MOTION FOR TEMPORARY RESTRAINING ORDER

to be served on the party(ies) or its (their) attorney(s) of record in this action listed below by the following means:

X	BY MAIL. By placing each envelope (with postage affixed thereto) in the U.S. Mail at the law offices of Lane, Alton and Horst, LLC, Two Miranova Place, Suite, Columbus, OH 4322-7052, addressed as shown below. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and in the ordinary course of business, correspondence would be deposited with the U.S. Postal Service the same day it was placed for collection and processing.
	BY HAND-DELIVERY. By causing a true copy thereof, enclosed in a sealed envelope, to be delivered by hand to the address(es) shown below.
	BY OVERNIGHT DELIVERY. By placing with an overnight mail company for delivery a true copy thereof, enclosed in a sealed envelope, with delivery charges to be billed to Lombardo & Gilles, addressed as shown below.
	BY FACSIMILE TRANSMISSION. By transmitting a true copy thereof by facsimile transmission from facsimile number (831) 754-2011 to the interested party(ies) or their attorney(s) of record to said action at the facsimile number(s) shown below.
X	BY ELECTRONIC MAIL. By transmitting a true copy thereof by electronic mail from e-mail address dcox@lanealton.com to the interested party(ies) or their attorney(s) of record to said action at the electronic mail address(es) shown below

Anita Ruud
Deputy Attorney General
Office of the Regional Attorney General
455 Golden Gate Ave., Rm. 6200
California Department of Justice
San Francisco, CA 94102
Counsel for Defendants

I declare under penalty of perjury under the laws of the State of Ohio that the foregoing is true and correct.

Executed on March 5, 2008 at Columbus, Ohio.

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