

1 David G. Cox (OH Sup. Ct. No. 0042724)  
2 Donald M. Collins (OH Sup. Ct. No. 0037701)  
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14 Attorneys for Plaintiffs

15 IN THE SUPERIOR COURT OF SAN BENITO COUNTY  
16 STATE OF CALIFORNIA

17 ORGANIC PASTURES DAIRY ) Case No.: CU-07-00204  
18 COMPANY, LLC, and )  
19 CLARAVALE FARM, INC., )  
20 Plaintiffs, ) **AFFIDAVIT OF DAVID G. COX IN**  
21 v. ) **SUPPORT OF PLAINTIFFS'**  
22 ) **MOTION FOR PRELIMINARY**  
23 ) **INJUNCTION**  
24 STATE OF CALIFORNIA and )  
25 A.G. KAWAMURA, Secretary of California )  
26 Department of Food and Agriculture, )  
27 Defendants. )

28 STATE OF OHIO :  
FRANKLIN COUNTY :

I, David G. Cox, being duly sworn and under oath, do hereby make the following statements based on my personal knowledge, information and belief:

1. I am counsel of record for the Plaintiffs in this case, Organic Pastures Dairy Company LLC and Claravale Farms, Inc.

- 1 2. I am admitted to practice law in the State of Ohio and am in good standing in Ohio.
- 2 3. I have been admitted to practice in this Court *pro hac vice*.
- 3 4. Pursuant to Evidence Code Section 452, subdivision (c), we request that the Court take
- 4 judicial notice of the attached exhibits.
- 5 5. Attached to this Affidavit as Exhibit A is a true copy of legislative analysis of AB 1735
- 6 that is dated April 25, 2007.
- 7 6. Attached to this Affidavit as Exhibit B is a true copy of legislative analysis of AB 1735
- 8 that is dated May 9, 2007.
- 9 7. Attached to this Affidavit as Exhibit C is a true copy of legislative analysis of AB 1735
- 10 that is dated June 19, 2007.
- 11 8. Attached to this Affidavit as Exhibit D is a true copy of legislative analysis of AB 1735
- 12 that is dated July 11, 2007.
- 13 9. Attached to this Affidavit as Exhibit E is a true copy of legislative analysis of AB 1735
- 14 that is dated on the last page as August 22, 2007.
- 15 10. Attached to this Affidavit as Exhibit F is a true copy of a statement issued by the United
- 16 States Food and Drug Administration, Centers for Disease Control and Prevention related to a
- 17 spinach recall that is dated September 16, 2006.

18 FURTHER AFFIANT SAYETH NAUGHT

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20 \_\_\_\_\_

21 David G. Cox  
Affiant

22 Sworn and subscribed before me, this 4<sup>th</sup> day of April, 2008.

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Date: April 4, 2008

Respectfully submitted,

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David G. Cox (OH Sup. Ct. No. 0042724)  
Donald M. Collins (OH Sup. Ct. No. 0037701)  
LANE, ALTON & HORST, LLC  
Two Miranova Place, Suite 500  
Columbus, OH 43215-7052

and

Bradley W. Sullivan, #112111  
Paul A. Rovella, #245745  
Lombardo and Gilles  
318 Cayuga Street  
Salinas, CA 93901

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:

**AFFIDAVIT OF DAVID G. COX IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

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

|   |  |
|---|--|
|   | <b>BY MAIL.</b> 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. |
|   | <b>BY HAND-DELIVERY.</b> By causing a true copy thereof, enclosed in a sealed envelope, to be delivered by hand to the address(es) shown below.  |
| X | <b>BY OVERNIGHT DELIVERY.</b> 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.  |
|   | <b>BY FACSIMILE TRANSMISSION.</b> By transmitting a true copy thereof by facsimile transmission from facsimile number (614) 228-0146 to the interested party(ies) or their attorney(s) of record to said action at the facsimile number(s) shown below.  |
| X | <b>BY ELECTRONIC MAIL.</b> By transmitting a true copy thereof (without attachments) by electronic mail from e-mail address <u>dcox@lanealton.com</u> 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 April 4, 2008 at Columbus, Ohio.

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David G. Cox

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