

1 David G. Cox (OH Sup. Ct. No. 0042724)  
2 Donald M. Collins (OH Sup. Ct. No. 0037701)  
3 Two Miranova Place, Suite 500  
4 Columbus, OH 43215-7052  
5 Tel: 614-228-6885  
6 Fax: 614-228-0146  
7 [dcox@lanealton.com](mailto:dcox@lanealton.com)  
8 [dcollins@lanealton.com](mailto:dcollins@lanealton.com)

9 Bradley W. Sullivan, #112111  
10 Paul A. Rovella, Esq. #245745  
11 Lombardo & Gilles, LLP  
12 318 Cayuga Street  
13 Salinas, CA 93901  
14 Tel: (831) 754-2444  
15 Fax: (831) 754-2011  
16 [brad@lomgil.com](mailto:brad@lomgil.com)

17 Attorneys for Plaintiffs

18 IN THE SUPERIOR COURT OF SAN BENITO COUNTY

19 STATE OF CALIFORNIA

20 ORGANIC PASTURES DAIRY )  
21 COMPANY, LLC, and )  
22 CLARAVALE FARM, INC., )

23 Plaintiffs, )

24 v. )

25 STATE OF CALIFORNIA and )  
26 A.G. KAWAMURA, Secretary of California )  
27 Department of Food and Agriculture, )

28 Defendants. )

Case No.: CU-07-00204

**DECLARATION OF MARK  
MCAFEE IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

State of California )  
: ss  
County of Fresno )

I, Mark McAfee, having been duly cautioned, say on my own personal knowledge and belief, the following:

1. I am the owner and operator of Organic Pastures Dairy Company ("OPDC"), a dairy farm engaged solely in the business of producing raw milk and raw milk products including, but not limited to, whole milk, skim milk, butter and cream.

- 1 2. I have been so engaged since 2000 when I established OPDC.
- 2 3. OPDC is located in Fresno, California, has 40 employees and has 450 head of livestock.
- 3 4. Our annual sales of raw milk and raw milk products tops \$5 million dollars. Sales of
- 4 skim milk and cream most recently were \$47, 000 monthly or close to \$600,000 annually. Our
- 5 customers are located throughout California.
- 6 5. Some of our customers have submitted testimonials to me, indicating how they benefit
- 7 from consuming OPDC's raw milk and other raw dairy products and how they will be injured if
- 8 they are no longer able to continue to consume these products.
- 9 6. To date, OPDC has received hundreds of testimonials from its customers. Copies of
- 10 some of those testimonials are attached hereto as Exhibit A.
- 11 7. Exhibit A attached hereto are true and accurate copies of some of the testimonials OPDC
- 12 has received from its customers in the ordinary course of its business and have not been
- 13 materially altered in any way.
- 14 8. In September 2006, the State Veterinarian "out of an abundance of caution" quarantined
- 15 all of OPDC's raw dairy products except cheese and as a result OPDC suffered financial loss.
- 16 Exhibit B attached hereto is a true and accurate copy of the "precautionary" quarantine notice.
- 17 9. I believed at that time that OPDC's products were illegally quarantined and placed on
- 18 hold. The California Department of Food and Agriculture ("CDFA") apparently agreed with me
- 19 because we subsequently entered into a Stipulation and Release with them to address the illegal
- 20 quarantine and attendant loss that was suffered by OPDC.
- 21 10. Exhibit C attached hereto is a true and accurate redacted copy of the Stipulation and
- 22 Release that OPDC and CDFA entered into in July 2007. Exhibit C is a redacted business record
- 23 of OPDC kept in the ordinary course of business that has not been materially altered in any way.
- 24 11. On June 19, 2007, I emailed CDFA and asked for copies of all of CDFA's test results for
- 25 OPDC's products and received a package of materials from Richard Estes, Counsel for CDFA.

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1 12. The package of materials I received from Richard Estes is dated July 12, 2007 and is  
2 attached hereto as Exhibit D. Exhibit D is a business record of OPDC kept in the ordinary  
3 course of business that has not been materially altered in any way.

4 I declare under penalty that the foregoing is true and correct of my own knowledge, and  
5 that, if called to testify, I could and would do so competently. I further declare that this  
6 document was executed on April 3, 2008 in Fresno, California.

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11 Mark McAfee

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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:

**DECLARATION OF MARK MCAFFEE IN SUPPORT OF 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 (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	<b>BY ELECTRONIC MAIL.</b> By transmitting a true copy thereof (without attachments) by electronic mail from e-mail address <a href="mailto:dcox@lanealton.com">dcox@lanealton.com</a> 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, Columbus, Ohio.

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David G. Cox

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