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9 Attorneys for Plaintiffs

10 IN THE SUPERIOR COURT OF SAN BENITO COUNTY

11 STATE OF CALIFORNIA

12 ORGANIC PASTURES DAIRY)
COMPANY, LLC, and)
13 CLARA VALE FARM, INC.,)

14 Plaintiffs,)

15 v.)

16 STATE OF CALIFORNIA and)
A.G. KAWAMURA, Secretary of California)
17 Department of Food and Agriculture,)

18 Defendants.)
19)

Case No.: CU-07-00204

**DECLARATION OF MARK
MCAFFEE IN SUPPORT OF
PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION TO
ORDER FOR PRELIMINARY
INJUNCTION**

20 State of California)

: ss

21 County of Fresno)

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

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

27 2. I have been so engaged since 2000 when I established OPDC.
28

1 3. OPDC is located in Fresno, California, has 40 employees and has 450 head of livestock.

2 4. Our annual sales of raw milk and raw milk products tops \$5 million dollars. Sales of
3 skim milk and cream most recently were \$47,000 monthly or close to \$600,000 annually. Our
4 customers are located throughout California.

5 5. We test our raw milk and raw dairy products on a weekly basis for pathogens,
6 specifically, *E. coli* 0157. We subject these samples to analysis and record the results.

7 6. We have been conducting these weekly pathogen tests from at least February 2006 to the
8 present and have never detected a pathogen in our dairy products.

9 7. Exhibit A attached hereto consists of the pathogen test results from 2006 to the present
10 and are true and accurate copies of the original results.

11 8. Attachment A consists of business records kept by Organic Pastures Dairy Company,
12 LLC in the ordinary course of its business and are not materially altered in any way.

13

14 I declare under penalty that the foregoing is true and correct of my own knowledge, and
15 that, if called to testify, I could and would do so competently. I further declare that this
16 document was executed on April 23, 2008 in Fresno, California.

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20 _____
Mark McAfee

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1 **PROOF OF SERVICE**

2 I am employed in the County of Franklin, State of Ohio. I am over the age of eighteen
3 years and not a party to the within action. My business address is Two Miranova Place, Suite
4 500, Columbus, Ohio, 43215-7052. On the date set forth below, I caused the following
document(s) entitled:

5 **DECLARATION OF MARK MCAFEE IN SUPPORT OF PLAINTIFFS' REPLY TO
6 DEFENDANTS' OPPOSITION TO ORDER FOR PRELIMINARY INJUNCTION**

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

	BY MAIL. By placing each envelope (with postage affixed thereto) in the U.S. Mail at the law offices of Lane, Alton & Horst, LLC, Two Miranova Place, Suite, Columbus, OH 43215-7052, 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.
XX	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 Lane, Alton & Horst, addressed as shown below.
	BY FACSIMILE TRANSMISSION. 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.
XX	BY ELECTRONIC MAIL. By transmitting a true copy thereof by electronic mail (with attachments) from e-mail address <u>dc Cox@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

19
20 Anita Ruud
21 Deputy Attorney General
22 Office of the Regional Attorney General
23 455 Golden Gate Ave., Rm. 6200
24 California Department of Justice
25 San Francisco, CA 94102
26 Counsel for Defendants

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

Executed on April 23, 2008 at Columbus, Ohio.

David G. Cox

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